

(NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. A preliminary “Environmental Analysis Check List” supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add temporary § 165–T11–025 to read as follows:

##### § 165–T11–025 Safety Zones; Festival of Sail, San Francisco, CA.

(a) *Location.* These temporary safety zones are established for the Festival of Sail Events taking place in the following locations:

(1) For the Festival of Sail-Parade of Ships the moving safety zone extends 100 yards around each vessel participating in the Parade of Ships as each vessel transits through San Francisco Bay to its respective mooring site.

(2) For the mock cannon battles, the safety zone for location “alpha” will take place west of Alcatraz Island. The safety zone will be bounded by a line connecting the following points: 37[deg]49’18” N and 122[deg]25’40” W, 37[deg]49’24” N and 122[deg]25’18” W, 37[deg]49’45” N and 122[deg]25’42” W, and lastly 37[deg]49’37” N and 122[deg]26’05” W; and will include all navigable waters from the surface to the seafloor.

(3) For the mock cannon battles, the safety zone for location “bravo” will take place west of Treasure Island in Anchorage 7. The safety zone will be bounded by a line connecting the following points: 37[deg]48’55” N and 122[deg]23’03” W, 37[deg]49’07” N and 122[deg]22’32” W, 37[deg]49’28” N and

122[deg]22’53” W and lastly 37[deg]49’18” N and 122[deg]23’28” W; and will include all navigable waters from the surface to the seafloor. This safety zone will be in effect on July 24, 2008, and July 27, 2008.

(b) *Enforcement Period.* This section will be effective from July 23, 2008, to July 27, 2008. If the events conclude prior to their scheduled termination times, the Coast Guard will cease enforcement of these safety zones and will announce that fact via Broadcast Notice to Mariners.

#### (c) Regulations.

(1) In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within these safety zones by all vessels and persons is prohibited, unless specifically authorized by the Captain of the Port San Francisco, or his designated representative.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, San Francisco, or the designated representative.

(3) Designated representative means any commissioned, warrant, and petty officer of the Coast Guard onboard a Coast Guard, Coast Guard Auxiliary, local, state, or federal law enforcement vessel who is authorized to act on behalf of the Captain of the Port, San Francisco.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. Person and vessels may request permission to enter the safety zones on VHF–16 or the 24-hour Command Center via telephone at (415) 399–3547.

(5) The U.S. Coast Guard may be assisted in the patrol and enforcement of these safety zones by local law enforcement as necessary.

Dated: June 5, 2008.

**P.M. Gugg.**

*Captain, U.S. Coast Guard, Captain of the Port, San Francisco.*

[FR Doc. E8–13268 Filed 6–12–08; 8:45 am]

**BILLING CODE 4910–15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R03–OAR–2008–0257; FRL–8579–8]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Determination of Attainment of the Fine Particle Standard

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to determine that the Harrisburg-Lebanon-Carlisle, Pennsylvania nonattainment area for the 1997 fine particle (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS) has attained the 1997 PM<sub>2.5</sub> NAAQS. This proposed determination is based upon quality assured, quality controlled, and certified ambient air monitoring data that show that the area has monitored attainment of the 1997 PM<sub>2.5</sub> NAAQS since the 2004–2006 monitoring period, and continues to monitor attainment of the standard based on 2005–2007 data. In addition, quality controlled and quality assured monitoring data for 2008 that are available in the EPA Air Quality System (AQS) database, but not yet certified, show this area continues to attain the 1997 PM<sub>2.5</sub> NAAQS. If this proposed determination is made final, the requirements for this area to submit an attainment demonstration and associated reasonably available measures, a reasonable further progress plan, contingency measures, and other planning State Implementation Plans (SIPs) related to attainment of the standard shall be suspended for so long as the area continues to attain the 1997 PM<sub>2.5</sub> NAAQS.

**DATES:** Written comments must be received on or before July 14, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R03–OAR–2008–0257 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail:* fernandez.cristina@epa.gov.

C. *Mail:* EPA–R03–OAR–2008–0257, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket’s normal hours of operation, and

special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R03-OAR-2008-0257. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

**FOR FURTHER INFORMATION CONTACT:** Rose Quinto, (215) 814-2182, or by e-mail at [quinto.rose@epa.gov](mailto:quinto.rose@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever

"we", "us", or "our" is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. What Action Is EPA Taking?
- II. What Is the Effect of This Action?
- III. What Is the Background for This Action?
- IV. What Is EPA's Analysis of the Relevant Air Quality Data?
- V. Proposed Action
- VI. Statutory and Executive Order Reviews

### **I. What Action Is EPA Taking?**

EPA is proposing to determine that the Harrisburg-Lebanon-Carlisle, Pennsylvania PM<sub>2.5</sub> nonattainment area has attained the 1997 PM<sub>2.5</sub> NAAQS. This determination is based upon quality assured, quality controlled, and certified ambient air monitoring data that show the area has monitored attainment of the 1997 PM<sub>2.5</sub> NAAQS since the 2004–2006 monitoring period, and monitoring data that continue to show attainment of the 1997 PM<sub>2.5</sub> NAAQS based on the 2005–2007 data. In addition, quality controlled and quality assured monitoring data for 2008 that are available in the EPA AQS database, but not yet certified, show this area continues to attain the 1997 PM<sub>2.5</sub> NAAQS.

### **II. What Is the Effect of This Action?**

If this determination is made final, under the provisions of EPA's PM<sub>2.5</sub> implementation rule (see 40 CFR 51.1004(c)), the requirements for the Harrisburg-Lebanon-Carlisle, Pennsylvania PM<sub>2.5</sub> nonattainment area to submit an attainment demonstration and associated reasonably available control measures, a reasonable further progress plan, contingency measures, and any other planning SIPs related to attainment of the 1997 PM<sub>2.5</sub> NAAQS would be suspended for so long as the area continues to attain the 1997 PM<sub>2.5</sub> NAAQS.

As further discussed below, the proposed determination would: (1) For the Harrisburg-Lebanon-Carlisle, Pennsylvania nonattainment area, suspend the requirements to submit an attainment demonstration and associated reasonably available control measures (RACM) (including reasonably available control technologies (RACT)), a reasonable further progress plan (RFP), contingency measures, and any other planning SIPs related to attainment of the 1997 PM<sub>2.5</sub> NAAQS; (2) continue until such time, if any, that EPA subsequently determines that the area has violated the 1997 PM<sub>2.5</sub> NAAQS; (3) be separate from, and not influence or otherwise affect, any future designation determination or requirements for the

Harrisburg-Lebanon-Carlisle, Pennsylvania area based on the 2006 PM<sub>2.5</sub> NAAQS; and (4) remain in effect regardless of whether EPA designates this area as a nonattainment area for purposes of the 2006 PM<sub>2.5</sub> NAAQS. Furthermore, as described below, any such final determination would not be equivalent to the redesignation of the area to attainment based on the 1997 PM<sub>2.5</sub> NAAQS.

In accordance with 40 CFR section 51.1004(c) (72 FR 20586, 20665), this proposed determination would suspend the requirement for the Harrisburg-Lebanon-Carlisle, Pennsylvania nonattainment area to submit an attainment demonstration and associated RACM, including RACT, related to the 1997 PM<sub>2.5</sub> NAAQS. Recently EPA noted that certain language in the preamble of its PM<sub>2.5</sub> implementation rule, 72 FR 20586, 20603 (April 25, 2007), contradicts the regulatory text in 40 CFR 51.1004(c). On May 22, 2008, EPA issued a memorandum "to eliminate any confusion that could result from this erroneous statement." Memorandum from William T. Harnett, Director, Air Quality Policy Division to Regional Air Division Directors, "PM<sub>2.5</sub> Clean Data Policy Clarification." This memorandum stated:

"Section 51.1004(c) provides that: 'Upon a determination by EPA that an area designated nonattainment for the PM<sub>2.5</sub> NAAQS has attained the standard, the requirements for such area to submit attainment demonstrations and associated reasonably available control measures, reasonable further progress plans, contingency measures, and other planning SIPs related to attainment of the PM<sub>2.5</sub> NAAQS shall be suspended.'"

\* \* \*

Section 51.1010 provides in part: 'For each PM<sub>2.5</sub> nonattainment area, the State shall submit with the attainment demonstration a SIP revision demonstrating that it has adopted all reasonably available control measures (including RACT for stationary sources) necessary to demonstrate attainment as expeditiously as practicable and to meet any RFP requirements.'

Thus the regulatory text defines RACT as included in RACM, and provides that it is only required insofar as it is necessary to advance attainment. See also section 51.1010(b). As a result, when an area is attaining the standard, the suspension of the RACM requirement pursuant to 51.1004(c) necessarily includes the suspension of the RACT requirement.

However, the preamble to the PM<sub>2.5</sub> implementation rule, including a response to comments, contains

language that is at odds with the explicit provisions of the regulatory text. The preamble states that ‘The EPA wishes to clarify that the Clean Data Policy does not provide for suspension of the requirements for NSR nor for RACT.’ 72 FR 20603 (April 25, 2007.)<sup>1</sup> Thus, the preamble erroneously states that SIP submissions to meet RACT obligations are not suspended, while the regulatory text provides that RACT, as a subset of RACM, is suspended when an area is attaining the standard.<sup>2</sup> The purpose of this section of the preamble was to correct a misstatement in the preamble to the proposed rule concerning the status of NSR requirements in areas subject to the Agency’s Clean Data Policy and to respond to comments on that policy. When this preamble text was drafted, EPA was considering several formulations of RACT, some of which would have resulted in a freestanding RACT requirement beyond RACM for certain areas. 72 FR 20610–20612. Those options were not selected in the final rulemaking, which adopted the formulation found in section 51.1010. EPA thus adopted a combined approach to RACT and RACM. Accordingly, pursuant to section 51.1004(c), areas with clean data are not required to make a RACT submission. However, the contrary draft preamble language inadvertently was not revised to conform to the regulatory option that had been selected. Thus, the preamble language is irreconcilable with and was never intended to interpret the regulatory text that was chosen for the final rule.”

EPA further stated that its “memorandum does not change the regulation published in the **Federal Register** on April 25, 2007. Because the promulgated regulation is clear, we believe it is clear that the preamble statement is an error. *National Wildlife Federation v. EPA*, 286 F.3d 554 (D.C. Cir. 2002) (a regulation is controlling over the language of a preamble.). Cf. *Association of American R.R.s. v. Costle*, 562 F.2d 1310, 1316 (D.C. Cir. 1977) (citing *Yazoo Railroad Co. v. Thomas*, 132 U.S. 174, 188 (1889)) (‘Where the enacting or operative parts of a statute are unambiguous, the meaning of the statute cannot be controlled by language in the preamble.’) However, because the preamble statement could cause confusion, we are issuing this memorandum to explain the

misstatement in the preamble and that the regulatory text is controlling.”

Consequently, if this proposed determination is made final, the requirement for the Harrisburg-Lebanon-Carlisle, Pennsylvania PM<sub>2.5</sub> nonattainment area to make RACT submissions related to attainment of the 1997 PM<sub>2.5</sub> nonattainment NAAQS would be suspended for so long as the area continues to attain the 1997 PM<sub>2.5</sub> NAAQS.

If this rulemaking is finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the area has violated the 1997 PM<sub>2.5</sub> NAAQS, the basis for the suspension of the specific requirements, set forth at 40 CFR section 51.1004(c), would no longer exist, and the area would thereafter have to address the pertinent requirements.

The determination that EPA proposes with this **Federal Register** notice, that the air quality data show attainment of the 1997 PM<sub>2.5</sub> NAAQS, is not equivalent to the redesignation of the area to attainment. This proposed action, if finalized, would not constitute a redesignation to attainment under section 107(d)(3) of the Clean Air Act (CAA), because we would not yet have an approved maintenance plan for the area as required under section 175A of the CAA, nor a determination that the area has met the other requirements for redesignation. The designation status of the area would remain nonattainment for the 1997 PM<sub>2.5</sub> NAAQS until such time as EPA determines that it meets the CAA requirements for redesignation to attainment.

This proposed action, if finalized, is limited to a determination that the Harrisburg-Lebanon-Carlisle, Pennsylvania PM<sub>2.5</sub> area has attained the 1997 PM<sub>2.5</sub> NAAQS. The 1997 PM<sub>2.5</sub> NAAQS became effective on July 18, 1997 (62 FR 36852) and are set forth at 40 CFR section 50.7. The 2006 PM<sub>2.5</sub> NAAQS, which became effective on December 18, 2006 (71 FR 61144) are set forth at 40 CFR section 50.13. EPA is currently in the process of making designation determinations, as required by CAA section 107(d)(1), for the 2006 PM<sub>2.5</sub> NAAQS. EPA has not made any designation determination for the Harrisburg-Lebanon-Carlisle, Pennsylvania area based on the 2006 PM<sub>2.5</sub> NAAQS. This proposed determination, and any final determination, will have no effect on, and is not related to, any future designation determination that EPA may make based on the 2006 PM<sub>2.5</sub> NAAQS for the Harrisburg-Lebanon-Carlisle, Pennsylvania area. Conversely, any future designation determination of the

Harrisburg-Lebanon-Carlisle, Pennsylvania area, based on the 2006 PM<sub>2.5</sub> NAAQS, will not have any effect on the determination proposed by this notice.

If this proposed determination is made final and the Harrisburg-Lebanon-Carlisle, Pennsylvania area continues to demonstrate attainment with the 1997 PM<sub>2.5</sub> NAAQS, the requirements for the Harrisburg-Lebanon-Carlisle, Pennsylvania area to submit an attainment demonstration and associated reasonably available control measures, a reasonable further progress plan, contingency measures, and any other planning SIPs related to attainment of the 1997 PM<sub>2.5</sub> NAAQS would remain suspended, regardless of whether EPA designates this area as a nonattainment area for purposes of the 2006 PM<sub>2.5</sub> NAAQS. Once the area is designated for the 2006 NAAQS, it will have to meet all applicable requirements for that designation.

### III. What Is the Background for This Action?

On July 18, 1997 (62 FR 36852), EPA established a health-based PM<sub>2.5</sub> NAAQS at 15.0 micrograms per cubic meter (µg/m<sup>3</sup>) based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations, and a twenty-four hour standard of 65 µg/m<sup>3</sup> based on a 3-year average of the 98th percentile of 24-hour concentrations. EPA established the standards based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to particulate matter. The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d)(1) of the CAA. EPA and State air quality agencies initiated the monitoring process for the 1997 PM<sub>2.5</sub> NAAQS in 1999, and developed all air quality monitors by January 2001. On January 5, 2005 (70 FR 944), EPA published its air quality designations and classifications for the 1997 PM<sub>2.5</sub> NAAQS based upon air quality monitoring data from those monitors for calendar years 2001–2003. These designations became effective on April 5, 2005. The Harrisburg-Lebanon-Carlisle, Pennsylvania (Cumberland, Dauphin, and Lebanon Counties) area was designated nonattainment for the 1997 PM<sub>2.5</sub> NAAQS (see 40 CFR part 81).

### IV. What Is EPA’s Analysis of the Relevant Air Quality Data?

EPA has reviewed the ambient air monitoring data for PM<sub>2.5</sub>, consistent with the requirements contained in 40 CFR part 50 and recorded in the EPA

<sup>1</sup> On the same page, in a response to a comment, EPA states: “The Clean Data Policy does not waive requirements for NSR nor for RACT.”

<sup>2</sup> The statement is accurate as to NSR requirements.

AQS database for the Harrisburg-Lebanon-Carlisle, Pennsylvania PM<sub>2.5</sub> nonattainment area from 2004 through the present time.

On the basis of that review, EPA has concluded that this area attained the 1997 PM<sub>2.5</sub> NAAQS since the 2004–2006 monitoring period, and continues to monitor attainment of the NAAQS based on 2005–2007 data. In addition, quality controlled and quality assured monitoring data for 2008 that are available in the EPA AQS database, but

not yet certified, show this area continues to attain the 1997 PM<sub>2.5</sub> NAAQS.

Under EPA regulations at 40 CFR Part 50, section 50.7:

(1) The annual primary and secondary PM<sub>2.5</sub> standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR Part 50, Appendix N, is less than or equal to 15.0 µg/m<sup>3</sup>.

(2) The 24-hour primary and secondary PM<sub>2.5</sub> standards are met when the 98th percentile 24-hour

concentration, as determined in accordance with 40 CFR Part 50, Appendix N, is less than or equal to 65 µg/m<sup>3</sup>.

Table 1 shows the design values for the 1997 24-hour PM<sub>2.5</sub> NAAQS for Harrisburg-Lebanon-Carlisle, Pennsylvania nonattainment area monitors for the years 2004–2006 and 2005–2007. Table 2 shows the design values for the 1997 annual PM<sub>2.5</sub> NAAQS for these same monitors and the same 3-year periods.

TABLE 1.—DESIGN VALUES FOR THE 1997 24-HOUR PM<sub>2.5</sub> NAAQS FOR HARRISBURG-LEBANON-CARLISLE, PENNSYLVANIA IN MICROGRAMS PER CUBIC METER (µG/M<sup>3</sup>)

| Location                         | AQS site ID | 1997 24-Hour attainment standard | 2004–2006 design values | 2005–2007 design values |
|----------------------------------|-------------|----------------------------------|-------------------------|-------------------------|
| Carlisle/Cumberland County ..... | 42–041–0101 | 65                               | 38                      | 36                      |
| Harrisburg/Dauphin County .....  | 42–043–0401 | 65                               | 38                      | 38                      |

TABLE 2.—DESIGN VALUES FOR THE 1997 ANNUAL PM<sub>2.5</sub> NAAQS FOR HARRISBURG-LEBANON-CARLISLE, PENNSYLVANIA IN MICROGRAMS PER CUBIC METER (µG/M<sup>3</sup>)

| Location                         | AQS site ID | 1997 Annual attainment standard | 2004–2006 design values | 2005–2007 design values |
|----------------------------------|-------------|---------------------------------|-------------------------|-------------------------|
| Carlisle/Cumberland County ..... | 42–041–0101 | 15.0                            | 14.4                    | 13.9                    |
| Harrisburg/Dauphin County .....  | 42–043–0401 | 15.0                            | 15.0                    | 14.6                    |

EPA's reviews of these data indicate that the Harrisburg-Lebanon-Carlisle, Pennsylvania nonattainment area has met and continues to meet the 1997 PM<sub>2.5</sub> NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

## V. Proposed Action

EPA is proposing to determine that the Harrisburg-Lebanon-Carlisle, Pennsylvania nonattainment area for the 1997 PM<sub>2.5</sub> NAAQS has attained the 1997 PM<sub>2.5</sub> NAAQS and continues to attain the standard based on data through 2008. As provided in 40 CFR 51.1004(c), if EPA finalizes this determination, it would suspend the requirements for this area to submit an attainment demonstration and associated reasonably available control measures, a reasonable further progress plan, contingency measures, and any other planning SIPs related to attainment of the 1997 PM<sub>2.5</sub> NAAQS so long as the area continues to attain the 1997 PM<sub>2.5</sub> NAAQS.

## VI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a “significant regulatory

action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action proposes to make a determination based on air quality data, and would, if finalized, result in the suspension of certain Federal requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*). Because this rule proposes to make a determination based on air quality data, and would, if finalized, result in the suspension of certain Federal requirements, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This proposed rule also does not have tribal applications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the

Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to make a determination based on air quality data and would, if finalized result in the suspension of certain Federal requirements, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks” (62 FR 19885, April 23, 1997) because it proposes to determine that air quality in the affected area is meeting Federal standards.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply because it would be inconsistent with applicable law for EPA, when determining the attainment

status of an area, to use voluntary consensus standards in place of promulgated air quality standards and monitoring procedures otherwise satisfy the provisions of the CAA.

This proposed rule does not impose an information collection burden under the provisions of the Paper Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

Under Executive Order 12898, EPA finds that this rule, pertaining to Pennsylvania's determination of attainment of the fine particle standard for Harrisburg-Lebanon-Carlisle area, involves a proposed determination of attainment based on air quality data and will not have disproportionately high and adverse human health or environmental effects on any communities in the area, including minority and low-income communities.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: June 4, 2008.

**William T. Wisniewski,**

*Acting Regional Administrator, Region III.*

[FR Doc. E8-13340 Filed 6-12-08; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA-HQ-SFUND-1989-0008, Notice 4; FRL-8579-2]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent to delete the Fourth Street Abandoned Refinery Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 6 announces its intent to delete the Fourth Street Abandoned Refinery Site (Site), located in Oklahoma City, Oklahoma County, Oklahoma, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan

(NCP). EPA and the State of Oklahoma, through the Oklahoma Department of Environmental Quality (ODEQ) have determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** Comments concerning the proposed deletion of this Site from the NPL must be received by July 14, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-SFUND-1989-0008, Notice 4, by one of the following methods:

- <http://www.regulations.gov>. Follow online instructions for submitting comments.

- *E-mail:* [walters.donn@epa.gov](mailto:walters.donn@epa.gov).

- *Fax:* 1-214-665-6660.

- *Mail:* Donn Walters, Community Involvement, U.S. EPA, Region 6 (6SF-TS), 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-6483 or 1-800-533-3508.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-SFUND-1989-0008, Notice 4. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy at the following information repositories.

U.S. EPA Online Library System at <http://www.epa.gov/natl/libra/ols.htm>;  
U.S. EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, (214) 665-6617, by appointment only Monday through Friday 9 a.m. to 12 p.m. and 1 p.m. to 4 p.m.;  
Ralph Ellison Library, 2000 Northeast 23, Oklahoma City, OK 73111, (409) 643-5979, Monday through Wednesday 9 a.m. to 9 p.m., Thursday and Friday 9 a.m. to 6 p.m., Saturday 10 a.m. to 4 p.m.;  
Oklahoma Department of Environmental Quality (ODEQ), 707 North Robinson, Oklahoma City, OK 73101, (512) 239-2920, Monday through Friday 8 a.m. to 5 p.m.

#### FOR FURTHER INFORMATION CONTACT:

Bartolome Canellas, Remedial Project Manager, U.S. Environmental Protection Agency, Region 6, 6SF-RL, 1445 Ross Avenue, Dallas, Texas 75202-2733, [canellas.bart@epa.gov](mailto:canellas.bart@epa.gov) or (214) 665-6662 or 1-800-533-3508.

**SUPPLEMENTARY INFORMATION:** In the "Rules and Regulations" section of today's **Federal Register**, we are publishing a direct final Notice of Deletion of the Fourth Street Abandoned Refinery Superfund Site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final deletion. If we receive no adverse comment(s) on this Notice of Intent to Delete or the direct final Notice of Deletion, we will not take further action on this Notice of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on this Notice of Intent to Delete. We will not institute a second comment period on this Notice of Intent to Delete. Any parties interested in commenting must do so at this time.

For additional information see the direct final Notice of Deletion located in