



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2017-0398; FRL-9971-14-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Nonattainment New Source Review Requirements for the 2008 8-Hour Ozone Standard; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the September 29, 2017 direct final rule (DFR) that approved a revision to the Maryland state implementation plan (SIP). The revision was in response to EPA's February 3, 2017 Findings of Failure to Submit for various requirements relating to the 2008 8-hour ozone national ambient air quality standards (NAAQS). This SIP revision was specific to nonattainment new source review (NNSR) requirements. EPA stated in the direct final rule that if EPA received adverse comments by October 30, 2017, the rule would be withdrawn and not take effect. EPA subsequently received an adverse comment. EPA will address the comment received in a subsequent final action based upon the proposed action also published on September 29, 2017. EPA will not institute a second comment period on this action. This withdrawal action is being taken under section 110 of the Clean Air Act.

DATES: The direct final rule published at 82 FR 45475, on September 29, 2017, is withdrawn as of **[insert date of publication in the Federal Register]**.

ADDRESSES: EPA has established docket number **EPA-R03-OAR-2017-0398** for this action. The index to the docket is available electronically at <https://www.regulations.gov> and in hard copy at Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Mrs. Amy Johansen, (215) 814-2156, or by e-mail at johansen.amy@epa.gov.

SUPPLEMENTARY INFORMATION: On May 8, 2017, the Maryland Department of the Environment (MDE) submitted on behalf of the State of Maryland a formal revision, requesting EPA's approval for the SIP of its NNSR Certification for the 2008 Ozone Standard (Revision 17-01). The SIP revision is in response to EPA's final 2008 8-hour ozone NAAQS Findings of Failure to Submit for NNSR requirements. *See* 82 FR 9158 (February 3, 2017). Specifically, Maryland is certifying that its existing NNSR program, covering the Baltimore Nonattainment Area (which includes Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties and the city of Baltimore), the Philadelphia-Wilmington-Atlantic City Nonattainment Area (which includes Cecil County in Maryland), and the Washington, DC Nonattainment Area (which includes Calvert, Charles, Frederick, Montgomery, and Prince Georges Counties in Maryland) for the 2008 8-hour ozone NAAQS, is at least as stringent as the requirements at 40 CFR 51.165, as amended by the final rule titled "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements" (SIP Requirements Rule), for ozone and its precursors.¹ *See* 80 FR 12264 (March 6, 2015).

¹ The SIP Requirements Rule addresses a range of nonattainment area SIP requirements for the 2008 8-hour ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology, reasonably available control measures, major new source review, emission inventories, and the timing of SIP submissions and of compliance with emission control measures in the SIP. The rule also revokes the 1997 ozone NAAQS and establishes anti-backsliding requirements.

Please see additional information provided in the direct final action published in the Federal Register on September 29, 2017 (82 FR 45475) and in the companion proposed rule which was also published on September 29, 2017 (82 FR 45547). In the DFR, we stated that if we received adverse comment by October 30, 2017, the rule would be withdrawn and not take effect. EPA subsequently received an adverse comment. As a result of the comment received, EPA is withdrawing the direct final rule approving Maryland's SIP revision related to NNSR requirements for the 2008 8-hour ozone standard.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 9, 2017.

Cosmo Servidio
Regional Administrator,
Region III.

Accordingly, the amendment to 40 CFR 52.1070(e) published on September 29, 2017 (82 FR 45475) is withdrawn as of **[insert date of publication in the Federal Register]**.

[FR Doc. 2017-25322 Filed: 11/21/2017 8:45 am; Publication Date: 11/22/2017]