



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2019-0483; FRL-10005-16-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania;
Allegheny County Administrative Revisions to Definitions, Remedies, and Enforcement
Orders Sections and Incorporation by Reference of National Ambient Air Quality
Standards**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania on behalf of Allegheny County. These revisions include administrative amendments made to the Allegheny County Health Department (ACHD) Rules and Regulations, Article XXI, Air Pollution Control.

Specifically, the revisions added a definition for “County Council;” deleted its current listing of ambient air quality standards and added, through incorporation by reference, all national ambient air quality standards (NAAQS) promulgated by EPA; revised references to the “Board of County Commissioners” to “County Executive” or “County Council;” added the “Manager of the Air Quality Program or their respective designee” as a signatory for enforcement orders; and revised a reference from the “Bureau of Environmental Quality Division of Air Quality” to “Air Quality Program of the Department.” This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on [insert date 30 days after date of publication in the **Federal Register**].

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2019-0483. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (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 through <https://www.regulations.gov>, or please contact the person identified in the “**For Further Information Contact**” section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Erin Malone, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2190. Ms. Malone can also be reached via electronic mail at Malone.Erin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 13, 2019 (84 FR 61592), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Pennsylvania. In the NPRM, EPA proposed approval of administrative and definition amendments, as well as incorporation by reference of the NAAQS, to ACHD Rules and Regulations, Article XXI, Air Pollution Control. The formal SIP revision was submitted by Pennsylvania, on behalf of Allegheny County, on February 15, 2019.¹

II. Summary of SIP Revision and EPA Analysis

¹ On April 28, 2017, ACHD submitted Revision 73 to the Pennsylvania Department of Environmental Protection (PADEP). PADEP, on behalf of Allegheny County, also submitted a clarification letter dated June 24, 2019 to EPA to further clarify the revisions to sections 2101.10 and 2101.20 of Article XXI of ACHD’s Rules and Regulations.

The February 15, 2019 submittal includes amended versions of ACHD Rules and Regulations, Article XXI, Air Pollution Control, sections 2101.10 Ambient Air Quality Standards, 2101.20 Definitions, 2109.02 Remedies, and 2109.03 Enforcement Orders. The amendment to section 2101.10 removed ACHD's existing SIP approved list of NAAQS and added, through incorporation by reference, all NAAQS promulgated by the EPA under the CAA at 40 CFR part 50. The amendment to section 2101.20 added the following definition for County Council, "County Council' means the Council of Allegheny County, Pennsylvania." The amendments to section 2109.02 revised the reference to "Board of County Commissioners" to "County Executive" in paragraphs (a)(5) and (6).

Other specific requirements and the rationale for EPA's proposed action are explained in the NPRM and Technical Support Document (TSD) and will not be restated here. No adverse comments were received on the NPRM.

III. Final Action

EPA is approving the February 15, 2019 submittal, which includes administrative deletions, additions, and revisions to ACHD Rules and Regulations, Article XXI, Air Pollution Control, sections 2101.10 Ambient Air Quality Standards, 2101.20 Definitions, 2109.02 Remedies, and 2109.03 Enforcement Orders, as a revision to the Pennsylvania SIP.

IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the ACHD Rules and Regulations, Article XXI, sections 2101.10 Ambient Air Quality Standards, 2101.20 Definitions, 2109.02 Remedies, and 2109.03 Enforcement Orders described

in the amendments to 40 CFR part 52 set forth below.

EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region III Office (please contact the person identified in the “**For Further Information Contact**” section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.²

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.

² 62 FR 27968 (May 22, 1997).

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal

governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days after date of publication in the **Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action revising the Pennsylvania SIP to reflect amendments to ACHD Rules and Regulations, Article XXI, Air Pollution Control, sections 2101.10 Ambient Air Quality Standards, 2101.20 Definitions, 2109.02 Remedies, and 2109.03 Enforcement Orders may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 10, 2020.

Cosmo Servidio,
Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart NN—Pennsylvania

2. In § 52.2020, the table in paragraph (c)(2) is amended by:

a. Under “Part A—General”:

i. Removing the entry for “2101.10” and adding in its place an entry for “2101.10(except paragraph b)”;

ii. Adding an eleventh entry for “2120.20;

b. Under “Part I—Enforcement”:

i. Revising the entry for “2109.02 (except paragraph.02.a.7)”;

ii. Removing the entry “2109.03a. (introductory sentence), b. through f”, and adding in its place an entry for “2109.03 (except under a. subsections 1, 2, 3)”.

The revision and additions read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(2) ***

| Article XX or XXI citation | Title/subject | State effective date | EPA approval date | Additional explanation/ § 52.2063 citation |
|--|-------------------------------|----------------------|--|---|
| Part A—General | | | | |
| ** | * | * | * | ** |
| 2101.10 (except paragraph b) | Ambient Air Quality Standards | 9/25/13 | <u>[Insert date of publication in the Federal Register, [Insert Federal Register citation]</u> | This action is only approving the ACHD incorporations of EPA NAAQS under 40 CFR part 50 cited under this section. |
| ** | * | * | * | ** |
| 2101.20 | Definitions | 9/25/13 | <u>[Insert date of publication in the Federal Register, [Insert Federal Register citation]</u> | Addition of definition for “County Council.” |
| * * * * * | | | | |
| Part I—Enforcement | | | | |
| ***** | | | | |
| 2109.02 (except paragraph.02 .a.7) | Remedies | 9/25/13 | <u>[Insert date of publication in the Federal Register, [Insert Federal Register citation]</u> | Changed references of “Board of County Commissioners” to “County Executive.” (c)(192). |
| 2109.03 (except under a. subsections) | Enforcement Orders | 9/25/13 | <u>[Insert date of publication in the</u> | Paragraph (b) was revised to add “or the Manager of the Air Quality |

| Article XX or XXI citation | Title/subject | State effective date | EPA approval date | Additional explanation/ § 52.2063 citation |
|----------------------------------|---------------|----------------------------|---|--|
| 1, 2, 3) | | | <u>Federal Register,</u> <u>[Insert Federal Register citation]</u> | Program, or their respective designee” as an additional signatory option on enforcement orders. In paragraph (d) “Board of County Commissioners” was changed to “County Council.” In paragraph (d)(1), “Bureau of Environmental Quality Division of Air Quality” was changed to “Air Quality Program of the Department.” (c)(192). |
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[FR Doc. 2020-06588 Filed: 4/7/2020 8:45 am; Publication Date: 4/8/2020]