



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R03-OAR-2023-0219; FRL-8813-02-R3]**

### **Air Plan Approval; Pennsylvania; Liberty Borough Area Second 10-Year PM<sub>10</sub> Limited Maintenance Plan**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving into the Pennsylvania state implementation plan (SIP), a limited maintenance plan (LMP) submitted by the Commonwealth of Pennsylvania's Department of Environmental Protection (PADEP or Commonwealth) on behalf of the Allegheny County Health Department (ACHD). This plan addresses the second 10-year maintenance period after redesignation for coarse particulate matter, particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>). A LMP is used to meet the Clean Air Act (CAA or the Act) requirements for formerly designated nonattainment areas that meet certain qualification criteria. EPA has determined that ACHD's second maintenance plan meets applicable CAA requirements.

**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-2023-0219. All documents in the docket are listed on the [www.regulations.gov](http://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 [www.regulations.gov](http://www.regulations.gov), or please contact the person identified in the **FOR**

**FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Ellen Schmitt, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-5787. Ms. Schmitt can also be reached via electronic mail at [schmitt.ellen@epa.gov](mailto:schmitt.ellen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On July 21, 2021, EPA received from PADEP, on behalf of ACHD, a revision to the Commonwealth's SIP for the Liberty Borough area.<sup>1</sup> The SIP revision is a PM<sub>10</sub> LMP for the Liberty Borough area and fulfills the second 10-year planning requirement of CAA section 175A to ensure the area is compliant with the 1987 24-hour PM<sub>10</sub> national ambient air standard (NAAQS or standard) through 2033.<sup>2</sup>

The LMP relies upon control measures contained in the first 10-year maintenance plan and the determination that the Liberty Borough area currently monitors PM<sub>10</sub> levels well-below the PM<sub>10</sub> NAAQS. The Liberty Borough area has been meeting the PM<sub>10</sub> standard for many years and was redesignated to attainment on September 11, 2003 (68 FR 53515) with an approved 10-year PM<sub>10</sub> maintenance plan.

On July 12, 2023 (88 FR 44237), EPA published a notice of proposed rulemaking (NPRM), approving the Commonwealth's July 2021 PM<sub>10</sub> LMP SIP submittal. The reasons for our approval are included in our July 2023 proposal and will not be restated here. The public comment period for our proposed action closed on August 11, 2023. We received no public comments. Therefore, we are finalizing our action as proposed.

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<sup>1</sup> In its SIP submission, ACHD refers to the area at issue as the Liberty-Clairton area. In this final rule document as well as in the associated proposed rulemaking action, EPA refers to this area as the Liberty Borough area to distinguish it from the Liberty-Clairton fine particulate matter (PM<sub>2.5</sub>) nonattainment area and to be consistent with what the Agency called the area in our approval of the first 10-year maintenance plan and attainment plan. *See* 63 FR 47493 (September 8, 1998) and 68 FR 53515 (September 11, 2003).

<sup>2</sup> The first 10-year maintenance period for the Liberty Borough area ended in 2013 and the second 10-year maintenance plan, which is the subject of this final rule document, extends through 2023.

## II. Final Action

In this final action, EPA is approving the second 10-year PM<sub>10</sub> LMP for the Liberty Borough area as a revision to the Pennsylvania SIP, which the Agency received as a submittal on July 21, 2021. EPA's approval of the Liberty Borough area LMP satisfies CAA section 175A requirements for the 24-hour PM<sub>10</sub> NAAQS for the second 10-year maintenance period for the Liberty Borough area.

## III. 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);
- 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 (Pub. L. 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); and
- 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 Clean Air Act;

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

ACHD and PADEP did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to

positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

*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 finalizing the second 10-year maintenance plan for the Liberty Borough PM<sub>10</sub> area 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, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Adam Ortiz,  
Regional Administrator,  
Region III.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 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 (e)(1) is amended by revising the entry for “PM<sub>10</sub> Maintenance Plan” to read as follows:

\* \* \* \* \*

(e)\*\*\*

(1) \*\*\*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * * * *				
PM <sub>10</sub> Maintenance Plan	Allegheny County—Clairton PM <sub>10</sub> nonattainment area	9/14/02	9/11/03, 68 FR 53515	52.2063(c)(215).
		7/21/21	<b>[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]</b>	Limited maintenance plan covering the second 10-year period through 2023.  “Allegheny County” is the designated name for this area under 40 CFR 81.339, but it has also been referred to as the “Liberty Borough area” in numerous regulatory actions.
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3. Section 52.2059 is amended by adding paragraph (z) to read as follows:

**§ 52.2059 Control strategy: Particulate matter.**

\* \* \* \* \*

(z) EPA approves the limited maintenance plan for the second 10-year maintenance period for the PM<sub>10</sub> Liberty Borough area in Allegheny County.

[FR Doc. 2023-19286 Filed: 9/8/2023 8:45 am; Publication Date: 9/11/2023]