



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2023-0565; FRL-11415-01-R3]

Air Plan Approval; Pennsylvania; Allegheny County Open Burning Revision and Addition of Mon Valley Air Pollution Episode Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Pennsylvania Department of Environmental Protection (PADEP) on behalf of the Allegheny County Health Department (ACHD). The SIP submission requests EPA to incorporate into the Pennsylvania SIP particulate matter emission mitigation requirements for industry operating in the portion of Allegheny County known as the “Mon Valley” during weather-related pollution episodes. It also amends a portion of Allegheny County’s open burning regulation, which was previously incorporated into Pennsylvania’s SIP. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2023-0565 at www.regulations.gov, or via email to gordon.mike@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be

accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www.epa.gov/dockets/commenting-epa-dockets.

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.

SUPPLEMENTARY INFORMATION: EPA received a SIP submission from ACHD on August 23, 2023 requesting that EPA incorporate into Pennsylvania's SIP, revisions to ACHD Air Pollution Control Rules and Regulations in Article XXI. These revisions include amendments to section 2105.50 regarding open burning, and adding new section 2106.06, which focuses on mitigating particulate matter air pollution episodes in the Mon Valley.

I. Background

EPA's particulate matter national ambient air quality standards (NAAQS) address particles with diameters that are generally two and half micrometers or smaller (fine particulate matter or PM_{2.5}) and particles with diameters that are generally 10 micrometers or smaller (coarse particulate matter or PM₁₀). On July 1, 1987, EPA promulgated two primary standards for PM₁₀: A 24-hour (daily) standard of 150 micrograms per cubic meter (µg/m³) and an annual standard of 50 µg/m³. EPA also promulgated secondary PM₁₀ standards that were identical to

the primary standards.¹ On October 17, 2006 (71 FR 61144),² EPA revoked the annual PM₁₀ standards but retained the 24-hour standards.

On July 18, 1997 (62 FR 38652), EPA revised the NAAQS for particulate matter to add new standards for PM_{2.5}, establishing primary and secondary annual and 24-hour standards.³ The annual standard was set at 15.0 µg/m³ based on a 3-year average of annual mean PM_{2.5} concentrations, and the 24-hour standard was set at 65 µg/m³ based on the 3-year average of the annual 98th percentile values of 24-hour PM_{2.5} concentrations at each population-oriented monitor within an area.⁴

On October 17, 2006 (71 FR 61144), EPA retained the annual average PM_{2.5} NAAQS at 15.0 µg/m³ but lowered the level of the 24-hour PM_{2.5} NAAQS to 35 µg/m³ based on a 3-year average of the annual 98th percentile values of 24-hour concentrations.⁵

On December 14, 2012, EPA promulgated the 2012 PM_{2.5} NAAQS, including lowering the annual standard to 12.0 µg/m³ based on a 3-year average of annual mean PM_{2.5} concentrations. EPA maintained the 24-hour standard of 35 µg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations.⁶ Allegheny County was designated as nonattainment for the 2012 PM_{2.5} NAAQS.⁷ Since the 2012 PM_{2.5} NAAQS designation, monitors within Allegheny County have periodically recorded exceedances⁸ of the 24-hour PM_{2.5} NAAQS. According to ACHD, many of these exceedances have occurred during lengthy

¹ 52 FR 24634 (July 1, 1987). Effective July 31, 1987.

² Effective December 18, 2006.

³ In this same action, EPA revised the form of the 24-hour PM₁₀ standard to be based on the 3-year average of the 99th percentile of 24-hour PM₁₀ concentrations at each monitor within an area.

⁴ The primary and secondary standards were set at the same level for both the 24-hour and the annual PM_{2.5} standards.

⁵ Under EPA regulations at 40 CFR part 50, the primary and secondary 2006 24-hour PM_{2.5} NAAQS are attained when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, appendix N, is less than or equal to 35 µg/m³ at all relevant monitoring sites in the subject area, averaged over a 3-year period.

⁶ December 14, 2012 is the signature date of the action. The action was published in the *Federal Register* on January 15, 2013 with an effective date of March 18, 2013. See 78 FR 3086.

⁷ 80 FR 2206 (January 15, 2015) and 80 FR 18535 (April 7, 2015). For the 1987 PM₁₀ NAAQS, a portion of Allegheny County was designated as nonattainment. The area has since been redesignated to attainment. 68 FR 53515 (September 11, 2003). The PM₁₀ area is comprised of the Boroughs of Liberty, Lincoln, Port Vue, and Glassport and the City of Clairton in Allegheny County, Pennsylvania.

⁸ An exceedance is determined by an air quality measurement at a specific monitor at a specific time. Since the 2012 PM_{2.5} NAAQS design value is a three-year average of the 98th percentile, an exceedance at a monitor does not equal a violation.

temperature inversions which trap pollutants closer to the earth's surface.⁹

II. Summary of SIP Revision and EPA Analysis

On August 23, 2023, EPA received from PADEP, a SIP submission that pertains to proposed revisions to the Allegheny County portion of the Pennsylvania SIP. The submission seeks to incorporate into Pennsylvania's SIP a new section (2106.06, Mon Valley Air Pollution Episode) to Allegheny County Article XXI, which focuses on mitigating particulate matter air pollution episodes in the Mon Valley. The August 2023 submission also seeks to incorporate into the Pennsylvania SIP related changes to Article XXI, section 2105.50, Open Burning.

Article XXI, section 2106.06, Mon Valley Air Episodes, is aimed at emission mitigation requirements for industry operating in the portion of the county known as the "Mon Valley" during weather-related pollution episodes.¹⁰ Section 2106.06 applies to the following sources located within the prescribed Mon Valley Pollution Episode Area: 1) all major and synthetic minor sources of PM_{2.5};¹¹ 2) all sources that have combined allowable emissions from all emissions units of 6.5 tons or more per year of PM_{2.5}; and 3) all sources that have combined allowable emissions from all emission units of 10 tons per year of PM₁₀.¹²

Section 2106.06 requires applicable sources to submit a mitigation plan to reduce

⁹ See August 23, 2023 SIP submission which can be found in the docket for this proposed rulemaking. Page 7.

¹⁰ Section 2106.06(d) defines the Mon Valley Air Pollution Episode Area as including the following municipalities: City of Clairton, City of Duquesne, City of McKeesport, Borough of Braddock, Borough of Braddock Hills, Borough of Chalfant, Borough of Dravosburg, Borough of East McKeesport, Borough of East Pittsburgh, Borough of Elizabeth, Borough of Forest Hills, Borough of Glassport, Borough of Jefferson Hills, Borough of Liberty, Borough of Lincoln, Borough of Munhall, Borough of North Braddock, Borough of Port Vue, Borough of Rankin, Borough of Swissvale, Borough of Turtle Creek, Borough of Versailles, Borough of Wall, Borough of West Elizabeth, Borough of West Mifflin, Borough of White Oak, Borough of Wilmerding, Borough of Whitaker, Elizabeth Township, Forward Township, North Versailles Township, and Wilkins Township. See the technical support document (TSD) portion of Pennsylvania's August 23, 2023 Mon Valley Air Pollution Episode SIP submission, section 2.2 Extent of Area, to learn more about how ACHD determined the area of focus within Allegheny County. The SIP submission and incorporated TSD are located in the docket for this proposed rulemaking.

¹¹ Definitions of major source and synthetic minor source can be found in ACHD Article XXI, section 2101.20, Definitions.

¹² ACHD completed an analysis of the composition of PM_{2.5} in the Mon Valley to determine which sources should be applicable to section 2106.06. It was determined that the majority of excess PM_{2.5} in the Mon Valley is primary in nature and caused by point source emissions from within the area. For additional information, see sections 2.3 and 2.4 of ACHD's TSD which is located in the docket for this proposed rulemaking.

particulate matter emissions for review and approval by ACHD.¹³ Each applicable source's mitigation plan must include a Mon Valley Air Pollution Watch Phase and a Mon Valley Air Pollution Warning Phase, that the source must be prepared for and follow. A Mon Valley Air Pollution Watch shall be issued by ACHD if "the air quality forecast for at least the next 24-hour period atmospheric conditions will exist which indicate that the 24-hour average ambient concentration of PM_{2.5} in one or more of the Mon Valley municipalities is forecasted to exceed" the value of the 24-hour PM_{2.5} NAAQS of 35 µg/m³.¹⁴ Pursuant to section 2106.06(e), each source's mitigation plan must include procedures for when a Mon Valley Air Pollution Watch is issued. These procedures are to ensure that equipment is maintained in good working condition, that equipment is operating in a manner consistent with good engineering practice, and that the source has sufficient staff and resources available to implement the Warning Phase within 24 hours of ACHD's notification to the source of a Watch. Sources must also show that they have procedures in place for record keeping and reporting to ACHD during the Watch period.

ACHD shall issue a Mon Valley Air Pollution Warning if during a rolling 24-hour averaging period, an official monitoring station in an applicable municipality exceeds the Mon Valley PM_{2.5} threshold, 35 µg/m³, and ACHD has determined that atmospheric conditions will continue for the next 24-hour period. Each source's mitigation plan must also contain a Warning Phase section which includes measures to reduce PM_{2.5} and PM₁₀, the timeframe for implementing each measure, and an estimate of the PM_{2.5} and PM₁₀ emissions reductions during the Mon Valley Air Pollution Warning period.

Additional subsections within 2106.06 outline the following: (f) a submission schedule for the Mitigation Plans; (g) procedures for review and the effective date of the Mitigation Plans; (h) details regarding ACHD's notification of Mon Valley Air Pollution Episodes; (i) termination

¹³ According to ACHD, as of October 31, 2023, all currently applicable sources have submitted approved mitigation plans.

¹⁴ Article XXI section 2106.06(c). Article XXI section 2106.06 provides that the "Mon Valley PM_{2.5} threshold level" for purposes of defining a Watch and Warning is the value of the primary 24-hour PM_{2.5} NAAQS.

procedures for Mon Valley Air Pollution Episodes; and (j) clarification that this section does not affect ACHD's authority to issue an Emergency Order under section 2109.05.

To support the reduction of particulate matter pollution during a Mon Valley Air Pollution Watch or Warning, ACHD is also requesting that EPA incorporate into the SIP, ACHD's amendment to Article XXI, section 2105.50, Open Burning, which was previously approved into the Commonwealth's SIP. The amendment clarifies that wood burning activities should not occur in the Mon Valley Episode Area when a Watch or Warning has been issued, with the exception of conducting such burning for the commercial preparation of food.

After review of the August 2023 SIP submission, EPA has determined that the changes to Article XXI are overall SIP strengthening. With the addition of section 2106.06 and the amendment to section 2105.50, Article XXI builds on the protections found under the Federal requirements for air pollution emergency episodes found in 40 Code of Federal Regulations (CFR) part 51, subpart H. While the regulations in 40 CFR part 51, subpart H do not address PM_{2.5} specifically and do not identify a significant harm level or priority classification levels for PM_{2.5}, EPA has recommended that states only need to develop contingency plans for those areas that have monitored and recorded 24-hour PM_{2.5} levels greater than 140.4 µg/m³.¹⁵ EPA has evaluated PM_{2.5} regulatory monitoring data in the Mon Valley since 2012 and have confirmed that no values greater than 140.4 µg/m³ have been recorded.

By incorporating Allegheny County Article XXI section 2106.06 into the Pennsylvania SIP, ACHD adds an additional measure by which the county can help control particulate matter emissions in the Mon Valley, with a relatively quick turn-around time. The amendment to section 2105.50 further supports this measure. This revision will support ACHD's efforts to reduce air pollution emissions in order to minimize the impact on public health.¹⁶

¹⁵ See "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-hour Fine Particle (PM_{2.5}) National Ambient Air Quality Standards," William T. Harnett, Director, EPA's Air Quality Policy Division, September 25, 2009. This document can be found in the docket for this action.

¹⁶ Nothing contained in Article XXI section 2106.06 shall impact ACHD's power to issue an Emergency Order pursuant to section 2109.05 of the same Article.

III. Proposed Action

EPA has determined that the SIP submission requesting EPA to incorporate Allegheny County Article XXI section 2106.06 and the amended Article XXI section 2105.50 into the Pennsylvania SIP is SIP strengthening. The proposed revision will assist ACHD in reducing particulate matter air emissions, thereby assisting in the protection of public health in Allegheny County. EPA is proposing to approve into the SIP the August 23, 2023 ACHD submission, as EPA has determined that the addition of Article XXI section 2106.06 and the amendment to Article XXI section 2105.50 is SIP strengthening. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Allegheny County Article XXI section 2106.06 and Article XXI section 2105.50, as described in section II of this preamble. EPA has made, and will continue to make, these materials generally available through 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).

V. Statutory and Executive Order Reviews

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 proposed 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; and

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 (E.J.) 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 did not evaluate environmental justice considerations as part of its SIP submission; 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 proposed rulemaking. Due to the nature of the proposed action being taken here, this proposed rulemaking 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.

In addition, this proposed rulemaking, amending Article XXI section 2105.50 and adding Article XXI section 2106.06 to Pennsylvania’s SIP, 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 Commonwealth, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Adam Ortiz,
Regional Administrator,
Region III.