

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2014-0910; FRL-9927-35-Region-3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Infrastructure Requirements for the 2010 Nitrogen Dioxide and 2012 Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving portions of two State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania through the Pennsylvania Department of Environmental Protection (PADEP) pursuant to the Clean Air Act (CAA). Whenever new or revised national ambient air quality standards (NAAQS) are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements, including, but not limited to regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements. PADEP made two separate SIP submittals addressing the infrastructure requirements for the 2010 nitrogen dioxide (NO₂) NAAQS and the 2012 fine particulate matter (PM_{2.5}) NAAQS. In this rulemaking action, EPA is approving, in accordance with the requirements of the CAA, the two infrastructure SIP submissions with the exception of some portions of the submittals addressing visibility protection.

DATES: This final rule is effective on June 8, 2015.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2014-0910. All documents in the docket are listed in the www.regulations.gov Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.*, 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 either electronically through www.regulations.gov or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittals are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814-2182, or by email at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Summary of SIP Revision

On February 6, 2015 (80 FR 6672), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania proposing approval of Pennsylvania's SIP submittals to satisfy several requirements of section 110(a)(2) of the CAA for the 2010 NO₂ NAAQS and 2012 PM_{2.5} NAAQS.¹ In the NPR, EPA proposed approval of Pennsylvania's July 15, 2014 infrastructure SIP submittals for the 2010 NO₂ NAAQS and 2012 PM_{2.5} NAAQS for the following infrastructure elements in section 110(a)(2): (A), (B), (C), (D)(i)(II) (prevention of significant deterioration (PSD)), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). Pennsylvania's July 15, 2014 SIP submittals for the 2010 NO₂ NAAQS and the 2012 PM_{2.5} NAAQS did not include any provisions addressing section 110(a)(2)(D)(i)(I) (interstate transport) or 110(a)(2)(I) (nonattainment plan requirements). Thus, EPA's NPR did not propose to approve the infrastructure SIP submittals for the 2010 NO₂ NAAQS or 2012 PM_{2.5} NAAQS for the requirements in section 110(a)(2)(D)(i)(I) or 110(a)(2)(I). Section 110(a)(2)(I) pertains to the nonattainment planning requirements of part D, Title I of the CAA, and therefore Pennsylvania was not required to submit anything for this element by the 3-year submission deadline of section 110(a)(1) for either the 2010 NO₂ NAAQS or 2012 PM_{2.5} NAAQS. The requirements of section 110(a)(2)(I) for these NAAQS will be addressed in a separate SIP process where appropriate.

¹ EPA's February 6, 2015 NPR also proposed approval of two other Pennsylvania SIP submittals dated July 15, 2014 which addressed certain requirements of section 110(a)(2) of the CAA for the 2008 ozone NAAQS and the 2010 sulfur dioxide (SO₂) NAAQS. In this rulemaking action, EPA is not taking final action on the Pennsylvania SIP submittals for the 2008 ozone NAAQS or 2010 SO₂ NAAQS. EPA will take final rulemaking action on those SIP submittals in a separate action.

Section 110(a)(2)(D)(i)(I) pertains to interstate transport of emissions. EPA will take separate action for Pennsylvania concerning this element for the 2010 NO₂ NAAQS and 2012 PM_{2.5} NAAQS. Finally, Pennsylvania's July 15, 2014 infrastructure SIP submittals for the 2010 NO₂ NAAQS and 2012 PM_{2.5} NAAQS did include provisions addressing the visibility protection element in section 110(a)(2)(D)(i)(II) of the CAA; however, EPA's NPR did not propose to approve any of Pennsylvania's SIP submittals for the requirements in section 110(a)(2)(D)(i)(II) for visibility protection. EPA's NPR stated we would take separate action on the visibility protection element of section 110(a)(2)(D)(i)(II) submitted as part of the July 15, 2014 SIP submittals. Thus, this rulemaking does not take any final action on the July 15, 2014 infrastructure SIP submittals for section 110(a)(2)(D)(i)(II) (visibility protection) for the 2010 NO₂ NAAQS or the 2012 PM_{2.5} NAAQS.

In the NPR, EPA also proposed approval of Pennsylvania's July 15, 2014 SIP submittals for certain requirements of CAA section 110(a)(2) for the 2008 ozone and 2010 sulfur dioxide (SO₂) NAAQS. EPA will take separate final action on the proposed approval of Pennsylvania's infrastructure SIP submittals for the 2008 ozone and 2010 SO₂ NAAQS.

The rationale supporting EPA's approval of Pennsylvania's July 15, 2014 infrastructure SIP submittals for the 2010 NO₂ NAAQS and 2012 PM_{2.5} NAAQS, which address certain requirements of CAA section 110(a)(2), was explained in the NPR and the technical support document (TSD) accompanying the NPR and will not be restated here.² The TSD is available online at www.regulations.gov, Docket ID Number EPA-R03-OAR-2014-0910. EPA received no adverse comments on our proposed approval of Pennsylvania's infrastructure SIP submittals which address certain requirements in section 110(a)(2) for the 2010 NO₂ NAAQS and 2012 PM_{2.5} NAAQS as explained above.

II. Final Action

EPA is approving as a revision to the Pennsylvania SIP, Pennsylvania's July 15, 2014 infrastructure SIP submittals which provide the basic program elements specified in section 110(a)(2)(A), (B), (C), (D)(i)(II)(PSD),

² The NPR also explained the scope of infrastructure SIPs in general and EPA's authority to act on specific elements of CAA section 110(a)(2) for a particular NAAQS in separate rulemaking actions.

(D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) of the CAA, necessary to implement, maintain, and enforce the 2010 NO₂ NAAQS and 2012 PM_{2.5} NAAQS. This rulemaking action does not include any rulemaking action on Pennsylvania's infrastructure SIP submittals for requirements in CAA section 110(a)(2)(D)(i)(I) (interstate transport) or (D)(i)(II) (visibility protection). EPA will address these requirements in section 110(a)(2)(D)(i)(I) and (D)(i)(II) (visibility protection) in separate actions. EPA will take final action on Pennsylvania's SIP submittals addressing infrastructure elements of CAA section 110(a)(2) for the 2008 ozone NAAQS and 2010 SO₂ NAAQS in a separate action. This rulemaking does not address requirements for section 110(a)(2)(I) for the 2010 NO₂ NAAQS or 2012 PM_{2.5} NAAQS as those requirements are due on a separate schedule and will be addressed in separate actions where necessary.

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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 13045 (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 July 7, 2015. 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 pertaining to Pennsylvania's section 110(a)(2) infrastructure elements for the 2010 NO₂ NAAQS and 2012 PM_{2.5} NAAQS 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, Sulfur dioxide, Reporting and recordkeeping requirements.

Dated: April 21, 2015.

William C. Early,

Acting 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 (e)(1) is amended by adding two entries for Section 110(a)(2) Infrastructure Requirements for the 2010 NO₂ NAAQS and 2012 PM_{2.5} NAAQS at the end of the table to read as follows:

§ 52.2020 Identification of plan.

*	*	*	*	*
(e)	*	*	*	
(1)	*	*	*	

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
Section 110(a)(2) Infrastructure Re-requirements for the 2010 NO ₂ NAAQS.	Statewide	7/15/14	5/8/15 [<i>Insert Federal Register citation</i>].	This rulemaking action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II) (prevention of significant deterioration), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
Section 110(a)(2) Infrastructure Re-requirements for the 2012 PM _{2.5} NAAQS.	Statewide	7/15/14	5/8/15 [<i>Insert Federal Register citation</i>].	This rulemaking action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II) (prevention of significant deterioration), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA-HQ-OAR-2011-0135; FRL-9927-17-OAR]

RIN 2060-AS36

Partial Withdrawal of Technical Amendments Related to: Tier 3 Motor Vehicle Fuel and Quality Assurance Plan Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial withdrawal of direct final rule.

SUMMARY: Because EPA received adverse comment on certain elements of the Tier 3 Amendments direct final rule published on February 19, 2015, we are withdrawing those elements of the direct final rule. EPA intends to consider the comments received and proceed with a new final rule for the withdrawn elements. The remaining elements will go into effect pursuant to the direct final rule.

DATES: Effective May 5, 2015, EPA withdraws the amendments to 40 CFR 80.1453, 80.1616, and 80.1621 published at 80 FR 9078 on February 19, 2015.

FOR FURTHER INFORMATION CONTACT: Julia MacAllister, Office of Transportation and Air Quality, Assessment and Standards Division, 2000 Traverwood Drive, Ann Arbor, Michigan 48105; telephone number: 734-214-4131; email address: MacAllister.Julia@epa.gov.

SUPPLEMENTARY INFORMATION: We stated in the Tier 3 Technical Amendments direct final rule published on February

19, 2015 (80 FR 9078) that if we received adverse comment by April 6, 2015, as to any part of the direct final rule, those parts would be withdrawn by publishing a timely notice in the *Federal Register*. Because EPA received adverse comment, we are withdrawing the amendments that were the subject of these adverse comments and they will not take effect. Three specific provisions are being withdrawn, as described below.

First, 40 CFR 80.1453: In the Renewable Fuel Standard (RFS) Quality Assurance Program (QAP) Rule (79 FR 42078, July 18, 2014), EPA added additional product transfer document (PTD) requirements for renewable fuels that informed parties that took ownership of the renewable fuel that they would need to (a) use the fuel as it was intended, *i.e.*, for transportation use; and, (b) incur a renewable volume obligation (RVO) if the fuel was exported. Shortly after publication of the QAP final rule, we received questions on whether these PTD requirements would apply downstream to the end users, including residential heating oil owners and people filling up their fuel tanks at fuel retail stations. EPA provides downstream end user exemptions to the PTD requirements in other fuels programs, and the direct final rule included similar exemptions for RFS PTD requirements. The words "or custody" were inadvertently added to the RFS PTD requirements and we received several comments pointing out that applying the PTD requirements to the transfer of custody of renewable fuels would be costly to industry and not beneficial to the RFS program. In this action we are withdrawing all of the changes to 40 CFR 80.1453.

Second, 40 CFR 80.1616: The direct final rule included some clarifying language for when credits expire and are reported. We received a comment advocating for small refiners and small volume refineries to be allowed to use

credits past January 1, 2020—to effectively receive a small refiner- and small volume refinery-specific period of lead time before these parties must comply with the Tier 3 sulfur standards. Although it is not clear whether this comment is germane to the provisions of the direct final rule, in light of the short time frame for withdrawal of the direct final rule, we have decided to treat this as an adverse comment on the amended rulemaking provisions and we therefore are withdrawing the proposed changes to 40 CFR 80.1616.

Third, 40 CFR 80.1621: Following publication of the Tier 3 Final Rule (79 FR 23414, April 28, 2014) we were contacted by some refiners to clarify if/when small volume refineries could be disqualified, because there was language inadvertently deleted from the regulatory text as part of the Tier 3 final rule. In re-inserting this text in the direct final rule, we clarified that small volume refinery disqualification was akin to small refiner disqualification. We received adverse comment raising the issue that the new wording is confusing because it does not explicitly state exactly when and under which circumstances that disqualification could occur, and also that the term "small refinery" was used instead of the correct term "small volume refinery". In this action we are withdrawing all changes to 40 CFR 80.1621.

EPA published a parallel proposed rule on the same day as the direct final rule. The proposed rule invited comment on the substance of the direct final rule. EPA intends to consider the comments received and proceed with a new final rule. As stated in the parallel proposal, EPA does not plan to institute a second comment period for the proposed action with respect to the provisions that are withdrawn by this notice.

The amendments for which we did not receive adverse comment are not being withdrawn and will become

