



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2015-0112; FRL-9945-45-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans;
Pennsylvania; Attainment Plan for the Lower Beaver Valley Nonattainment Area for the
2008 Lead 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 (Pennsylvania). The revision demonstrates attainment of the 2008 lead national ambient air quality standards (NAAQS) in the Lower Beaver Valley nonattainment area (Lower Beaver Valley Area or Area). The attainment plan includes the base year emissions inventory, an analysis of reasonably available control technology (RACT), reasonably available control measures (RACM) and reasonable further progress (RFP), a modeling demonstration of attainment, and contingency measures for the Area. EPA is approving Pennsylvania's lead attainment plan for the Lower Beaver Valley Area as a revision to Pennsylvania's SIP in accordance with the requirements of 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-2015-0112. All documents in the docket are listed in the www.regulations.gov website. 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 through www.regulations.gov or may be viewed 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 submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Gerallyn Duke, (215) 814-2084, or by e-mail at duke.gerallyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On January 20, 2016 (81 FR 3078), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. In the NPR, EPA proposed approval of a revision to Pennsylvania's SIP for the purpose of demonstrating attainment of the 2008 lead NAAQS in the Lower Beaver Valley Area. The formal SIP revision was submitted by Pennsylvania on January 15, 2015.

On November 12, 2008 (73 FR 66964), EPA revised the lead NAAQS, lowering the level from 1.5 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 0.15 $\mu\text{g}/\text{m}^3$ calculated over a three-month rolling average. Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the United States as attaining or not attaining the NAAQS; this designation process is described in section 107(d)(1) of the CAA.

On November 22, 2010 (75 FR 71033), EPA designated Vanport and Potter Townships in Beaver County, Pennsylvania as the Lower Beaver Valley Area for its nonattainment status with respect to the 2008 lead NAAQS. On November 22, 2011 (76 FR 72097), EPA revised the Lower Beaver Valley Area boundary to include Center Township. The designation of the Lower Beaver Valley Area as nonattainment for the 2008 lead NAAQS triggered requirements under section 191(a) of the CAA, requiring Pennsylvania to submit a SIP revision with a plan for how the Area will attain the 2008 lead NAAQS, as expeditiously as practicable, but no later than December 31, 2015.¹

Section 179(a)(1) of the CAA establishes specific consequences if EPA finds that a state has failed to submit a SIP or, with regard to a submitted SIP, if EPA determines it is incomplete or if EPA disapproves it. Additionally, any of these findings also triggers an obligation for EPA to promulgate a federal implementation plan (FIP) if the state has not submitted, and EPA has not approved, the required SIP within 2 years of the finding pursuant to section 110(c) of the CAA. On February 25, 2014, the EPA issued a finding that Pennsylvania failed to make the required nonattainment SIP submission for the Lower Beaver Valley Area. 79 FR 10391. With this final approval of Pennsylvania's Lower Beaver Valley attainment plan SIP in accordance with section 172(c) of the CAA, EPA no longer has any obligation to issue a FIP for the Lower Beaver Valley Area in accordance with section 110(c) of the CAA.

II. Summary of SIP Revision

On January 15, 2015, Pennsylvania through the Department of Environmental Protection (PADEP) submitted an attainment plan for the Lower Beaver Valley Area as a SIP revision

¹ EPA determined that extension of the Lower Beaver Valley nonattainment area did not affect the required attainment date or SIP submission deadline for the Area. See 76 FR 72097 (November 22, 2011).

which includes a base year emissions inventory, an attainment demonstration, an analysis of RACM and RACT, provisions for RFP, and contingency measures. The SIP revision also includes as attainment control measures certain provisions of a November 21, 2012 consent order and agreement (COA) (specifically including paragraphs 3, 5, and 6) between PADEP and Horsehead Corporation (Horsehead), the largest source of lead in the Area at the time of designations. Pennsylvania's attainment demonstration relied primarily on the emissions reductions achieved by the shutdown of the smelter equipment at Horsehead, as required by the COA. EPA's analysis of the submitted attainment plan includes a review of these elements for the Lower Beaver Valley Area.

EPA's approval of the attainment plan is based on the Agency's finding that the Area meets all applicable lead NAAQS attainment plan requirements under CAA sections 172, 191, and 192. Due to monitored ambient air quality violations in 2013 and 2014, the Area did not attain the lead NAAQS by the applicable attainment date of December 2015. However, closure of Horsehead in 2014 as required per the COA will facilitate attainment of the 2008 lead NAAQS by 2017. EPA is approving the attainment year emissions inventory submitted with the plan, as well as the RACM/RACT and RFP analyses, the attainment demonstration including modeling, and the contingency measures for the Lower Beaver Valley Area.

Other specific requirements of the SIP submittal attainment plan for the Lower Beaver Valley Area and the rationale for EPA's proposed action are explained in the NPR and its accompanying Technical Support Documents (TSDs) and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving the lead attainment plan for the Lower Beaver Valley Area as a revision to the Pennsylvania SIP, as submitted on January 15, 2015, including the attainment demonstration, base year emissions inventory, RACM/RACT and RFP analyses, contingency measures and paragraphs 3,5 and 6 of the COA between PADEP and Horsehead provided as attainment control measures. EPA has determined that the January 15, 2015 SIP revision meets the applicable requirements of the CAA. With EPA's final approval of Pennsylvania's Lower Beaver Valley Area attainment plan as a SIP revision, EPA no longer has any obligation to promulgate a FIP for the Area pursuant to sections 110(c) or 172(c) of the CAA.

IV. 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 (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 approving Pennsylvania's SIP revision containing the attainment plan for the 2008 lead NAAQS in the Lower Beaver Valley 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, Intergovernmental relations, Lead.

Dated: April 6, 2016

Shawn M. Garvin,
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 the entry “2008 Lead Attainment Plan” 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
* * * * *				
2008 Lead Attainment Plan	Lower Beaver Valley Area	1/15/15	<u>[Insert date of publication in the Federal Register], [Insert Federal Register citation]</u>	See §§ 52.2036(aa) and 52.2055(c).

* * * * *

3. Section 52.2036 is amended by adding paragraph (aa) to read as follows:

§52.2036 Base year emissions inventory.

* * * * *

(aa) EPA approves as a revision to the Pennsylvania state implementation plan the 2010 base year emissions inventory for the Lower Beaver Valley, Pennsylvania nonattainment area for the 2008 lead NAAQS. This SIP revision was submitted by the Pennsylvania Department of Environmental Protection on January 15, 2015. This submittal includes the 2010 base year emissions inventory for all relevant sources in the Lower Beaver Valley nonattainment area for the pollutant lead.

4. Section 52.2055 is amended by adding paragraph (c) to read as follows:

§52.2055 Control strategy: Lead.

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(c) EPA approves the state implementation plan for the Lower Beaver Valley, Pennsylvania nonattainment area for the 2008 lead NAAQS. This SIP revision includes reasonably available control measures, reasonably available control technology, contingency measures, and an attainment demonstration submitted by the Pennsylvania Department of Environmental Protection on January 15, 2015.

[FR Doc. 2016-09432 Filed: 4/22/2016 8:45 am; Publication Date: 4/25/2016]