



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2016-0368; FRL- 9955-91-Region 3]

Determination of Attainment by the Attainment Date for the 2008 Ozone National Ambient Air Quality Standards; Pennsylvania; Pittsburgh-Beaver Valley

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is making a final determination that the Pittsburgh-Beaver Valley, Pennsylvania marginal ozone nonattainment area (the Pittsburgh Area) has attained the 2008 8-hour ozone national ambient air quality standards (the 2008 ozone NAAQS) by the July 20, 2016 attainment date. This determination is based on complete, certified, and quality assured ambient air quality monitoring data for the Pittsburgh Area for the 2013-2015 monitoring period. This determination does not constitute a redesignation to attainment. 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-2016-0368. All documents in the docket are listed on the <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 <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: Gavin Huang, (215) 814-2042, or by e-mail at huang.gavin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On August 25, 2016 (81 FR 58435), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. In the NPR, EPA proposed to determine, in accordance with its statutory obligations under section 181(b)(2)(A) of the CAA and the provisions of the SIP Requirements Rule (40 CFR 51.1103), that the Pittsburgh Area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016.

II. EPA’s Evaluation

Consistent with the requirements contained in 40 CFR part 50, EPA reviewed the ozone ambient air quality monitoring data for the monitoring period from 2013 through 2015 for the Pittsburgh Area, as recorded in the AQS database. State and local agencies responsible for ozone air monitoring networks supplied and quality assured the data. EPA determined that the monitoring sites with valid data had design values equal to or less than 0.075 ppm based on the 2013-2015 monitoring period. Therefore, the Pittsburgh Area attained the 2008 ozone NAAQS.

Other specific requirements of this determination of attainment by the attainment date and the rationale for EPA’s action are explained in the NPR and will not be restated here. No public

comments were received on the NPR.

III. Final Action

EPA is making a final determination, in accordance with its statutory obligations under section 181(b)(2)(A) of the CAA and the provisions of the SIP Requirements Rule (40 CFR 51.1103), that the Pittsburgh Area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016. This determination of attainment does not constitute a redesignation to attainment. Redesignations require states to meet a number of additional criteria, including EPA approval of a state plan to maintain the air quality standard for 10 years after redesignation.

IV. Statutory and Executive Order Reviews

A. General Requirements

This rulemaking action finalizes a determination of attainment on the 2008 ozone NAAQS based on air quality and does not impose additional requirements. For that reason, this determination of attainment:

- 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 determining that the Pittsburgh Area attained the 2008 ozone NAAQS by its July 20, 2016 attainment date 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, Ozone, Incorporation by reference,

Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: November 4, 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 § 52.2056, paragraph (n) is added to read as follows:

§ 52.2056 Determinations of attainment.

* * * * *

(n) EPA has determined based on 2013 to 2015 ambient air quality monitoring data, that the Pittsburgh-Beaver Valley, Pennsylvania marginal ozone nonattainment area has attained the 2008 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of July 20, 2016. Therefore, EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area’s air quality as of the attainment date, whether the area attained the 2008 8-hour ozone NAAQS. EPA also determined that the Pittsburgh-Beaver Valley, Pennsylvania marginal nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

[FR Doc. 2016-29118 Filed: 12/5/2016 8:45 am; Publication Date: 12/6/2016]