



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R03-OAR-2017-0064; FRL-9962-77-Region 3]**

**Approval and Promulgation of Air Quality Implementation Plans;  
Pennsylvania; Revisions to Allegheny County Health Department Rules**

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Commonwealth of Pennsylvania state implementation plan (SIP). The revisions pertain to administrative and definition amendments made to Allegheny County Health Department's (ACHD) Rules and Regulations Article XXI, Air Pollution Control. The amendments updated the name of the Bureau of Environmental Quality to the Bureau of Environmental Health and revised the definition of "County Executive" to agree with the definition in the Allegheny County Home Rule Charter. EPA is approving these revisions to Article XXI in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on **[insert date 60 days after date of publication in the Federal Register]** without further notice, unless EPA receives adverse written comment by **[insert date 30 days after date of publication in the Federal Register]**. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R03-OAR-2017-

0064 at <https://www.regulations.gov>, or via email to [rehn.brian@epa.gov](mailto:rehn.brian@epa.gov). For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Sara Calcinore, (215) 814-2043, or by e-mail at [calcinore.sara@epa.gov](mailto:calcinore.sara@epa.gov).

**SUPPLEMENTARY INFORMATION:** On December 15, 2016, the Commonwealth of Pennsylvania submitted, on behalf of Allegheny County, a formal revision to the Pennsylvania SIP.

## **I. Background**

The SIP revision consists of administrative and definition amendments to ACHD’s Rules and Regulations Article XXI, Air Pollution Control. These amendments were submitted by the

Pennsylvania Department of Environmental Protection (PADEP) as a formal revision to the Pennsylvania SIP, on behalf of Allegheny County. The regulations were adopted by the ACHD.

## **II. Summary of SIP Revision and EPA Analysis**

The December 15, 2016 SIP revision submittal includes amended versions of ACHD's Rules and Regulations Article XXI, Air Pollution Control, section 2101.07 paragraph (a), Administration and Organization – Administration, and section 2101.20, Definitions. Pennsylvania requests that EPA approve this submittal so that these amended regulations become part of the Pennsylvania SIP. The amendment to section 2101.07 paragraph (a) changed the name of the “Allegheny County Health Department Bureau of Environmental Quality” to the “Allegheny County Health Department Bureau of Environmental Health.” The amendment to section 2101.20 updates the definition of “County Executive” from the “Chief Executive of Allegheny County, Pennsylvania” to “the Chief Executive of Allegheny, Pennsylvania, as defined in the Allegheny County Home Rule Charter.”

EPA's review of this material indicates the December 15, 2016 submittal is approvable as it meets requirements of the CAA under section 110(a) and contains only minor administrative changes to regulations that were previously included in the Pennsylvania SIP. None of these changes affects emissions of air pollutants, and none of the changes will interfere with any applicable requirement concerning attainment of reasonable further progress or any other applicable requirements in the CAA. Thus, EPA finds the revision approvable specifically for section 110(1) of the CAA.

## **III. Final Action**

EPA is approving the Pennsylvania SIP revision for Allegheny County, which was submitted on

December 15, 2016. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the “Proposed Rules” section of today’s **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on **[insert date 60 days after date of publication in the Federal Register]** without further notice unless EPA receives adverse comment by **[insert date 30 days after date of publication in the Federal Register]**. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### **IV. Incorporation by Reference**

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the revisions to ACHD’s Rules and Regulations Article XXI, Air Pollution Control, section 2101.07 paragraph (a), Administration and Organization – Administration and section 2101.20, Definitions discussed in Section II of this preamble. Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference by the

Director of the Federal Register in the next update of the SIP compilation.<sup>1</sup> EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and/or 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**

### **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);

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<sup>1</sup> 62 FR 27968 (May 22, 1997).

- 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action.

This action to approve Revisions to Allegheny County Health Department Rules as part of the Pennsylvania SIP 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.

Dated: May 4, 2017.

Cecil Rodrigues,  
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 (c)(2) is amended by revising an entry for “2101.07 (Except paragraphs .07.c.2 and c.8)” and adding an entry in numerical order “2101.20” under “Part A-General”.

The revision and addition read as follows:

**§ 52.2020 Identification of plan.**

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(c) \* \* \*

(2) \*\*\*

Article XX or XXI citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
<b>Part A—General</b>				
* * * * *				
2101.07 (Except paragraphs .07.c.2 and c.8)	Administration and Organization	06/19/15	[Insert date of Federal Register publication], [Insert Federal Register citation]	Revised name of Allegheny County Health Department Bureau of Environmental Quality to Allegheny County Health Department Bureau of Environmental Health  Previous approval 11/14/02, 67 FR 68935 (c)(192)
* * * * *				
2101.20	Definitions	06/19/15	[Insert	Revised definition of

Article XX or XXI citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
			<u>date of Federal Register publication</u> , [ <u>Insert Federal Register citation</u> ]	“County Executive” to mean “the Chief Executive of Allegheny County, Pennsylvania, as defined in the Allegheny County Home Rule Charter”
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[FR Doc. 2017-10921 Filed: 5/30/2017 8:45 am; Publication Date: 5/31/2017]