



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2017-0739; FRL-9975-34-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans;
Pennsylvania; Emissions Statement Requirement for the 2008 Ozone Standard**

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 Commonwealth of Pennsylvania. This revision fulfills Pennsylvania's emissions statement requirement for the 2008 ozone national ambient air quality standard (NAAQS). 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-2017-0739 at <http://www.regulations.gov>, or via email to spielberger.susan@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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Gavin Huang, (215) 814-2042, or by e-mail at huang.gavin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 27, 2008, EPA strengthened the ozone standard from 0.08 to 0.075 parts per million (ppm). 73 FR 16436. On May 21, 2012, EPA designated areas as nonattainment for the 2008 ozone NAAQS, which include the following counties in Pennsylvania: Carbon, Lehigh, Northampton, Lancaster, Bucks, Chester, Delaware, Montgomery, Philadelphia, Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, Westmoreland, and Berks counties. *See* 40 CFR 81.339.

Additionally, Pennsylvania is located in the ozone transport region (OTR) established by Congress in section 184 of the CAA. Pursuant to section 184(b)(2), any stationary source that emits or has the potential to emit at least 50 tons per year (tpy) of volatile organic compounds

(VOC) shall be considered a major stationary source and subject to the requirements which would be applicable to major stationary sources if the area were classified as a moderate nonattainment area. *See* CAA section 184. Thus, states within the OTR are subject to plan (or SIP) requirements in CAA section 182(b) applicable to moderate nonattainment areas. Also, section 182(f)(1) of the CAA requires that the plan provisions required for major stationary sources of VOC also apply to major stationary sources of oxides of nitrogen (NO_x) for states with moderate (or worse) ozone nonattainment areas. A major stationary source of NO_x is defined as a stationary facility or source of air pollutants which directly emits, or has the potential to emit 100 tpy or more of NO_x. *See* CAA section 302(j).

Section 182 of the CAA identifies additional plan submissions and requirements for ozone nonattainment areas. Specifically, section 182(a)(3)(B) of the CAA requires that states develop and submit rules which establish annual reporting requirements for certain stationary sources. Sources that are within marginal (or worse) ozone nonattainment areas must annually report the actual emissions of NO_x and VOC to the state. However, states may waive reporting requirements for sources that emit under 25 tpy of NO_x and VOC if the state provides an inventory of emissions from such class or category of sources. *See* CAA section 182(a)(3)(B)(ii).

In summary, because Pennsylvania is located in the OTR, Pennsylvania sources that are located in ozone attainment areas and emit above 50 tpy of VOC or 100 tpy of NO_x are considered major sources and subject to the requirements of major stationary sources in moderate (or worse) nonattainment area, such as an emissions statement submission required by CAA section 182(a)(3)(B). *See* CAA sections 182(f) and 184(b)(2). Pennsylvania sources that are located in

designated marginal (or worse) nonattainment areas must also submit an emissions statement as required by CAA section 182(a)(3)(B). As stated previously, states may waive reporting requirements for sources that emit under the 25 tpy NO_x and VOC threshold if the state provides an inventory of emissions from such class or category of sources as required by CAA sections 172 and 182.¹ *See* section 182(a)(3)(B)(ii).

On November 3, 2017, the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP) submitted a SIP revision to satisfy the emissions statement requirement of section 182(a)(3)(B) of the CAA for the 2008 ozone NAAQS. In the submittal, PADEP also submitted a certification for its nonattainment new source review (NNSR) program, which will be addressed in a separate rulemaking action.

II. Summary of SIP Revision and EPA Analysis

On January 12, 1995 (60 FR 2881), EPA approved Pennsylvania's SIP submittal which included Pennsylvania regulations that satisfy the emission reporting requirements in CAA section 182(a)(3)(B). Pennsylvania's emissions reporting requirements are codified in the Pennsylvania Code at 25 Pa. Code 135.21 "Emissions Statements."

25 Pa. Code 135.21 requires that stationary sources or facilities that emit NO_x or VOC and are located in an area designated by the CAA as a marginal, moderate, serious, severe or extreme ozone nonattainment area or stationary sources or facilities that are located in the OTR (and not in an area designated as a marginal or worse nonattainment area) and emit or have the potential to emit 100 tons or more of NO_x or 50 tons or more of VOC per year, submit an annual

¹ For further information on the emissions statement reporting requirements, *see* "Guidance on the Implementation of an Emission Statement Program (July 1992)" https://www.epa.gov/sites/production/files/2015-09/documents/emission_statement_program_zypdf.pdf, pp. 5-9.

emissions statement. Because Pennsylvania is located in the OTR, sources that are located in attainment areas for the 2008 ozone NAAQS and emit above 50 tpy of VOC and 100 tpy of NO_x are considered major sources and subject to the requirements of major stationary sources in moderate (or worse) nonattainment area, such as an emissions statement submission as required by CAA section 182(a)(3)(B). *See* CAA sections 182(f) and 184(b)(2). This statement must show, in a form as PADEP may prescribe, for classes or categories of sources: the actual emissions of NO_x or VOC from that source for each reporting period, a description of the method used to calculate the emissions, and the time period over which the calculation is based. The statement must be submitted by a company officer or plant manager who can verify the source's actual emissions.

Under 25 Pa. Code 135.21(d), sources that emit less than 25 tons of NO_x or VOC per year are not required to submit the mandatory emissions statement per 25 Pa. Code 135.21(a) if PADEP provides EPA with an inventory of emissions from the class or category of sources based on the use of the emission factors established by the Administrator. As previously mentioned, per CAA section 182(a)(3)(B)(ii), states may waive reporting requirements for sources under 25 tpy of NO_x and VOC if the state provides an inventory of emissions from such class or category of sources as required by CAA sections 172 and 182.

In the November 3, 2017 SIP submittal, Pennsylvania states that, upon review, the Commonwealth certifies that the existing emissions statement program continues to comply with the 2008 ozone NAAQS requirements. *See* 60 FR 2881 (January 12, 1995). EPA finds that 25 Pa. Code 135.21 continues to satisfy section 182(a)(3)(B) because the existing rule is applicable to the entire Commonwealth of Pennsylvania and requires stationary sources that emit NO_x or

VOC (at required thresholds above 25 tpy in designated ozone nonattainment areas and above 50 tpy VOC or 100 tpy NO_x in ozone attainment areas in the OTR) to submit an emissions statement to the Commonwealth detailing the sources' emissions. As previously mentioned, per CAA section 182(a)(3)(B)(ii), states may waive sources that emit less than 25 tpy of NO_x or VOC if the state provides an inventory of emissions from such class or category of sources as required by CAA section 172 and 182. Pennsylvania does provide emissions inventories for ozone nonattainment areas as required by CAA section 172(c)(3).² EPA finds Pennsylvania's emissions' thresholds for sources that are required to submit an emissions statement meet CAA requirements in sections 182 (plan submissions and requirements for ozone nonattainment areas) and 184 (OTR requirements). *See also* "Guidance on the Implementation of an Emission Statement Program (July 1992)." Therefore, EPA has determined that 25 Pa. Code 135.21, which is currently in the Pennsylvania SIP, is appropriate to address the emissions statement requirement in section 182(a)(3)(B) and is proposing to approve this SIP revision. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

III. Proposed Action

EPA is proposing to approve the November 3, 2017 Pennsylvania SIP revision certifying that Pennsylvania's existing SIP-approved emissions statement regulation meets the emissions statement requirement of section 182(a)(3)(B) of the CAA for the 2008 ozone NAAQS.

IV. Statutory and Executive Order Reviews

² *See* "Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; 2011 Base Year Inventories for the 2008 8-Hour Ozone National Ambient Air Quality Standard for the Allentown-Bethlehem-Easton, Lancaster, Pittsburgh-Beaver Valley, and Reading Areas, and the Pennsylvania Portion of the Philadelphia-Wilmington-Atlantic City Area," 81 FR 24492 (April 26, 2016).

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);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- 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 proposed rule, which proposes to approve Pennsylvania's certification that Pennsylvania's SIP-approved emissions statement regulation meets the emissions statement requirement of section 182(a)(3)(B) of the CAA, 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: February 23, 2018.

Cosmo Servidio,
Regional Administrator,
Region III.

[FR Doc. 2018-04813 Filed: 3/9/2018 8:45 am; Publication Date: 3/12/2018]