



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2020-0351; FRL-10011-83-OAR]

Ozone Transport Commission; Recommendation That EPA Require Daily Limits for Emissions of Nitrogen Oxides from Certain Sources in Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and public hearing.

SUMMARY: The Environmental Protection Agency (EPA) is announcing that on June 8, 2020, the Ozone Transport Commission (OTC) submitted a recommendation to EPA for additional control measures at certain coal-fired electricity generating units (EGUs) in Pennsylvania. Specifically, the OTC has recommended that EPA require Pennsylvania to revise the Pennsylvania State Implementation Plan (SIP) to include additional control measures which would establish daily nitrogen oxides (NO_x) emission limits for all coal-fired EGUs with already-installed selective catalytic reduction (SCR) or selective non-catalytic reduction (SNCR) control technology to ensure that these technologies are optimized to minimize NO_x emissions each day of the ozone season. EPA is also announcing a public hearing on the recommendation as discussed under DATES below. EPA is commencing a review of the recommendation to determine whether to approve, disapprove, or partially approve and partially disapprove it. Prior to the public hearing, EPA plans to publish another document in the Federal Register providing further discussion of the recommendation and the framework the Agency intends to apply in reaching a decision.

DATES: EPA will hold a virtual public hearing within 90 days of the OTC recommendation or by September 4, 2020. Further information on the date and time of the virtual public hearing will be available at <https://www.epa.gov/interstate-air-pollution-transport/ozone-transport-commission-otc-section-184c-petition>.

ADDRESSES: Materials related to this action, including the recommendation and supporting materials submitted to EPA by the OTC, can be viewed online at *regulations.gov* under Docket No. EPA-HQ-OAR-2020-0351. To reduce the risk of COVID-19 transmission, the EPA Docket Center and Reading Room is closed to the public with limited exceptions. Visitors must complete docket material requests in advance and then make an appointment to retrieve the material. Visitors will be allowed entrance to the Reading Room by appointment only, and no walk-ins will be allowed. Additional information on the exception procedures, location and hours of the Reading Room is available at <https://www.epa.gov/dockets>. Please call or email the contact listed in FOR FURTHER INFORMATION CONTACT if you need alternative access to material indexed but not electronically available in the docket at *regulations.gov*.

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SUPPLEMENTARY INFORMATION: Ground-level ozone is a secondary air pollutant created by chemical reactions between the ozone precursor pollutants NO_x and volatile organic compounds in the presence of sunlight. Precursor pollutant emissions can be transported downwind directly or, after transformation in the atmosphere, as ozone. Studies have

established that ozone formation, atmospheric residence, and transport can occur on a regional scale (i.e., across hundreds of miles) over much of the eastern U.S.¹ Starting more than two decades ago, EPA has issued multiple rules requiring reductions in NO_x emissions to address the interstate transport of NO_x and ozone, including the NO_x SIP Call, 63 FR 57356 (October 27, 1998), the Clean Air Interstate Rule (CAIR), 70 FR 25162 (May 12, 2005), the Cross-State Air Pollution Rule (CSAPR), 76 FR 48208 (August 8, 2011), and the CSAPR Update, 81 FR 74504 (October 26, 2016). These actions were all taken under the authority of section 110(a)(2)(D)(i)(I) of the Clean Air Act (CAA or the Act), often referred to as the “good neighbor provision.”

The Ozone Transport Region (OTR) was established by operation of law under CAA section 184 and comprises the states of Connecticut, Delaware, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, the District of Columbia, and the portion of Virginia that is within the Consolidated Metropolitan Statistical Areas that includes the District of Columbia. Congress established the OTR in the 1990 Clean Air Act Amendments based on the recognition that the transport of ozone and ozone precursors throughout the region may render the states' attainment strategies interdependent.

Under section 184(a), the Administrator established a commission for the OTR, the OTC, consisting of the Governor of each state or their designees, the Administrator or their designee, the Regional Administrators for the EPA regional offices affected (or the Administrator's designees), and an air pollution control official representing each state in the region, appointed

¹ For example, Bergin, M.S. et al. (2007). Regional air quality: Local and interstate impacts of NO_x and SO₂ emissions on ozone and fine particulate matter in the eastern United States. *Environmental Sci. & Tech.* 41: 4677–4689.

by the Governor. Section 184(b) sets forth certain control measures that OTR states are required to include in their SIPs.

Section 184(c) specifies a procedure for the OTC to develop recommendations for additional control measures to be applied within all or a part of the OTR if the OTC determines that such measures are necessary to bring any area in the OTR into attainment for ozone by the applicable attainment deadlines. Section 184(c)(1) provides that:

Upon petition of any states within a transport region for ozone, and based on a majority vote of the Governors on the Commission (or their designees), the Commission may, after notice and opportunity for public comment, develop recommendations for additional control measures to be applied within all or a part of such transport region if the Commission determines such measures are necessary to bring any area in such region into attainment by the dates provided by [subpart II of part D of CAA title I].

Section 184(c) also lays out procedures the Administrator is to follow in responding to recommendations from the OTC. Upon receipt of the recommendations, the Administrator is to publish a Federal Register notice stating that the recommendations are available and providing an opportunity for a public hearing within 90 days. The Administrator is also to “commence a review of the recommendations to determine whether the control measures in the recommendations are necessary to bring any area in such region into attainment by the dates provided by [subpart II] and are otherwise consistent with [the Act].” Finally, in undertaking the review, the Administrator is to consult with members of the OTC and is to consider the data, views, and comments received pursuant to the public hearing.

Last, sections 184(c)(4) and (5) govern EPA's response to the OTC recommendations. The Administrator is to determine whether to approve, disapprove, or partially approve and

partially disapprove the recommendations within nine months of receipt. For any disapproval, the Administrator is to specify:

(i) Why any disapproved additional control measures are not necessary to bring any area in such region into attainment by the dates provided by [subpart II] or are otherwise not consistent with the Act; and

(ii) Recommendations concerning equal or more effective actions that could be taken by the commission to conform the disapproved portion of the recommendations to the requirements of [section 184].

Section 184(c)(5) provides that, upon approval or partial approval of any recommendations, the Administrator is to issue to each state in the OTR to which an approved requirement applies a finding under section 110(k)(5) that the SIP for that state is inadequate to meet the requirements of section 110(a)(2)(D). Section 110(a)(2)(D) provides, in pertinent part, that each state's SIP shall contain adequate provisions:

(i) Prohibiting, consistent with the provisions of [CAA title I], any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will--

(I) Contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any national primary or secondary ambient air quality standard [NAAQS].

Under section 184(c)(5), the Administrator's finding of inadequacy under section 110(a)(2)(D) is to require that each affected state revise its SIP to include the approved additional control measures within one year after the finding is issued.

In 2015, EPA revised the NAAQS for ozone to 70 parts per billion (ppb). 80 FR 65292 (October 28, 2015). In 2018, EPA designated certain areas as nonattainment with respect to this NAAQS and identified each area's classification according to the severity of its air quality problems. 83 FR 25776 (June 4, 2018). Five areas within the OTR were designated as nonattainment:

Baltimore, MD; Greater Connecticut, CT; Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE;

Washington, DC-MD-VA; and New York-Northern New Jersey-Long Island, NY-NJ-CT. *Id.* The first four of these areas were classified as Marginal and the fifth area was classified as Moderate. *Id.* The attainment deadlines for the Marginal and Moderate areas are three and six years after the effective date of their nonattainment designations, or August 3, 2021 and August 3, 2024, respectively. 83 FR 10376 (March 9, 2018).

On May 30, 2019, Maryland petitioned the OTC to adopt recommendations calling for additional control measures to be applied within part of the OTR. The Maryland petition asserted that daily limits on NO_x emissions from coal-fired EGUs in Pennsylvania are necessary to bring areas in the OTR into attainment by the dates mandated by the CAA. On June 26, 2019, the OTC voted to proceed with the initial steps associated with the CAA Section 184(c) recommendation process, including analyzing recent operations of coal-fired EGUs in Pennsylvania. The OTC held a public hearing on August 16, 2019 to receive comment on Maryland's petition. After considering the comments, on October 4, 2019, the OTC voted to evaluate a modified recommendation that Pennsylvania adopt daily emissions limits for certain coal-fired EGUs at least as stringent as those in Delaware, Maryland, or New Jersey. The OTC held a second hearing on November 21, 2019, to receive comment on its modified recommendation. Finally, at its meeting on June 3, 2020, a majority of the OTC's voting members voted to recommend that EPA require Pennsylvania to revise its SIP to include NO_x limits for coal-fired EGUs with SCR and SNCR as stringent as the limits in Delaware, Maryland, or New Jersey to ensure that the controls are operated optimally each day of the ozone season. The OTC members voting in favor of the recommendation were Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont, and the District

of Columbia. Pennsylvania and Virginia voted against the recommendation, and Maine and New York abstained.

The OTC's recommendation contains the following specific elements:

- (1) That EPA require Pennsylvania to revise the Pennsylvania SIP to include additional control measures to establish daily NO_x emission limits for all coal-fired EGUs with already-installed SCR or SNCR control technology to ensure that these technologies are optimized to minimize NO_x emissions each day of the ozone season.
- (2) That these requirements must be as stringent as any one of three rules adopted by Delaware, Maryland, and New Jersey that establish daily limits designed to optimize the use of SCR and SNCR control technologies to minimize NO_x emissions each day of the ozone season.
- (3) That EPA require Pennsylvania to adopt and implement daily NO_x limits as expeditiously as practicable in a timeframe to help downwind OTC states attain the 2015 ozone standard by the dates required in the Act.
- (4) That Pennsylvania implement these requirements in time to reduce ozone levels during the summers of 2020 and 2021, because the recommendation does not involve the purchase or installation of new control technologies.

As required by the Act, EPA will hold a public hearing on the OTC's recommendation and will undertake consultations with the affected states before reaching a decision on whether to approve, disapprove, or partially approve and partially disapprove the OTC's recommendation.

The Agency also plans to publish another Federal Register notice prior to the date of the public

hearing in order to provide further discussion of the OTC's recommendation and the framework the Agency intends to apply in reaching a decision.

Dated: July 7, 2020.

Hans Christopher Grundler,

Director, Office of Atmospheric Programs.

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