

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R03-OAR-2010-0159; FRL-9458-8]

**Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Section 110(a)(2) Infrastructure Requirements for the 1997 8-Hour Ozone and the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve submittals from the Commonwealth of Pennsylvania pursuant to the Clean Air Act (CAA) sections 110(k)(2) and (3). These submittals address the infrastructure elements specified in CAA section 110(a)(2), necessary to implement, maintain, and enforce the 1997 8-hour ozone and fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS) and the 2006 PM<sub>2.5</sub> NAAQS. This proposed action is limited to the following infrastructure elements which were subject to EPA's completeness findings pursuant to CAA section 110(k)(1) for the 1997 8-hour ozone NAAQS dated March 27, 2008 and the 1997 PM<sub>2.5</sub> NAAQS dated October 22, 2008: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M), or portions thereof; and the following infrastructure elements for the 2006 PM<sub>2.5</sub> NAAQS: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M), or portions thereof.

**DATES:** Written comments must be received on or before October 3, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2010-0159 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* fernandez.cristina@epa.gov.

C. *Mail:* EPA-R03-OAR-2010-0159, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R03-OAR-2010-0159. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access system" which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., 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 either electronically in <http://www.regulations.gov> or in hard copy 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:** Ruth Knapp, (215) 814-2191, or by e-mail at [knapp.ruth@epa.gov](mailto:knapp.ruth@epa.gov) mailto:.

**SUPPLEMENTARY INFORMATION:****I. Background**

On July 18, 1997, EPA promulgated a revised 8-hour ozone NAAQS (62 FR 38856) and a new PM<sub>2.5</sub> NAAQS (62 FR 38652). The revised ozone NAAQS is based on 8-hour average concentrations. The 8-hour averaging period replaced the previous 1-hour averaging period and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm. The new PM<sub>2.5</sub> NAAQS established a health-based PM<sub>2.5</sub> standard of 15.0 micrograms per cubic meter (µg/m<sup>3</sup>) based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations and a 24-hour standard of 65 µg/m<sup>3</sup> based on a 3-year average of the 98th percentile of 24-hour concentrations. EPA strengthened the 24-hour PM<sub>2.5</sub> NAAQS from 65 µg/m<sup>3</sup> to 35 µg/m<sup>3</sup> on October 17, 2006 (71 FR 61144).

Section 110(a) of the CAA requires states to submit State Implementation Plans (SIPs) that provide for the implementation, maintenance, and enforcement of new or revised NAAQS within three years following the promulgation of such NAAQS. In March of 2004, Earthjustice initiated a lawsuit against EPA for failure to take action against states that had not made SIP submissions to meet the requirements of sections 110(a)(1) and (2) for the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS, i.e., failure to make a "finding of failure to submit the required SIP 110(a) SIP elements." On March 10, 2005, EPA entered into a Consent Decree with Earthjustice that obligated EPA to make official findings in accordance with section 110(k)(1) of the CAA as to whether states have made required complete SIP submissions, pursuant to sections 110(a)(1) and (2), by December 15, 2007 for the 1997 8-hour ozone NAAQS and by October 5, 2008 for the 1997 PM<sub>2.5</sub> NAAQS. EPA made such findings for the 1997 8-hour ozone NAAQS on March 27, 2008 (73 FR 16205) and on October 22, 2008 (73 FR 62902) for the 1997 PM<sub>2.5</sub> NAAQS.

These completeness findings did not include findings relating to: (1) Section 110(a)(2)(C) to the extent that such subsection refers to a permit program as required by Part D of Title I of the CAA; (2) section 110(a)(2)(I); and (3) section 110(a)(2)(D)(i)(I). Therefore, this action does not cover these specific elements. This action also does not include the portion of D(i)(II) that pertains to visibility.

For the geographic area of Allegheny County, these completeness findings noted Pennsylvania's failure to submit a SIP revision addressing the portion of

110(a)(2)(C) relating to the part C permit programs. EPA recognizes that such requirement has already been addressed by a Federal Implementation Plan (FIP) that remains in place, and concludes that the finding of incompleteness does not trigger any additional FIP obligations for Pennsylvania. For all other areas of Pennsylvania, the Commonwealth has a SIP approved PSD program in place and EPA has found

that the 110(a)(2) submittals at issue were complete. Therefore, EPA's proposed action addresses the Commonwealth's compliance with the portion of 110(a)(2) relating to the part C permit programs for all geographic areas except Allegheny County.

## II. Summary of State Submittal

Pennsylvania provided multiple submittals to satisfy the section

110(a)(2) requirements that are the subject of this proposed action for the 1997 8-hour ozone NAAQS and the 1997 and 2006 PM<sub>2.5</sub> NAAQS. The submittals shown in Table 1 address the infrastructure elements, or portions thereof, identified in section 110(a)(2) that EPA is proposing to approve.

TABLE 1—110(a)(2) ELEMENTS, OR PORTIONS THEREOF, EPA IS PROPOSING TO APPROVE FOR THE 1997 OZONE AND PM<sub>2.5</sub> NAAQS AND THE 2006 PM<sub>2.5</sub> NAAQS FOR PENNSYLVANIA

Submittal date	1997 8-Hour ozone	1997 PM <sub>2.5</sub>	2006 PM <sub>2.5</sub>
December 7, 2007 .....	A, B, C, D(ii), E, F, G, H, J, K, L, M.	A, B, C, D(ii), E, F, G, H, J, K, L, M.	
December 7, 2007 .....	D(i)(II)PSD .....	D(i)(II)PSD.	
June 6, 2008 .....	C, D(i)(II)PSD, J .....	C, D(i)(II)PSD, J.	
June 6, 2008 .....	.....	K.	
April 26, 2010 .....	.....	G .....	A, B, C, E, F, G, H, J, K, L, M.
May 24, 2011 .....	.....	.....	D(i)(II)PSD, D(ii).

EPA will take separate action on the portions of section 110(a)(2)(C) which pertain to a permit program in part D Title I of the CAA as well as the portions of section 110(a)(2)(D)(i)(II) relating to visibility.

EPA analyzed the above identified submissions and is proposing to make a determination that such submittals meet the requirements of section 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M), or portions thereof, for the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS and the 2006 PM<sub>2.5</sub> NAAQS. A detailed summary of EPA's review of, and rationale for approving Pennsylvania's submittals may be found in the Technical Support Document (TSD) for this action, which is available online at <http://www.regulations.gov>, Docket number EPA-R03-OAR-2010-0159.

## III. Proposed Action

EPA is proposing to approve the Commonwealth of Pennsylvania's submittals that provide the basic program elements specified in the CAA sections 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M), or portions thereof, necessary to implement, maintain, and enforce the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS and the 2006 PM<sub>2.5</sub> NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

## IV. Statutory and Executive Order Reviews

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 proposes to approve 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Pub. L. 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, pertaining to Pennsylvania's section 110(a)(2) infrastructure requirements for the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS, and the 2006 PM<sub>2.5</sub> NAAQS, 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 22, 2011.

**W.C. Early,**

*Acting Regional Administrator, Region III.*  
[FR Doc. 2011-22451 Filed 8-31-11; 8:45 am]

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