

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R03–OAR–2019–0483; FRL–10001–97–Region 3]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County Administrative Revisions to Definitions, Remedies, and Enforcement Orders Sections and Incorporation by Reference of National Ambient Air Quality Standards

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision formally submitted by the Commonwealth of Pennsylvania on behalf of Allegheny County. These revisions include administrative amendments made to the Allegheny County Health Department (ACHD) Rules and Regulations, Article XXI, Air Pollution Control. Specifically, the revisions added a definition for “County Council;” deleted its current listing of ambient air quality standards and added, through incorporation by reference, all national ambient air quality standards (NAAQS) promulgated by EPA; revised references to the “Board of County Commissioners” to “County Executive” or “County Council;” added the “Manager of the Air Quality Program or their respective designee” as a signatory for enforcement orders; and revised a reference from the “Bureau of Environmental Quality Division of Air Quality” to “Air Quality Program of the Department.” This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before December 13, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R03–OAR–2019–0483 at <https://www.regulations.gov>, or via email to [Spielberger.Susan@epa.gov](mailto:Spielberger.Susan@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 <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Erin Malone, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2190. Ms. Malone can also be reached via electronic mail at [malone.erin@epa.gov](mailto:malone.erin@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On February 15, 2019, the Commonwealth of Pennsylvania formally submitted, on behalf of Allegheny County, a revision to the Pennsylvania SIP (Revision 73).<sup>1</sup> The revision consists of administrative and definition amendments, as well as incorporation by reference of the NAAQS to ACHD Rules and Regulations, Article XXI, Air Pollution Control. The revision was adopted by ACHD and became effective September 25, 2013.

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

The February 15, 2019 submittal includes amended versions of ACHD Rules and Regulations, Article XXI, Air Pollution Control, sections 2101.10 Ambient Air Quality Standards, 2101.20 Definitions, 2109.02 Remedies, and 2109.03 Enforcement Orders. The amendment to section 2101.10 deleted ACHD’s existing list of NAAQS and added, through incorporation by reference, all NAAQS promulgated by the EPA under the CAA at 40 CFR part 50. The amendment to section 2101.20 added the following definition for

County Council, “‘County Council’ means the Council of Allegheny County, Pennsylvania.” The amendments to section 2109.02 revised the reference to “Board of County Commissioners” to “County Executive” in paragraphs (a)(5) and (a)(6).

In section 2109.03, the amendments include revising references from “Board of County Commissioners” to “County Council,” as well as an additional signatory option for enforcement orders in paragraph (b)(1). The language in paragraph (b)(1) was revised from “Be in written form and be signed by the Director or the Deputy Director, Bureau of Environmental Quality” to “Be in written form and be signed by the Director, the Deputy Director of the Bureau of Environmental Quality, or the Manager of the Air Quality Program, or their respective designee.” Lastly, in the provisions of paragraph (d)(1), Hearings, the “Bureau of Environmental Quality Division of Air Quality” was revised to the “Air Quality Program of the Department” to specify that such hearings cannot be held before employees of the Department who are assigned to the Air Quality Program.

EPA’s review of this material indicates the February 15, 2019 submittal is approvable as it meets requirements of the CAA under section 110(a) and contains the deletion/addition of language incorporating by reference all of the NAAQS promulgated by EPA and other administrative revisions to regulations that were previously included in the Pennsylvania SIP. None of these deletions, additions, or revisions affect emissions of air pollutants, and none of the deletions, additions, or revisions 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(l) of the CAA.

A detailed summary of EPA’s review and rationale for approving the February 15, 2019 submittal may be found in the technical support document (TSD) for this proposed rulemaking action, available online at [www.regulations.gov](https://www.regulations.gov), docket number EPA–R03–OAR–2019–0483.

##### III. Proposed Action

EPA’s review of this material indicates the February 15, 2019 submittal is approvable as it meets the requirements of the CAA under section 110(a) and includes the deletion/addition of language incorporating by reference all of the NAAQS promulgated by EPA and other administrative

<sup>1</sup> On April 28, 2017, ACHD submitted Revision 73 to the Pennsylvania Department of Environmental Protection (PADEP). PADEP, on behalf of Allegheny County, also submitted a clarification letter dated June 24, 2019 to EPA to further clarify the revisions to sections 2101.10 and 2101.20 of Article XXI of ACHD’s Rules and Regulations.

revisions to regulations that were previously included in the Pennsylvania SIP. EPA is proposing to approve the February 15, 2019 submittal, which includes administrative deletions, additions, and revisions to ACHD Rules and Regulations, Article XXI, Air Pollution Control, sections 2101.10 Ambient Air Quality Standards, 2101.20 Definitions, 2109.02 Remedies, and 2109.03 Enforcement Orders, as a revision to the Pennsylvania SIP. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final rulemaking action.

#### IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the revisions to ACHD Rules and Regulations, Article XXI, Air Pollution Control, sections 2101.10 Ambient Air Quality Standards, 2101.20 Definitions, 2109.02 Remedies, and 2109.03 Enforcement Orders discussed in Section II of this preamble. Also, in this document, as described in the proposed amendments to 40 CFR part 52, EPA is proposing to remove provisions of the EPA-Approved Pennsylvania Regulations and Statutes from the Pennsylvania State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and 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

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 (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, proposing approval of administrative revisions to ACHD Rules and Regulations, Article XXI, Air Pollution Control, sections 2101.10 Ambient Air Quality Standards, 2101.20 Definitions, 2109.02 Remedies, and 2109.03 Enforcement Orders, 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

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

Dated: October 30, 2019.

**Cosmo Servidio,**

*Regional Administrator, Region III.*

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