

## MASSACHUSETTS NON REGULATORY

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date <sup>3</sup>	Explanations
Infrastructure SIP submittal for 2015 Ozone NAAQS.	Statewide .....	September 27, 2018	February 9, 2021, [Insert <b>Federal Register</b> citation].	Approved with respect to requirements for CAA section 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M) with the exception of the PSD-related requirements of (C), (D), and (J).

<sup>3</sup>To determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2020-0332; FRL-10017-26-Region 3]

### Air Plan Approval; Pennsylvania; 1997 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) Second Maintenance Plan for the Altoona (Blair County) Area

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision pertains to the Commonwealth's plan, submitted by the Pennsylvania Department of Environmental Protection (PADEP), for maintaining the 1997 8-hour ozone national ambient air quality standard (NAAQS) (referred to as the "1997 ozone NAAQS") in the Altoona, Blair County, Pennsylvania area (Altoona Area). EPA is approving these revisions to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on March 11, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2020-0332. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (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 through <https://>

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#### FOR FURTHER INFORMATION CONTACT:

David Talley, 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) 814-2117. Mr. Talley can also be reached via electronic mail at [talley.david@epa.gov](mailto:talley.david@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On September 3, 2020 (85 FR 54947), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Pennsylvania. In the NPRM, EPA proposed approval of Pennsylvania's plan for maintaining the 1997 ozone NAAQS in the Altoona Area through August 1, 2027, in accordance with CAA section 175A. The formal SIP revision was submitted by PADEP on February 27, 2020.

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

On August 1, 2007 (72 FR 41906 effective August 1, 2007), EPA approved a redesignation request (and maintenance plan) from PADEP for the Altoona Area. In accordance with section 175A(b), at the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years, and in *South Coast Air Quality Management District v. EPA*,<sup>1</sup> the D.C. Circuit held that this requirement cannot be waived for areas, like Charleston, that had been redesignated to attainment for the 1997 8-hour ozone NAAQS prior to revocation and that were designated attainment for the 2008 ozone NAAQS. CAA section 175A sets forth the criteria for adequate maintenance plans. In addition, EPA has published longstanding guidance that provides

further insight on the content of an approvable maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emissions inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan.<sup>2</sup> PADEP's February 27, 2020 submittal fulfills Pennsylvania's obligation to submit a second maintenance plan and addresses each of the five necessary elements.

As discussed in the September 3, 2020 NPRM, EPA allows the submittal of a less rigorous, limited maintenance plan (LMP) to meet the CAA section 175A requirements by demonstrating that the area's design value<sup>3</sup> is well below the NAAQS and that the historical stability of the area's air quality levels shows that the area is unlikely to violate the NAAQS in the future. EPA evaluated PADEP's February 27, 2020 submittal for consistency with all applicable EPA guidance and CAA requirements. EPA found that the submittal met CAA section 175A and all CAA requirements, and proposed approval of the LMP for the Altoona Area as a revision to the Pennsylvania SIP. The effect of this action makes certain commitments related to the maintenance of the 1997 ozone NAAQS Federally enforceable as part of the Pennsylvania SIP.

Subsequent to the publication of the September 3, 2020 NPRM, EPA discovered a minor computational error in the data presented in Table 1: "Typical Summer Day NO<sub>x</sub> and VOC Emissions for the Altoona Area." While the data are correct, the total volatile organic compounds (VOC) emissions were summed incorrectly in Table 1.

<sup>2</sup> "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni Memo).

<sup>3</sup> The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations. The design value for an ozone nonattainment area is the highest design value of any monitoring site in the area.

<sup>1</sup> 882 F.3d 1138 (D.C. Cir. 2018).

The correct total is 10.90 tons/day, not 11.90 tons/day as presented in the table. See 85 FR 54948. However, since the actual data are correct, and since the incorrect total over-reports rather than under-reports the emissions, EPA believes this to be a harmless error which does not impact the rationale in the NPRM for our approval of Pennsylvania's submittal. Other specific requirements of PADEP's February 27, 2020 submittal and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here. No public comments were received on the NPRM.

### III. Final Action

EPA is approving the 1997 8-hour ozone NAAQS limited maintenance plan for the Altoona Area as a revision to the Pennsylvania SIP.

### IV. 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because it is not a significant regulatory action 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 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 April 12, 2021. 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.

This action pertaining to Pennsylvania's second maintenance plan for the Altoona Area 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 3, 2021.

**Diana Esher,**

*Acting Regional Administrator, Region III.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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 (e)(1) is amended by adding an entry for "Second Maintenance Plan for the Altoona (Blair County) 1997 8-Hour Ozone Nonattainment Area" at the end of the table to read as follows:

#### § 52.2020 Identification of plan.

*	*	*	*	*
(e)	*	*	*	*
(1)	*	*	*	*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
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Second Maintenance Plan for the Altoona (Blair County) 1997 8-Hour Ozone Nonattainment Area.	Blair County .....	2/27/20	2/9/21, [insert <b>Federal Register</b> citation].	

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA-R03-OAR-2019-0527; FRL-10018-21-Region 3]

#### Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; State of Maryland; Control of Emissions From Existing Sewage Sludge Incineration Units

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a negative declaration submitted by the State of Maryland for Sewage Sludge Incineration (SSI) units. This negative declaration submitted by the Maryland Department of the Environment (MDE) certifies that SSI units subject to sections 111(d) and 129 of the Clean Air Act (CAA) do not exist within the jurisdiction of the State of Maryland. EPA is approving this certification in accordance with the requirements of the CAA.

**DATES:** This final rule is effective on March 11, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2019-0527. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (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 through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

#### FOR FURTHER INFORMATION CONTACT:

Matthew Willson, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. The telephone number is (215) 814-5795. Mr. Willson can also be reached via electronic mail at [Willson.Matthew@epa.gov](mailto:Willson.Matthew@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On July 15, 2020 (85 FR 42807), EPA published a notice of proposed rulemaking (NPRM) for the State of Maryland. In the NPRM, EPA proposed approval of a negative declaration submitted by the State of Maryland for Sewage Sludge Incineration (SSI) units. This negative declaration submitted by MDE certifies that SSI units subject to sections 111(d) and 129 of the CAA do not exist within the jurisdiction of the State of Maryland. The negative declaration was submitted by MDE on January 20, 2017.

The CAA requires that state regulatory agencies implement emission guidelines and associated compliance times using a state plan developed under sections 111(d) and 129 of the CAA. The general provisions for the submittal and approval of state plans are codified in 40 Code of Federal Regulations (CFR) part 60, subpart B and 40 CFR part 62, subpart A. Section 111(d) establishes general requirements and procedures on state plan submittals for the control of designated pollutants. Section 129 requires emission guidelines to be promulgated for all categories of solid waste incineration units, including SSI units. SSI units are defined at 40 CFR 60.5250 as “an incineration unit combusting sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter. Sewage sludge incineration unit designs include fluidized bed and multiple hearth. A SSI unit also includes, but is not limited to, the sewage sludge feed system, auxiliary fuel feed system, grate system, flue gas system, waste heat recovery equipment, if any, and bottom ash system. The SSI unit includes all ash handling systems connected to the bottom ash handling system. The combustion unit bottom ash

system ends at the truck loading station or similar equipment that transfers the ash to final disposal. The SSI unit does not include air pollution control equipment or the stack.”

Section 129 mandates that all plan requirements be at least as protective as the promulgated emission guidelines. This includes fixed final compliance dates, fixed compliance schedules, and title V permitting requirements for all affected sources. Section 129 also requires that state plans be submitted to EPA within one year after EPA’s promulgation of the emission guidelines and compliance times.

States have options other than submitting a state plan in order to fulfill their obligations under CAA sections 111(d) and 129. If a state does not have any existing SSI units for the relevant emission guidelines, a letter can be submitted certifying that no such units exist within the state (*i.e.*, negative declaration) in lieu of a state plan, in accordance with 40 CFR 60.5010. The negative declaration exempts the state from the requirements of subpart B that would otherwise require the submittal of a CAA section 111(d)/129 plan.

On March 21, 2011 (76 FR 15372), EPA finalized emission guidelines for SSI units at 40 CFR part 60, subpart MMM. Following the 2011 final rule, MDE determined that there was one SSI facility in Maryland that met the applicability criteria for the Federal plan. On January 20, 2017, MDE submitted a letter to EPA requesting full delegation of authority to implement the SSI Federal plan. However, that facility has now permanently shut down and has relinquished its title V permit to operate. Accordingly, MDE sent a negative declaration for SSI units on April 3, 2020.

##### II. Final Action

In this action, EPA amends 40 CFR part 62 to reflect receipt of the negative declaration letter from MDE, received April 3, 2020, certifying that there are no existing SSI units subject to 40 CFR part 60, subpart MMM, in accordance with section 111(d) and 129 of the CAA. EPA is accepting the negative declaration in accordance with the