

List of Subjects**40 CFR Part 50**

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

40 CFR Part 51

Air pollution control, Intergovernmental relations, Ozone, Particulate matter, Transportation, Volatile organic compounds.

Authority: 42 U.S.C. 7409; 42 U.S.C. 7410; 42 U.S.C. 7511–7511f; 42 U.S.C. 7601(a)(1).

Dated: August 4, 2009.

Lisa P. Jackson,
Administrator.

[FR Doc. E9–19190 Filed 8–10–09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA–R03–OAR–2009–0311; FRL–8941–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revised Motor Vehicle Emission Budgets for the Scranton/Wilkes-Barre 8-Hour Ozone Maintenance Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The revision amends the 8-hour ozone maintenance plan for the Scranton/Wilkes-Barre Area 8-Hour Ozone Maintenance Area (the Area). This revision amends the maintenance plan's 2009 and 2018 motor vehicle emissions budgets (MVEBs) by unequally dividing the existing approved MVEBs which covers the entire maintenance area into three sub-regional MVEBs, one set of MVEBs for each county comprising the area. The revised plan continues to demonstrate maintenance of the 8-hour national ambient air quality standard (NAAQS) for ozone. EPA is approving this SIP revision to the Pennsylvania maintenance plan for the Scranton/Wilkes-Barre Area in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on October 13, 2009 without further notice, unless EPA receives adverse written comment by September 10, 2009. If EPA receives

such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2009–0311 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *E-mail:* febbo.carol@epa.gov.

C. *Mail:* EPA–R03–OAR–2009–0311, Carol Febbo, Chief, Energy, Radiation and Indoor Environment Branch, Mailcode 3AP23, 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–2009–0311. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *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 *www.regulations.gov* or e-mail. The *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 *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 *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 *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, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Martin Kotsch, (215) 814–3335, or by e-mail at kotsch.martin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we”, “us”, or “our” is used, we mean EPA.

Table of Contents

- I. Background
- II. Summary of Pennsylvania's SIP Revision and EPA's Review
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. Background

On November 11, 2007 (72 FR 64948) EPA redesignated the Scranton/Wilkes-Barre area of Pennsylvania to attainment for the 8-hour ozone NAAQS. For this area, the redesignation included approval of an 8-hour ozone maintenance plan, which identifies on-road MVEBs for Volatile Organic Compounds (VOCs) and Nitrous Oxides (NO_x), which are ozone precursors, which are then used for transportation planning and conformity purposes. There are three separate metropolitan planning organizations (MPOs) in this maintenance area—one for Lackawana and Luzerne Counties, one for Monroe County and one for Wyoming County, with individual responsibility for doing transportation conformity within their respective planning boundaries within the Area. Pennsylvania has unequally divided the existing MVEBs and created sub-regional MVEBs for each MPO to better accommodate the transportation planning and conformity processes within the Area.

II. Summary of Pennsylvania's SIP Revision and EPA's Review

On April 21, 2008, the State of Pennsylvania submitted to EPA a formal revision to its State Implementation

Plan (SIP). The SIP revision proposes new MVEBs to reflect the reallocation of the existing overall MVEBs for the maintenance area. By reallocating the MVEBs, the Pennsylvania Department of Environmental Protection (PADEP) is

ensuring that transportation conformity can be demonstrated in the Scranton/Wilkes-Barre area. The April 21, 2008 submittal still ensures maintenance of the NAAQS for ozone for the Scranton/Wilkes-Barre area.

The following table lists the previously approved MVEBs and the proposed reallocation of the MVEBs into sub-regional budgets for the Scranton/Wilkes-Barre area.

SCRANTON/WILKES-BARRE AREA REALLOCATION OF THE MVEBS INTO SUB-REGIONAL BUDGETS

| Current MVEBs in the approved maintenance plan—all counties (tons/day) | | | |
|---|----------------|-----------------|-----------------|
| | 2004 base year | 2009 projection | 2018 projection |
| VOC | 31.6 | 25.2 | 16.9 |
| NO _x | 66.1 | 48.3 | 23.7 |

| Proposed MVEBs in the Revised Maintenance Plan (tons/day) ¹ | | |
|---|-------------|-------------|
| | 2009 budget | 2018 budget |
| Lackawana-Luzerne Counties | | |
| VOC | 17.99 | 11.8 |
| NO _x | 34.58 | 16.7 |
| Monroe County | | |
| VOC | 6.19 | 4.64 |
| NO _x | 12.16 | 6.36 |
| Wyoming County | | |
| VOC | 0.99 | 0.54 |
| NO _x | 1.54 | 0.68 |

¹ Due to rounding, some of the new reallocated budgets, if combined, are insignificantly different than the previously approved mobile budgets for the entire area. This slight difference will still ensure maintenance of the 8-hour ozone attainment as the combined MVEBs are still lower than the attainment year budgets.

EPA is approving the 2009 and 2018 MVEBs for VOCs and NO_x emissions listed above in Table 1 as the new MVEBs for transportation conformity planning.

III. Final Action

EPA is approving Pennsylvania’s April 21, 2008 SIP revision submittal which amends the 8-hour ozone maintenance plans for the Scranton/Wilkes Barre area. This revision unequally divides the previously approved 2009 and 2018 MVEBs to create sub-regional MVEBs for the two counties comprising the area. EPA is approving this SIP revision because the April 21, 2008 submittal continues to demonstrate maintenance of the 8-hour ozone NAAQS with the aggregated sub-regional MVEBs. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment, since no significant adverse comments were received on the SIP revision at the State level. However, in the Proposed Rules section of today’s **Federal Register**, EPA is publishing a separate document that will serve as the

proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on October 13, 2009 without further notice unless EPA receives adverse comment by September 10, 2009.

If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act 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 Clean Air Act.

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 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 Clean Air Act; 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 13, 2009. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule

and address the comment in the proposed rulemaking.

This action to approve the Scranton/Wilkes-Barre revised maintenance plan 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: July 28, 2009.

William C. Early,
Acting Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 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 revising the entry for the 8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory for the Scranton/Wilkes Barre, PA Area 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 |
|---|---|----------------------|--|------------------------|
| * * * * * | * * * * * | * * * * * | * * * * * | * * * * * |
| 8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory. | Scranton/Wilkes-Barre Area: Lackawanna, Luzerne, Monroe and Wyoming Counties. | 6/12/07 | 11/14/07, 72 FR 64948. | |
| | | 4/21/08 | 8/11/09, [Insert page number where the document begins]. | |
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[FR Doc. E9–18867 Filed 8–10–09; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2005–0011; FRL–8942–6]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final Notice of Deletion of the Delilah Road Landfill, Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 2 is publishing a direct final Notice of Deletion of the Delilah Road Landfill, Superfund Site (Site), located in *Egg Harbor Township, New Jersey*, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is