

[Insert new item 10.20.8 and Exhibit 10.20.8 as follows:]

**10.20.8 Lithium Battery Mailability**

To determine the mailability of primary (non-rechargeable) lithium

metal and lithium alloy batteries, or secondary lithium-ion batteries, see exhibit below. For detailed information refer to 10.20.5 and 10.20.6 respectively.

**EXHIBIT 10.20.8—LITHIUM BATTERY MAILABILITY CHART**

Primary Lithium Batteries <sup>1 2</sup>	Surface transportation	Air transportation	Mailpiece weight limit
<b>Small non-rechargeable consumer-type batteries</b>			
Contained in (properly installed in equipment) .....	Mailable .....	Mailable .....	11 lb.
Packed with equipment but not installed in equipment.	Mailable .....	Mailable .....	11 lb.
Without the equipment they operate (individual batteries).	Mailable .....	Prohibited .....	5 lb.
1. Each primary cell must not contain more than 1g lithium content. 2. Each primary battery must not contain more than 2g lithium content.			
Secondary Lithium-ion Batteries <sup>3 4</sup>	Surface transportation	Air transportation	Mailpiece battery limit
<b>Small rechargeable consumer-type batteries</b>			
Contained in (properly installed in equipment) .....	Mailable .....	Mailable .....	No more than 3 batteries.
Packed with equipment but not installed in equipment.	Mailable .....	Mailable .....	No more than 3 batteries.
Without the equipment they operate (individual batteries).	Mailable .....	Mailable .....	No more than 3 batteries.

- 3. Each secondary cell must not contain more than 20 Wh (Watt-hour rating) per cell.
- 4. Each secondary battery must not exceed 100 Wh per battery.

\* \* \* \* \*

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

**Stanley F. Mires,**  
*Attorney, Legal Policy & Legislative Advice.*  
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**BILLING CODE 7710-12-P**

to satisfy the requirements related to antibacksliding. Additionally, the proposed revision makes clarifying changes to regulations that are not related to NSR Reform. This action is being taken under the Clean Air Act (CAA).

**DATES:** *Effective Date:* This final rule is effective on June 13, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2011-0925. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, some information is not publicly available, i.e., 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 either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection 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:**  
 Gerallyn Duke, (215) 814-2084, or by email at [Duke.Gerallyn@epa.gov](mailto:Duke.Gerallyn@epa.gov).  
**SUPPLEMENTARY INFORMATION:**

**I. Background**

Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA. On January 20, 2012 (77 FR 2937), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed approval of a SIP revision pertaining to preconstruction permitting requirements under Pennsylvania’s nonattainment NSR program. The formal SIP revision was submitted by the Pennsylvania Department of Environmental Protection (PA DEP) on August 9, 2007.

The history of this SIP, the NSR Reform Program, and *South Coast Air Quality Management District v. EPA*<sup>1</sup> (*South Coast*) decision regarding antibacksliding provisions of the Eight-Hour Ozone National Ambient Air Quality Standard (69 FR 23951), are described in the NPR. The purpose of this SIP revision is to incorporate

<sup>1</sup> In 2006, the United States Court of Appeals for the District of Columbia Circuit found in *et al.*, 472 F.3d 882 (D.C. Cir. 2006) that NSR is a control measure and to weaken its requirements under the SIP would constitute impermissible backsliding under the CAA.

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**  
**[EPA-R03-OAR-2011-0925; FRL-9669-3]**

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Nonattainment New Source Review Rules**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania on August 9, 2007. This revision pertains to the preconstruction permitting requirements of Pennsylvania’s nonattainment New Source Review (NSR) program. The revision is intended to update Pennsylvania’s nonattainment NSR regulations to meet EPA’s 2002 NSR Reform regulations (NSR Reform), and

changes to Pennsylvania's nonattainment NSR rules made as a result of EPA's 2002 NSR Reform, and to address the antibacksliding provisions of the *South Coast* decision.

In summary, the current NSR Reform Rules: (1) Provide a new method for determining baseline actual emissions; (2) adopt an actual-to-projected actual methodology for determining whether a major modification has occurred; and (3) allow major stationary sources to comply with Plantwide Applicability Limits (PALs) to avoid having a significant emissions increase that triggers the requirements of the major NSR program (68 FR 63021 and 72 FR 32526). The 2002 NSR Reform Rules require that state agencies adopt and submit revisions to their SIP permitting programs implementing the minimum program elements of the 2002 NSR Reform Rules no later than January 2, 2006. In addition, as a result of the *South Coast* decision, all one-hour ozone NAAQS major NSR requirements must remain in place where classifications under the newer eight-hour ozone standard imposed less stringent NSR requirements.

## II. Summary of SIP Revision

The SIP submittal consists of changes to 25 Pa. Code Chapter 121, General Provisions, and 25 Pa. Code Chapter 127, Construction, Modification, Reactivation, and Operation of Sources. This action will update Pennsylvania's nonattainment NSR regulations as previously approved on December 9, 1997 (62 FR 64722). It will incorporate for the first time the 2002 "NSR Reform" provisions into Pennsylvania's nonattainment NSR program, and will satisfy the requirements of the DC Circuit Court decision in *South Coast* regarding antibacksliding. The proposed regulations were adopted by Pennsylvania and became effective on May 19, 2007. Other specific requirements of the regulations and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

## III. Final Action

EPA is approving the August 9, 2007 SIP revision, amending Pennsylvania's NSR construction, modification, reactivation and operation permit programs at 25 Pa. Code Section 121.1 and 25 Pa. Code Chapter 127, 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 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 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 Pennsylvania, 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 July 13, 2012. 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 nonattainment NSR program 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, Carbon monoxide, Incorporation by reference, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 19, 2012.

**W.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 (c)(1) is amended by:
- a. Adding entries for Title 25, Sections 127.201a, 127.203a, and 127.218 in alphanumeric order.

- b. Revising the existing entries for Title 25, Sections 121.1, 127.13, 127.201, 127.202, 127.203, 127.204 through 127.210, 127.212, 127.213, 127.215, and 127.217.
- c. Removing the entries for Sections 127.211 and 127.214.

The amendments read as follows:

<b>§ 52.2020</b>	<b>Identification of plan.</b>
*	* * *
(c)	* * *
(1)	* * *

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
<b>Title 25—Environmental Protection</b>				
<b>Article III—Air Resources</b>				
<b>Chapter 121—General Provisions</b>				
Section 121.1 .....	Definitions .....	5/19/07	5/14/2012 [ <i>Insert page number where the document begins</i> ].	Added 36 terms; Revised 9 terms; Removed 5 terms.
*	*	*	*	*
<b>Chapter 127—Construction, Modification, Reactivation and Operation of Sources</b>				
<b>Subchapter B—Plan Approval Requirements</b>				
Section 127.13 .....	Extensions .....	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	Revised.
*	*	*	*	*
<b>Subchapter E—New Source Review</b>				
Section 127.201 .....	General requirements .....	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	Paragraphs (d) through (f) added; paragraph(c) revised.
Section 127.201a .....	Measurements, abbreviations and acronyms.	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	New.
Section 127.202 .....	Effective Date .....	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	Revised.
Section 127.203 .....	Facilities subject to special permit requirements.	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	Paragraphs (a) through (f) revised.
Section 127.203a .....	Applicability determination .....	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	New.
Section 127.204 .....	Emissions subject to this chapter	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	Revised.
Section 127.205 .....	Special permit requirements .....	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	Revised.
Section 127.206 .....	ERC general requirements .....	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	Revised.
Section 127.207 .....	Creditable emissions decrease or ERC generation and creation.	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	Revised.
Section 127.208 .....	ERC use and transfer requirements.	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	Revised.
Section 127.209 .....	ERC registry system .....	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	Revised.
Section 127.210 .....	Offset ratios .....	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	Revised.
Section 127.212 .....	Portable facilities .....	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	Revised.
Section 127.213 .....	Construction and demolition .....	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	Revised.
Section 127.215 .....	Reactivation .....	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	Revised.
*	*	*	*	*
Section 127.217 .....	Clean Air Act Titles III–V applicability.	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	Revised.
Section 127.218 .....	PALs .....	5/19/07	5/14/12 [ <i>Insert page number where the document begins</i> ].	New.

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
*	*	*	*	*

\* \* \* \* \*

[FR Doc. 2012-11461 Filed 5-11-12; 8:45 am]

BILLING CODE 6560-50-P

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

[EPA-R03-OAR-2011-0556; FRL-9669-5 ]

**Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Ohio; Determination of Clean Data for the 2006 24-Hour Fine Particulate Standard for the Steubenville-Weirton Area****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is making a final determination regarding the two-state Steubenville-Weirton, Ohio-West Virginia nonattainment area (hereafter referred to as the "Steubenville-Weirton Area" or "Area") for the 2006 24-hour fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS). EPA is determining that the Steubenville-Weirton Area has attained the 24-hour 2006 PM<sub>2.5</sub> NAAQS. This determination is based upon complete, quality assured, and certified ambient air monitoring data showing that this area has monitored attainment of the 24-hour 2006 PM<sub>2.5</sub> NAAQS based on the 2008-2010 data. EPA's determination suspends the obligation of Ohio and West Virginia to submit, with respect to this area, attainment demonstrations, associated reasonably available control measures (RACM), reasonable further progress plans, contingency measures, and other planning State Implementation Plans (SIPs) related to attainment of the 2006 PM<sub>2.5</sub> standard for so long as the Area continues to meet the 24-hour 2006 PM<sub>2.5</sub> NAAQS.

**DATES:** *Effective Date:* This final rule is effective on June 13, 2012.**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2011-0556. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, some information is not publicly available, i.e., 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 either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

**FOR FURTHER INFORMATION CONTACT:** In Region III, Asrah Khadr, Office of Air Program Planning, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103-2023. The telephone number is (215) 814-2071. Ms. Khadr can also be reached via electronic mail at [khadr.asrah@epa.gov](mailto:khadr.asrah@epa.gov). In Region V, Carolyn Persoon, Air Planning and Maintenance Section, Air Programs Branch (AR-18), Environmental Protection Agency, Region V, 77 West Jackson Boulevard, Chicago, Illinois 60604-3507. Ms. Persoon's telephone number is (312) 353-8290. Ms. Persoon can also be reached via electronic mail at [persoon.carolyn@epa.gov](mailto:persoon.carolyn@epa.gov).

**SUPPLEMENTARY INFORMATION:**

- I. What action is EPA taking?
- II. What is the effect of this action?
- III. Summary of Public Comment and EPA Response
- IV. Statutory and Executive Order Reviews

**I. What action is EPA taking?**

EPA is making a final determination that the Steubenville-Weirton Area has attained the 24-hour 2006 PM<sub>2.5</sub> NAAQS. This determination is based upon complete, quality assured, and certified ambient air monitoring data showing that this area has monitored attainment of the 2006 PM<sub>2.5</sub> NAAQS based on data for 2008-2010.

On October 4, 2011 (76 FR 61291), EPA proposed its determination of attainment for the Steubenville-Weirton Area. A discussion of the rationale behind this determination and the effect of the determination were included in the notice of proposed rulemaking (NPR). One adverse comment was submitted in response to EPA's October 4, 2011 NPR (76 FR 61291). A summary of the comment and EPA's response is provided in section III of this document.

**II. What is the effect of this action?**

Under the provisions of EPA's PM<sub>2.5</sub> implementation rule (40 CFR 51.1004(c)), the requirements for the

States of Ohio and West Virginia to submit, for the Steubenville-Weirton Area, an attainment demonstration and associated RACM (including reasonably available control technology (RACT)), a reasonable further progress plan, contingency measures, and any other planning SIPs related to attainment of the 2006 PM<sub>2.5</sub> NAAQS are suspended for so long as the Area continues to meet the 24-hour 2006 PM<sub>2.5</sub> NAAQS. If EPA subsequently determines that this Area violates the 24-hour 2006 PM<sub>2.5</sub> NAAQS, the basis for the suspension of the specific requirements, set forth at 40 CFR 51.1004(c), would no longer exist and this area would thereafter have to address the pertinent requirements.

This action, does not constitute a redesignation of the Steubenville-Weirton Area to attainment of the 24-hour 2006 PM<sub>2.5</sub> NAAQS under section 107(d)(3) of the Clean Air Act (CAA). Further, this action does not involve approving maintenance plans for the Area as required under section 175A of the CAA, nor does it find that the Area has met all other requirements for redesignation. Even after a determination of attainment by EPA, the designation status of the Steubenville-Weirton Area remains nonattainment for the 24-hour 2006 PM<sub>2.5</sub> NAAQS until such time as EPA determines that the Area meets the CAA requirements for redesignation to attainment and takes action to redesignate the Steubenville-Weirton Area.

**III. Summary of Public Comment and EPA Response**

*Comment:* An Ohio resident expressed concern for the air quality in the Steubenville-Weirton Area. The resident perceives the air quality to be poor and thus questioned how this Area will be free from requirements to create plans for air quality improvement. The resident also proposed that areas with air quality problems should be subject to more stringent standards.

*Response:* Since 2006, the States of Ohio and West Virginia, as well as the Federal government, have implemented various measures that have resulted in cleaner air in the Steubenville-Weirton Area, including, the nitrogen oxides (NO<sub>x</sub>) SIP Call which addressed pollutants that can result in acid rain; mobile source engine standards leading to a decrease in NO<sub>x</sub> and direct PM<sub>2.5</sub>; fuel standards decreasing sulfur dioxide (SO<sub>2</sub>); as well as rules affecting SO<sub>2</sub> and