

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R03-OAR-2008-0930; FRL-9737-9]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Attainment Demonstration for the 1997 8-Hour Ozone National Ambient Air Quality Standard for the Philadelphia-Wilmington-Atlantic City Moderate Nonattainment Area**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: EPA is approving the attainment demonstration portion of the attainment plan submitted by the State of Delaware as a State Implementation Plan (SIP) revision. The SIP revision demonstrates attainment of the 1997 8-hour ozone national ambient air quality standard (NAAQS) for the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE moderate nonattainment area (Philadelphia Area) by the applicable attainment date of June 2011. EPA is approving the SIP revision in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on November 5, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2008-0930. All documents in the docket are listed in the 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 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 Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814-2182, or by email at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

On August 7, 2012 (77 FR 46990), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of the attainment demonstration portion of the attainment plan for the 1997 8-hour ozone NAAQS for the Philadelphia Area. The formal SIP revision was submitted by Delaware on June 13, 2007.

II. Summary of SIP Revision

The SIP revision consists of the attainment demonstration portion of the attainment plan submitted by Delaware as a SIP revision on June 13, 2007 to demonstrate attainment of the 1997 8-hour ozone NAAQS for the Philadelphia Area by the applicable attainment date of June 2011. EPA previously approved other portions of the Delaware attainment plan submitted on June 13, 2007. *See* 75 FR 17863 (April 8, 2010). EPA has determined that the weight of evidence analysis that Delaware used to support the attainment demonstration provides sufficient evidence that the Philadelphia Area would attain the 1997 8-hour ozone NAAQS by the applicable attainment date of June 2011. Specific requirements of the attainment demonstration and the rationale for EPA's proposed action are explained in the NPR and the technical support document (TSD) and will not be restated here. No public comments were received on the NPR.

Separately, EPA conducted a process to find adequate the motor vehicle emission budgets (MVEBs) for New Castle, Kent and Sussex Counties which are associated with the Delaware attainment demonstration for the Philadelphia Area. A notice was posted on EPA's Web site for a 30-day public comment period on the adequacy determination for the 2009 MVEBs associated with the attainment demonstration for all three counties in Delaware. No comments were received during the public comment period. Therefore, EPA finds adequate the MVEBs for transportation conformity purposes for all three counties in Delaware.

III. Final Action

EPA is approving the 1997 8-hour ozone NAAQS attainment demonstration portion of the attainment plan submitted by Delaware on June 13, 2007. EPA has determined that Delaware's SIP revision demonstrates attainment of the 1997 8-hour ozone NAAQS for the Philadelphia Area by the applicable attainment date of June 2011. EPA also has determined that the

SIP revision meets the applicable requirements of the CAA. EPA is also approving and finding adequate the 2009 MVEBs associated with the attainment demonstration for all three counties in Delaware.

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 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 December 4, 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 the Delaware attainment demonstration for the 1997 8-hour ozone NAAQS for the Philadelphia 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 21, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended 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 I—Delaware

■ 2. In § 52.420, the table in paragraph (e) is amended by adding the entry for the “Attainment Demonstration for the 1997 8-Hour Ozone National Ambient Air Quality Standard and its Associated Motor Vehicle Emission Budgets” at the end of the table to read as follows:

§ 52.420 Identification of plan.

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(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
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Attainment Demonstration for the 1997 8-Hour Ozone National Ambient Air Quality Standard and its Associated Motor Vehicle Emissions Budgets.	Delaware-Philadelphia-Wilmington-Atlantic City Moderate Non-attainment Area.	06/13/07	10/05/12	[Insert page number where the document begins].

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0556; FRL–9736–8]

Revisions to the Nevada State Implementation Plan, Washoe County Air Quality District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the Washoe County Air District Board of Health (WCDBOH) portion of the Nevada State Implementation Plan (SIP). This action was proposed in the **Federal Register** on July 30, 2012 and concerns regulations regarding compliance with permit

conditions, recordkeeping, source sampling and testing, and statements of compliance with 40 CFR Part 70 permits. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: These rules will be effective on November 5, 2012.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2012–0556 for this action. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g.,

confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Cynthia Allen, EPA Region IX, (415) 947–4120, allen.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to EPA.

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I. Proposed Action

On July 30, 2012 (77 FR 44560), EPA proposed to approve a draft version of the following rules because we determined that they complied with the relevant CAA requirements.