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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2015-0470; FRL-9934-91-Region 3]

#### Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Approval of the Base Year Emissions Inventory for the Liberty-Clairton Nonattainment Area for the 2006 24-Hour Fine Particulate Matter Standard and Approval of Transportation Conformity Insignificance Findings for the 1997 Annual and 2006 24-Hour Fine Particulate Matter Standards for the Liberty-Clairton Nonattainment Area

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve two revisions to the Commonwealth of Pennsylvania (Pennsylvania) State Implementation Plan (SIP). The first revision consists of the 2007 base year emissions inventory for the Liberty-Clairton nonattainment area (hereafter “the Liberty-Clairton Area” or “the Area”) with respect the 2006 24-hour fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS or standard). The second revision consists of insignificance findings for the mobile source contribution of PM<sub>2.5</sub> and nitrogen oxides (NO<sub>x</sub>) emissions for the Liberty-Clairton Area for both the 1997 annual and 2006 24-hour PM<sub>2.5</sub> standards. EPA is approving the 2007 base year emissions inventory for the Liberty-Clairton Area for the 2006 24-hour PM<sub>2.5</sub> NAAQS. Furthermore, EPA is finding the motor vehicle emission inventories adequate for transportation conformity purposes and is approving the insignificance findings for the mobile source contribution of PM<sub>2.5</sub> and NO<sub>x</sub> emissions for the Liberty-Clairton Area for both the 1997 annual and 2006 24-hour PM<sub>2.5</sub> standards. EPA is approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on December 1, 2015 without further notice, unless EPA receives adverse written comment by November 2, 2015. 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-2015-0470 by one of the following methods:

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

B. Email: *Fernandez.cristina@epa.gov*.  
C. *Mail:* EPA-R03-OAR-2015-0470, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, 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-2015-0470. 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 email. 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 email comment directly to EPA without going through *www.regulations.gov*, your email 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 Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and at the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

#### FOR FURTHER INFORMATION CONTACT:

Emlyn Vélez-Rosa, (215) 814-2038, or by email at *velez-rosa.emlyn@epa.gov*.

**SUPPLEMENTARY INFORMATION:** On June 21, 2013, the Commonwealth Pennsylvania submitted, on behalf of Allegheny County, a formal revision to its SIP. The SIP revision consisted of the 2006 24-hour PM<sub>2.5</sub> NAAQS attainment plan for the Liberty-Clairton Area, which included among other things, an attainment demonstration, a 2007 base year emissions inventory, a reasonably available control measures (RACM) analysis, and a description of contingency measures. On July 31, 2014, the SIP revision was supplemented to include additional information regarding control measures as part of the attainment demonstration and insignificance findings for transportation conformity purposes for both the 1997 and 2006 24-hour PM<sub>2.5</sub> NAAQS.

Today’s action only pertains to the approval of the 2007 base year emissions inventory to satisfy the requirement of section 172(c)(3) of the CAA and the transportation conformity insignificance findings to satisfy EPA’s requirements at 40 CFR 93.118(e)(4) and 40 CFR 93.109(f).

#### I. Background

On July 16, 1997, EPA established an annual PM<sub>2.5</sub> NAAQS at 15.0 micrograms per cubic meter (µg/m<sup>3</sup>) (hereafter referred to as “the 1997 annual PM<sub>2.5</sub> NAAQS”), based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations (62 FR 38652, July 18, 1997). At that time, EPA also established a 24-hour standard of 65 µg/m<sup>3</sup> (hereafter referred to as “the 1997

24-hour PM<sub>2.5</sub> NAAQS”). See 40 CFR 50.7. The 1997 PM<sub>2.5</sub> standards were based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to particulate matter.

On January 5, 2005 (70 FR 944), EPA published its nonattainment area designations for the 1997 annual PM<sub>2.5</sub> NAAQS based upon air quality monitoring data for calendar years 2001–2003. These designations, effective on April 5, 2005, included the Liberty-Clairton Area as a nonattainment area. The Liberty-Clairton Area for the 1997 annual PM<sub>2.5</sub> NAAQS is comprised of the following portion of Allegheny County: The boroughs of Lincoln, Glassport, Liberty, and Port Vue and the City of Clairton. See 40 CFR 81.339 (Pennsylvania). The Liberty-Clairton Area is surrounded by, but separate and distinct from, the Pittsburgh-Beaver Valley PM<sub>2.5</sub> nonattainment area.

On September 21, 2006, EPA retained the 1997 annual PM<sub>2.5</sub> NAAQS at 15.0 µg/m<sup>3</sup> (hereby “the 2006 annual PM<sub>2.5</sub> NAAQS”) based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations, and promulgated a new 24-hour standard of 35 µg/m<sup>3</sup> (hereafter “the 2006 24-hour PM<sub>2.5</sub> NAAQS”) based on a 3-year average of the 98th percentile of 24-hour concentrations (71 FR 61144, October 17, 2006). The revised 2006 24-hour PM<sub>2.5</sub> standard became effective on December 18, 2006. See 40 CFR 50.13. The more stringent 2006 24-hour PM<sub>2.5</sub> NAAQS is based on significant evidence and numerous health studies demonstrating that serious health effects are associated with short-term exposures to PM<sub>2.5</sub> at this level.

Many petitioners challenged aspects of EPA’s 2006 revisions to the PM<sub>2.5</sub> NAAQS. See *American Farm Bureau Federation and National Pork Producers Council, et al. v. EPA*, 559 F.3d 512 (D.C. Cir. 2009). As a result of this challenge, the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit) remanded the 2006 annual PM<sub>2.5</sub> NAAQS to EPA for further proceedings. The 2006 24-hour PM<sub>2.5</sub> NAAQS was not affected by the remand and remains in effect.

On November 13, 2009, EPA published designations for the 2006 24-hour PM<sub>2.5</sub> NAAQS (74 FR 58688). These designations, effective on December 14, 2009, included the Liberty-Clairton Area as a nonattainment area for the 2006 24-hour PM<sub>2.5</sub> NAAQS, retaining the same geographical boundaries as for the 1997 annual PM<sub>2.5</sub> NAAQS. See 40 CFR 81.339 (Pennsylvania).

A nonattainment designation under the CAA triggers additional planning requirements for states to show attainment of the NAAQS in the nonattainment areas by a statutory attainment date, as specified in the CAA. Since 2005, EPA had implemented the 1997 and 2006 PM<sub>2.5</sub> NAAQS based on the general implementation provisions of subpart 1 of Part D of Title I of the CAA (subpart 1). On January 4, 2013, in *Natural Resources Defense Council v. EPA (NRDC v. EPA)*, the DC Circuit determined that EPA should be implementing its PM<sub>2.5</sub> pollution standard under additional CAA requirements than those EPA had been following in subpart 1 and remanded to EPA the “Final Clean Air Fine Particle Implementation Rule” (1997 PM<sub>2.5</sub> Implementation Rule) (72 FR 20586, April 25, 2007) and the “Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers (PM<sub>2.5</sub>)” final rule (2008 NSR PM<sub>2.5</sub> Rule).<sup>1</sup> 706 F.3d 428 (D.C. Cir. 2013). The DC Circuit found that the EPA erred in implementing the 1997 annual PM<sub>2.5</sub> NAAQS solely pursuant to subpart 1, without consideration of the particulate matter specific provisions of subpart 4 of Part D of Title I of the CAA (subpart 4).

While the regulatory provisions of EPA’s 1997 PM<sub>2.5</sub> Implementation Rule do not explicitly apply to the 2006 24-hour PM<sub>2.5</sub> NAAQS, EPA’s underlying statutory interpretation has been the same for both standards. On March 2, 2012, EPA provided implementation guidance for the 2006 24-hour PM<sub>2.5</sub> NAAQS which reaffirmed and continued the framework and policy approaches of the 1997 PM<sub>2.5</sub> Implementation Rule. On June 6, 2013, EPA withdrew the implementation guidance for the 2006 24-hour PM<sub>2.5</sub> NAAQS, subsequent to the DC Circuit’s decision in *NRDC v. EPA*.<sup>2</sup>

Although the DC Circuit declined to establish a deadline for EPA’s response, EPA intends to respond promptly to the Court’s remand and to promulgate new generally applicable implementation regulations for the PM<sub>2.5</sub> NAAQS in accordance with the requirements of subparts 1 and 4. In the interim, however, states and EPA still need to proceed with implementation of the

PM<sub>2.5</sub> NAAQS in a timely and effective fashion in order to meet statutory obligations under the CAA and to assure the protection of public health intended by those NAAQS.

The statutory provisions in subpart 4 require EPA, among other things, to classify nonattainment areas for the PM<sub>2.5</sub> NAAQS based on the severity of their pollution problem. Under EPA’s prior approach to implementing the 1997 annual and 2006 24-hour PM<sub>2.5</sub> standards according to subpart 1, EPA was not required to, and thus did not, identify any classifications for areas designated nonattainment. In contrast, subpart 4 of the CAA, at section 188, provides that all areas designated nonattainment are initially classified “by operation of law” as “Moderate” nonattainment areas, and they remain classified as Moderate nonattainment areas unless and until EPA later reclassifies them as Serious nonattainment areas or EPA determines that an area has not attained the PM<sub>2.5</sub> NAAQS by the area’s applicable attainment date.

On April 25, 2014, EPA finalized a rule identifying the classification of all PM<sub>2.5</sub> areas currently designated nonattainment for the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS as “Moderate,” consistent with subpart 4 of the CAA. See 79 FR 31566 (June 2, 2014). Consequently, the Liberty-Clairton Area was classified as Moderate for the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS.

On July 10, 2015 (80 FR 39696), EPA determined that the Liberty-Clairton Area had attained the 2006 24-hour PM<sub>2.5</sub> NAAQS, based on quality-assured and certified ambient air quality data for the 2012–2014 monitoring period. This “clean data determination” suspended Pennsylvania’s obligations to submit for the Liberty-Clairton Area an attainment demonstration, reasonably available control measures (RACM), reasonable further progress (RFP), and contingency measures for the 2006 24-hour PM<sub>2.5</sub> NAAQS pursuant to subparts 1 and 4 of the CAA, for so long as the Area continues to attain the standard.

EPA incorporated its Clean Data Policy interpretation in both its 8-Hour Ozone Implementation Rule in 40 CFR 51.918 and in its 1997 PM<sub>2.5</sub> Implementation Rule in 40 CFR 51.1004(c). See 72 FR 20585, 20665 (April 25, 2007). While the DC Circuit in its January 4, 2013 decision remanded the 1997 PM<sub>2.5</sub> Implementation Rule, the Court did not address the merits of that regulation regarding our Clean Data Policy in 40 CFR 51.1004(c), nor cast any doubt on EPA’s existing interpretation of the

<sup>1</sup> EPA’s 2008 NSR PM<sub>2.5</sub> Rule relates to requirements for the NSR permitting program required by parts C and D of title I of the CAA. The details and provisions of the 2008 NSR PM<sub>2.5</sub> Rule are not relevant to this rulemaking.

<sup>2</sup> EPA’s June 6, 2013 withdrawal memorandum is available at <http://www.epa.gov/ttn/naaqs/pm/pdfs/implementationguidancewithdrawmemo.pdf>.

statutory provisions for the Clean Data Policy.<sup>3</sup>

After EPA's final clean data determination for the Liberty-Clairton Area for the 2006 24-hour PM<sub>2.5</sub> NAAQS, effective on August 10, 2015, the only pending statutory requirement for the Area relates to emissions inventories pursuant to section 172(c)(3) of subpart 1 of the CAA. Specifically, section 172(c)(3) of the CAA requires states to submit a comprehensive, accurate, and current inventory of actual emissions for each nonattainment area. EPA's requirements for an emissions inventory for the PM<sub>2.5</sub> NAAQS are set forth in 40 CFR 51.1008.

**II. Summary of SIP Revision**

As discussed earlier, the Liberty-Clairton's base year emissions inventory was submitted by Pennsylvania Department of the Environmental Protection (PADEP), on behalf of Allegheny County Health Department

(ACHD), as part of the June 21, 2013 SIP revision to demonstrate attainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS for the Liberty-Clairton Area. The June 21, 2013 SIP revision was amended on July 31, 2015 to include, among other things, the transportation conformity insignificance findings for both the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS. In this rulemaking action, EPA is only acting on the portions of the submittals corresponding to the 2007 base year emissions inventory and the transportation conformity insignificance findings. A brief summary of the SIP revisions is provided in this section.

*A. Base Year Emissions Inventory*

The 2007 base year emissions inventory for the Liberty-Clairton Area intends to satisfy the requirements of section 172(c)(4) of the CAA for the 2006 24-hour PM<sub>2.5</sub> NAAQS. The 2007 base year emissions inventory includes emissions estimates that cover the

general source categories of point sources, area sources, non-road mobile sources, and on-road mobile sources. The pollutants that comprise the inventory are NO<sub>x</sub>, volatile organic compounds (VOC), PM<sub>2.5</sub>, coarse particles (PM<sub>10</sub>), ammonia, and sulfur dioxide (SO<sub>2</sub>). ACHD selected 2007 as the base year for the emissions inventory, in accordance with 40 CFR 51.1008(b).

The 2007 emissions inventory submitted is the most current accurate and comprehensive actual emissions inventory of direct PM<sub>2.5</sub>, PM<sub>10</sub>, NO<sub>x</sub>, SO<sub>2</sub>, VOC, and ammonia for the Liberty-Clairton Area with respect the 2006 24-hour PM<sub>2.5</sub> NAAQS. The actual emissions were estimated based on pollutant emission factors and throughputs or capacities of each emission source. A summary of the Liberty-Clairton's 2007 base year emissions inventory is provided in Table 1.

**TABLE 1—2007 BASE YEAR EMISSIONS INVENTORY FOR THE LIBERTY-CLAIRTON AREA FOR THE 2006 24-HOUR PM<sub>2.5</sub> NAAQS**  
[Tons/Year]

	PM <sub>2.5</sub>	PM <sub>10</sub>	SO <sub>2</sub>	NO <sub>x</sub>	VOC	Ammonia
Point Sources .....	946.6	1136.9	1741.3	4841.9	590.5	18.4
Area Sources .....	26.3	50.5	50.1	38.8	255.9	4.2
Nonroad Sources .....	15.0	15.9	17.2	437.9	86.6	0.2
Mobile Sources .....	9.9	10.4	2.1	274.3	172.5	4.7
<b>Totals .....</b>	<b>997.8</b>	<b>1213.8</b>	<b>1810.9</b>	<b>5592.9</b>	<b>1105.6</b>	<b>27.5</b>

EPA has reviewed the procedures and methodologies used by ACHD for the 2007 base year emissions inventory submitted as part of the June 21, 2013 SIP revision and finds the inventory approvable. Further analysis of the emissions inventory development can be found in technical support document (TSD) dated August 12, 2015 included as part of the docket for this rulemaking action.

*B. Transportation Conformity Insignificance Determinations*

Transportation conformity is required under section 176(c) of the CAA to ensure that federally supported highway, transit projects, and other activities are consistent with (conform to) the purpose of the SIP. The CAA requires federal actions in nonattainment and maintenance areas to "conform to" the goals of SIP. This means that such actions will not cause or contribute to violations of a NAAQS;

worsen the severity of an existing violation; or delay timely attainment of any NAAQS or any interim milestone. Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the Transportation Conformity Rule (40 CFR part 93, subpart A). Under this rule, metropolitan planning organizations (MPOs) in nonattainment and maintenance areas coordinate with state air quality and transportation agencies, EPA, FHWA, and FTA to demonstrate that their metropolitan transportation plans and transportation improvement plans (TIPs) conform to applicable SIPs. This is typically determined by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the motor vehicle emissions budgets (MVEBs) contained in a SIP.

For MVEBs to be approvable, they must meet, at a minimum, EPA's

adequacy criteria found at 40 CFR 93.118(e)(4). However, the Transportation Conformity Rule at 40 CFR 93.109(f) allows areas to forgo establishment of a budget(s) where it is demonstrated that regional motor vehicle emissions for a particular pollutant or precursor pollutant are an insignificant contributor to the air quality problem in the area. The general criteria for insignificance determinations per 40 CFR 93.109(f) are based on a number of factors, including: (1) The percentage of motor vehicle emissions in context of the total SIP inventory; (2) the current state of air quality as determined by monitoring data for that NAAQS; (3) the absence of SIP motor vehicle control measures; and (4) historical trends and future projections of the growth of motor vehicle emissions in the area.

The Liberty-Clairton's attainment demonstration for the 2006 24-hour PM<sub>2.5</sub> NAAQS submitted by the

<sup>3</sup> EPA addressed the effects of a final determination of attainment under the Clean Data Policy for the Liberty-Clairton Area as a 2006 24-

hour PM<sub>2.5</sub> moderate nonattainment area under subpart 4 in the notice of proposed rulemaking for

the Area's determination of attainment. See 80 FR 22666 (April 23, 2015).

Commonwealth of Pennsylvania, on behalf of Allegheny County, includes a request for EPA to make insignificance findings for NO<sub>x</sub> and directly emitted PM<sub>2.5</sub> for the Area for both the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS. Pursuant to Section 93.118(e)(4) and 93.109(f) of the Transportation Conformity Rule, EPA has reviewed the Commonwealth of Pennsylvania's justification for the findings of insignificance for direct PM<sub>2.5</sub> and also for NO<sub>x</sub> as a precursor of PM<sub>2.5</sub> in the Liberty-Clairton Area for both the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS. EPA agrees with Pennsylvania's conclusion that on-road emissions of PM<sub>2.5</sub> and NO<sub>x</sub> in the Liberty-Clairton Area are insignificant for transportation conformity purposes for both NAAQS.

EPA bases these findings on several factors: (1) The fact that the motor vehicle emissions constitute a low percentage of the total SIP inventory. In particular, for the 2007 base year, the direct PM onroad mobile source constitutes 0.99 percent (%) of the Liberty-Clairton Area's total PM<sub>2.5</sub> emissions and decreases in the later analysis year to 0.88% (2014). For the 2007 base year, the NO<sub>x</sub> onroad mobile source constitutes 4.9% of the Area's total NO<sub>x</sub> emissions and decreases in the later analysis year to 3.07% (2014); (2) The fact that the Liberty-Clairton Area has been determined to attain the 1997 annual PM<sub>2.5</sub> standard (October 25, 2013, 78 FR 63881) and the 2006 24-hour PM<sub>2.5</sub> standard (July 10, 2015, 80 FR 39696), and continues to attain the standards with the most recent three years of complete, quality-assured monitoring data; (3) The absence of local on-road control measures; and (4) The continued downward trend, historically and in modeled future projections, of on-road NO<sub>x</sub> and PM<sub>2.5</sub> emissions.

With regard to on-road emissions of SO<sub>2</sub>, VOC, and ammonia, Allegheny County did not provide an insignificance demonstration because it concluded, consistent with EPA's presumptions regarding these PM<sub>2.5</sub> precursors, that the emissions of these precursors from motor vehicles are not significant contributors to the Liberty-Clairton Area's PM<sub>2.5</sub> air quality problem. Therefore, EPA finds adequate, and is also approving as SIP revision, Pennsylvania's insignificance determinations for the Liberty-Clairton Area with respect both the 1997 annual and 2006 24-hour PM<sub>2.5</sub> standards. Additional information pertaining to the review of the motor vehicle emission inventories can be found in the TSD dated August 27, 2015, as part of the docket for this final rulemaking action.

In this direct final rulemaking action, EPA is initiating the process for determining whether or not the motor vehicle emission inventories are adequate for transportation conformity purposes. The publication of this document starts a 30-day public comment period on the adequacy of the submitted motor vehicle emission inventories. This comment period is concurrent with the comment period on this direct final rulemaking action. Any comments on the motor vehicle emission inventories should be submitted to the docket for this rulemaking. The public can find the posting of these motor vehicle emissions inventories on EPA's adequacy Web page (<http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm>). The adequacy of the motor vehicle emission inventories as well as the approval of the findings of insignificance will become effective upon the effective date of this direct final rulemaking action. Upon the effective date of this direct final rulemaking action, the Liberty-Clairton Area is no longer required to perform a regional emissions analysis for directly emitted PM<sub>2.5</sub>, or NO<sub>x</sub>, as part of future PM<sub>2.5</sub> conformity determinations for the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS.

### III. Final Action

EPA is approving as a revision to the Pennsylvania SIP the Liberty-Clairton Area's 2007 base year emissions inventory for the 2006 24-hour PM<sub>2.5</sub> NAAQS submitted as part of the June 21, 2013 SIP revision. EPA finds that the 2007 base year emissions inventory satisfies the requirements of 40 CFR 51.1008 and section 172(c)(3) of the CAA for the 2006 24-hour PM<sub>2.5</sub> NAAQS for the Liberty-Clairton Area. EPA finds adequate and is also approving as a revision to the SIP Pennsylvania's determinations for both the 1997 annual and 2006 24-hour PM<sub>2.5</sub> standards that onroad emissions of PM<sub>2.5</sub> and NO<sub>x</sub> are insignificant contributors to PM<sub>2.5</sub> concentrations in the Liberty-Clairton Area for transportation conformity purposes, as submitted as part of the July 31, 2014 supplemental SIP revision. Upon the effective date of this direct final rulemaking action, the Liberty-Clairton Area is no longer required to perform a regional emissions analysis for directly emitted PM<sub>2.5</sub>, or NO<sub>x</sub>, as part of future PM<sub>2.5</sub> conformity determinations for the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS.

EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment.

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 *December 1, 2015* without further notice unless EPA receives adverse comment by *November 2, 2015*. 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 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 1, 2015. 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 action. This action, approving the 2007 base year emissions inventory for the Liberty-Clairton Area with respect the 2006 24-hour PM<sub>2.5</sub> NAAQS and the transportation conformity insignificance findings for the Liberty-Clairton Area with respect the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS, 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, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: September 16, 2015.

**Shawn M. Garvin,**

*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 NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by adding an entry for the 2007 Base Year Emissions Inventory for the 2006 PM<sub>2.5</sub> NAAQS for the Liberty-Clairton PM<sub>2.5</sub> 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
2007 Base Year Emissions Inventory for the 2006 PM <sub>2.5</sub> NAAQS.	Liberty-Clairton PM <sub>2.5</sub> Nonattainment Area .....	6/21/13	10/2/15 [Insert <b>Federal Register</b> citation].	

\* \* \* \* \*

■ 3. Section 52.2036 is amended by adding paragraph (y) to read as follows:

**§ 52.2036 Base year emissions inventory.**

(y) EPA approves as a revision to the Pennsylvania State Implementation Plan the 2007 base year emissions inventory for the Liberty-Clairton 2006 24-hour PM<sub>2.5</sub> nonattainment area submitted by the Pennsylvania Department of Environmental Protection, on behalf of Allegheny County Health Department, on June 21, 2013. The emissions inventory includes emissions estimates that cover the general source categories of point, area, nonroad, and onroad sources. The pollutants that comprise the inventory are PM<sub>2.5</sub>, NO<sub>x</sub>, VOCs, NH<sub>3</sub>, and SO<sub>2</sub>.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R08-OAR-2014-0916; FRL-9934-83-Region 8]

**Approval and Promulgation of Air Quality Implementation Plans; South Dakota; Revisions to South Dakota Administrative Code**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of South Dakota on July 29, 2013. This SIP submission revises the Administrative Rules of South Dakota (ARSD) Article 74:36—Air Pollution Control Program. These revisions include renumbering, revisions to the date of incorporation by reference of the federal regulations referenced throughout ARSD Article 74:36, and removal of obsolete language regarding variance provisions and clean units. EPA is also clarifying a final rule issued on January 29, 2015 pertaining to South Dakota’s infrastructure SIP. This

action is being taken in accordance with section 110 of the Clean Air Act (CAA).

**DATES:** This final rule is effective on November 2, 2015.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification Number EPA-R08-OAR-2014-0916. All documents in the docket are listed on the <http://www.regulations.gov> index. Although listed in the index, some information may not be publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Adam Clark, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129, (303) 312-7104, [clark.adam@epa.gov](mailto:clark.adam@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

South Dakota’s July 29, 2013 submittal covers the following rule changes: (1) Removal of obsolete language regarding variance provisions and clean units, and renumbering to reflect the deletions; and (2) Revisions to the date of federal regulations referenced throughout ARSD Article 74:36 to July 1, 2012. A cross-walk table that identifies EPA’s action on South Dakota’s revisions is included in the docket for this rulemaking.

South Dakota’s July 29, 2013 submittal also requests EPA approval of rule revisions for provisions that are not

required to be included in SIPs under section 110 of the CAA, most notably additions to the State’s New Source Performance Standards, National Emissions Standards for Hazardous Air Pollutants and Title V permitting. These revisions, on which EPA is not taking action, are outlined in the cross-walk table located in the docket for this rulemaking.

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

EPA is finalizing action on South Dakota’s July 29, 2013 submittal as outlined in Section III. of the proposal published on July 14, 2015, with one exception; EPA’s proposed approval of South Dakota’s updates to 74:36:05, “Operating Permits for Part 70 Sources,” as part of its July 14, 2015 action (80 FR 40953). EPA published a notice of correction of the proposal on August 24, 2015 (80 FR 51152), because CAA Title V requirements are not subject to Section 110 of the Clean Air Act and are thus not required to be incorporated into a SIP. Therefore, EPA is not taking any action on South Dakota’s updates to 74:36:05.

**III. Clarification of January 29, 2015 Final Action**

Under CAA sections 110(a)(1) and (2), states are required to submit infrastructure SIPs to ensure their SIPs provide for implementation, maintenance, and enforcement of the National Ambient Air Quality Standards (NAAQS). On January 29, 2015, EPA took final action on the infrastructure submittals which addressed several different NAAQS from the State of South Dakota (80 FR 4799). As part of the January 29, 2015 action, EPA approved South Dakota’s 1997 PM<sub>2.5</sub> NAAQS interstate transport infrastructure sub-element (CAA section 110(a)(2)(D)(i)(II)). However, EPA had already approved this sub-element in a final rulemaking on May 8, 2008 (73 FR 26019, effective July 7, 2008). Therefore, in this action EPA is clarifying that no action was required on this sub-element for this NAAQS in the January 29, 2015 approval of CAA section 110(a)(2)(D)(i)(II) for the 1997 PM<sub>2.5</sub>