

Financial Management Regulation: Reimbursable Operations Policy: User Fees,” July 2016 (available at <http://comptroller.defense.gov/Portals/45/documents/fmr/current/11a/11a-04.pdf>), to reimburse expenses associated with the government’s response. These reimbursable expenses may include the cost of:

(a) Materials and equipment used to search for, copy, and produce responsive information.

(b) Personnel time spent processing and responding to the request or demand.

(c) Attorney time spent assisting with the government’s response, to include reviewing the request or demand and the potentially responsive information.

#### **§ 97.11 Procedures—expert or opinion testimony.**

(a) Personnel may not present expert or opinion testimony involving official information, except when:

(1) The testimony is presented on behalf of the United States, a federal agency, or any party represented by the Department of Justice.

(2) The chief legal advisor of the DoD Component with primary equity has granted special written approval upon a showing of exceptional need or unique circumstances, but only if the anticipated testimony is not adverse to the interests of the DoD or the United States and is presented at no expense to the government.

(b) If a court orders the presentation of testimony disallowed by § 97.11(a), personnel must respectfully decline to comply with the court’s order unless the chief legal advisor directs otherwise.

#### **Appendix A to part 97—Litigation Requests and Demands to the Department of the Navy**

A litigation request to the Department of the Navy must be submitted to the appropriate determining authority as defined in Secretary of the Navy Instruction 5820.8, “Release of Official Information for Litigation Purposes and Testimony by Department of the Navy Personnel,” August 27, 1991, as amended (available at <https://www.secnv.navy.mil/doni/Directives/05000%20General%20Management%20Security%20and%20Safety%20Services/05-800%20Laws%20and%20Legal%20Services/5820.8A%20CH-1.pdf>).

As with all service of process on the Department of the Navy, a demand (subpoena or court order) must be delivered to the Naval Litigation Office using registered or certified mail, a commercial courier service, or a process server. The address for all service of process is: General Counsel of the Department of the Navy, Naval Litigation Office, 720 Kennon St. SE, Room 233, Washington Navy Yard, DC 20374–5013.

Answers to frequently asked questions on *Touhy* requests are available at [https://www.jag.navy.mil/organization/documents/Touhy\\_Requests.pdf](https://www.jag.navy.mil/organization/documents/Touhy_Requests.pdf). Contact the Office of the General Counsel at 202–685–7039 or the Office of the Judge Advocate General at 202–685–5450 with any additional questions.

#### **Appendix B to Part 97—Litigation Requests and Demands to the Department of the Air Force**

A litigation request or demand to the Department of the Air Force must be submitted to the base-level or servicing Staff Judge Advocate for the installation or organization where the official information or witness is located.

Should the information or witness be located in a Headquarters-level office, the request or demand must be submitted to the Commercial Litigation Field Support Center (for matters involving contracts, acquisition, and procurement) or to the Air Force General Litigation Division (for all other matters). Their addresses are: Commercial Litigation Field Support Center, AFLOA/JAQC, 1500 W Perimeter Rd., Suite 4100, Joint Base Andrews, MD 20762; Air Force General Litigation Division, AFLOA/JACL, 1500 W Perimeter Rd., Suite 1370, 1st Floor, Joint Base Andrews, MD 20762.

Dated: May 7, 2021.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2021–10077 Filed 5–13–21; 8:45 am]

**BILLING CODE 5001–06–P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

##### **40 CFR Part 52**

**[EPA–R03–OAR–2020–0706; FRL–10023–22–Region 3]**

#### **Air Plan Approval; Pennsylvania; Emissions Statement Rule Certification for the 2015 Ozone National Ambient Air Quality Standard**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision fulfills Pennsylvania’s emissions statement requirement for the 2015 ozone national ambient air quality standard (NAAQS). This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before June 14, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R03–OAR–2020–0706 at <https://www.regulations.gov>, or via email to

[Talley.David@epa.gov](mailto:Talley.David@epa.gov). For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

#### **FOR FURTHER INFORMATION CONTACT:**

Serena Nichols, 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) 814–2053. Ms. Nichols can also be reached via electronic mail at [Nichols.Serena@epa.gov](mailto:Nichols.Serena@epa.gov).

**SUPPLEMENTARY INFORMATION:** On April 23, 2020, the Pennsylvania Department of Environmental Protection (PADEP) submitted a revision to the Pennsylvania SIP intended to satisfy the Commonwealth’s obligations under the CAA related to emissions statements for the 2015 ozone NAAQS.

#### **I. Background**

On October 26, 2015, EPA revised the ozone NAAQS from 0.075 parts per million (ppm) to 0.070 ppm. See 80 FR 65291. Subsequently, on June 4, 2018, EPA designated the Philadelphia-Wilmington-Atlantic City (PA-NJ-MD-DE) Area as a marginal nonattainment area for the 2015 ozone NAAQS. See 83 FR 25776. Pennsylvania’s portion of this area includes Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties. See 40 CFR 81.339.

Section 182 of the CAA identifies plan submissions and requirements for ozone nonattainment areas. Specifically, section 182(a)(3)(B) of the CAA requires

that states develop and submit rules which establish annual reporting requirements for certain stationary sources. Sources that are within marginal (or worse) ozone nonattainment areas must annually report the actual emissions of nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC) to the state. However, states may waive reporting requirements for sources that emit under 25 tons per year (tpy) of NO<sub>x</sub> and VOC if the state provides an inventory of emissions from such class or category of sources. See CAA section 182(a)(3)(B)(ii).

Additionally, Pennsylvania is located in the ozone transport region (OTR) established by Congress in section 184 of the CAA. Pursuant to section 184(b)(2), any stationary source that emits or has the potential to emit at least 50 tpy of VOC shall be considered a major stationary source and subject to the requirements which would be applicable to major stationary sources if the area were classified as a moderate nonattainment area. See CAA section 184. Thus, states within the OTR are subject to plan requirements in CAA section 182(b) applicable to moderate nonattainment areas. Also, section 182(f)(1) of the CAA requires that the plan provisions required for major stationary sources of VOC also apply to major stationary sources of NO<sub>x</sub> for states with moderate (or worse) ozone nonattainment areas. A major stationary source of NO<sub>x</sub> is defined as a stationary facility or source of air pollutants which directly emits or has the potential to emit 100 tpy or more of NO<sub>x</sub>. See CAA section 302(j). Because Pennsylvania is located in the OTR, Pennsylvania sources that are located in ozone attainment areas and emit above 50 tpy of VOC or 100 tpy of NO<sub>x</sub> are considered major sources and also subject to the requirements of major stationary sources in moderate (or worse) nonattainment area, such as an emissions statement submission required by CAA section 182(a)(3)(B). See CAA sections 182(f) and 184(b)(2).

## II. Summary of SIP Revision and EPA Analysis

Pennsylvania's emissions statement requirements are codified at 25 Pa Code chapter 135. Specifically, section 135.21, in accordance with CAA section 182(a)(3)(B), applies to NO<sub>x</sub> and VOC sources within marginal (or worse) nonattainment areas, as well as major NO<sub>x</sub> and VOC sources located in attainment areas located within the OTR (*i.e.*, the remainder of the Commonwealth). Affected sources are required annually to provide PADEP

with a statement containing the source's actual NO<sub>x</sub> and VOC emissions, the method used to calculate those emissions, the time period over which the calculations are based, and a certification by an appropriate company officer that the statement is accurate. 25 Pa Code 135.21 also contains a waiver for sources emitting less than 25 tpy, in accordance with CAA section 182(a)(3)(B)(ii). Additionally, 25 Pa Code 135.5 contains recordkeeping requirements necessary to document the data presented in the annual emissions statements.

On January 12, 1995, EPA determined that 25 Pa Code sections 135.5 and 135.21 were adequate for purposes of implementing the requirements of CAA section 182(a)(3)(B) and took final action to incorporate those sections into the Pennsylvania SIP. See 60 FR 2881. Additionally, on June 6, 2018, EPA took final action to approve a SIP submittal from the Commonwealth of Pennsylvania in which PADEP certified that its existing emissions statement regulations remained adequate to implement the requirements of CAA section 182(a)(3)(B) as they pertained to the 2008 ozone NAAQS. Similarly, PADEP's April 23, 2020 submittal contains a certification that the existing emissions statement program remains adequate under the revised, 2015 ozone NAAQS.

## III. Proposed Action

EPA finds that PADEP's existing SIP-approved emissions statement regulations continue to satisfy CAA section 182(a)(3)(B) because the existing rules are applicable to the entire Commonwealth of Pennsylvania and require stationary sources that emit NO<sub>x</sub> or VOC (at required thresholds above 25 tpy in designated ozone nonattainment areas and above 50 tpy VOC or 100 tpy NO<sub>x</sub> in ozone attainment areas in the OTR) to submit an emissions statement to PADEP detailing the sources' emissions. Therefore, EPA is proposing to approve PADEP's April 23, 2020 submittal as a revision to the Pennsylvania SIP. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

## IV. Statutory and Executive Order Reviews

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 proposed 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);
- 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 proposed rule, pertaining to Pennsylvania's SIP-approved emissions statement regulations, 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.

## 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: May 6, 2021.

**Diana Esher,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2021-10203 Filed 5-13-21; 8:45 am]

**BILLING CODE P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R07-OAR-2021-0332; FRL-10023-72-Region 7]

#### Air Plan Approval; Missouri; Removal of Control of Emissions From the Application of Deadeners and Adhesives

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing approval of a State Implementation Plan (SIP) revision submitted by the State of Missouri on January 15, 2019, and supplemented by letter on July 11, 2019. Missouri requests that the EPA remove a rule related to control of emissions from the application of deadeners and adhesives in the St. Louis, Missouri area from its SIP. This rescission does not have an adverse effect on air quality and meets the requirements of the Clean Air Act (CAA). The EPA's proposed approval of this rule revision is in accordance with the requirements of the CAA.

**DATES:** Comments must be received on or before June 14, 2021.

**ADDRESSES:** You may send comments, identified by Docket ID No. EPA-R07-OAR-2021-0332 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

**Instructions:** All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Written Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Ashley Keas, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7629; email address: [keas.ashley@epa.gov](mailto:keas.ashley@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document "we," "us," and "our" refer to the EPA.

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#### I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2021-0332 at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

#### II. What is being addressed in this document?

The EPA is proposing to approve the removal of 10 Code of State Regulations (CSR) 10-5.370, *Control of Emissions from the Application of Deadeners and Adhesives*, from the Missouri SIP.

According to the July 11, 2019 letter from the Missouri Department of Natural Resources, available in the docket for this proposed action, Missouri rescinded the rule because the only source once subject to the rule ceased operations in 2009. Therefore, the rule is no longer necessary for attainment and maintenance of the 1979, 1997, 2008 or 2015 National Ambient Air Quality Standards (NAAQS) for Ozone.

#### III. Background

The EPA established a 1-hour ozone NAAQS in 1971 (36 FR 8186, April 30,

1971). On March 3, 1978, the entire St. Louis Air Quality Control Region (AQCR) (070) was identified as being in nonattainment of the 1971 1-hour ozone NAAQS, as required by the CAA Amendments of 1977 (43 FR 8962, March 3, 1978). On the Missouri side, the St. Louis nonattainment area included the St. Louis City and Jefferson, St. Charles, Franklin and St. Louis Counties (hereinafter referred to in this document as the "St. Louis Area"). On February 8, 1979, the EPA revised the 1-hour ozone NAAQS, referred to as the 1979 ozone NAAQS (44 FR 8202, February 8, 1979). On May 26, 1988, the EPA notified Missouri that the SIP was substantially inadequate (hereinafter referred to as the "SIP Call") to attain the 1-hour ozone NAAQS in the St. Louis Area (*see* 54 FR 43183, October 23, 1989). To address the inadequacies identified in the SIP Call, Missouri submitted volatile organic compound (VOC) control regulations on June 14, 1985; November 19, 1986; and March 30, 1989. The EPA subsequently approved the revised control regulations for the St. Louis Area on March 5, 1990 and February 17, 2000. The VOC control regulations approved by the EPA into the SIP included reasonably available control technology (RACT) rules as required by CAA section 172(b)(2), including 10-5.370, *Control of Emissions from the Application of Deadeners and Adhesives*.

The EPA redesignated the St. Louis Area to attainment of the 1979 1-hour ozone standard on May 12, 2003 (68 FR 25418). Pursuant to section 175A of the CAA, the first 10-year maintenance period for the 1-hour ozone standard began on May 12, 2003, the effective date of the redesignation approval. On April 30, 2004, the EPA published a final rule in the **Federal Register** stating the 1-hour ozone NAAQS would no longer apply (*i.e.*, would be revoked) for an area one year after the effective date of the area's designation for the 8-hour ozone NAAQS (69 FR 23951, April 30, 2004). The effective date of the revocation of the 1979 1-hour ozone standard for the St. Louis Area was June 15, 2005 (*see* 70 FR 44470, August 3, 2005).

As noted previously, 10 CSR 10-5.370, *Control of Emissions from the Application of Deadeners and Adhesives*, was approved into the Missouri SIP as a RACT rule on March 5, 1990 (55 FR 7712, March 5, 1990). At the time that the rule was approved into the SIP, 10 CSR 10-5.370 applied to all installations in St. Louis City and Franklin, Jefferson, St. Charles, and St. Louis Counties in Missouri that had the