

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA-2017-F-0969]

Canadian Oilseed Processor Association; Filing of Food Additive Petition (Animal Use)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of petition.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that the Canadian Oilseed Processors Association has filed a petition proposing that the food additive regulations be amended to provide for the safe use of spent bleaching clay as a flow agent in canola meal for all livestock and poultry species.

Additionally, the petition proposes that the existing regulations be amended to provide for the safe use of silicon dioxide and diatomaceous earth for use as components of spent bleaching clay.

DATES: The food additive petition was filed on December 20, 2016.

FOR FURTHER INFORMATION CONTACT: Chelsea Trull, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240-402-6729, Chelsea.trull@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5)), notice is given that a food additive petition (FAP 2299) has been filed by the Canadian Oilseed Processors Association, 404-167 Lombard Ave., Winnipeg MB R3B 0T6, Canada. The petition proposes to amend Title 21 of the Code of Federal Regulations (CFR) in part 573 *Food Additives Permitted in Feed and Drinking Water of Animals* (21 CFR part 573) to provide for the safe use of spent bleaching clay as a flow agent in canola meal for all livestock and poultry species. Additionally, the submission proposes that the existing regulations be amended to provide for the safe use of silicon dioxide (21 CFR 573.940) and diatomaceous earth (21 CFR 573.340) for use as components of spent bleaching clay.

The petitioner has claimed that this action is categorically excluded under 21 CFR 25.32(r) because it is of a type that does not individually or cumulatively have a significant effect on the human environment. In addition, the petitioner has stated that, to their knowledge, no extraordinary

circumstances exist. If FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is required. If FDA determines a categorical exclusion does not apply, we will request an environmental assessment and make it available for public inspection.

Dated: April 12, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017-07770 Filed 4-17-17; 8:45 am]

BILLING CODE 4164-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2016-0638; FRL-9960-02-Region 3]

Determination of Attainment by the Attainment Date for the 2008 Ozone Standard; Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE marginal ozone nonattainment area (the Philadelphia Area) has attained the 2008 ozone national ambient air quality standard (NAAQS) by the July 20, 2016 attainment date. This proposed determination is based on complete, certified, and quality assured ambient air quality monitoring data for the Philadelphia Area for the 2013-2015 monitoring period. This proposed determination does not constitute a redesignation to attainment. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before May 18, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2016-0638 at <https://www.regulations.gov>, or via email to rehn.brian@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: Gregory Becoat, (215) 814-2036, or by email at becoat.gregory@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Requirement—Determination of Attainment by the Attainment Date

Section 181(b)(2) of the CAA requires EPA to determine, within 6 months of an ozone nonattainment area's attainment date, whether that area attained the ozone standard by that date. Section 181(b)(2) of the CAA also requires that areas that have not attained the standard by their attainment deadlines be reclassified to either the next higher classification (*e.g.*, marginal to moderate, moderate to serious, etc.) or to the classifications applicable to the areas' design values in Table 1 of 40 CFR 51.1103. CAA section 181(a)(5) provides a mechanism by which the EPA Administrator may grant a 1-year extension of an area's attainment deadline, provided that the relevant states meet certain criteria.

B. The Philadelphia Area and Its Attainment Date

On July 18, 1997 at 62 FR 38855, EPA promulgated a revised ozone NAAQS of 0.08 parts per million (ppm), averaged over eight hours. This standard was determined to be more protective of public health than the previous 1979 1-hour ozone standard. In 2008, EPA revised the 8-hour ozone NAAQS from 0.08 to 0.075 ppm (the 2008 ozone NAAQS). See 73 FR 16436 (March 27, 2008). In a May 21, 2012 final rule, the Philadelphia Area was designated as marginal nonattainment for the more stringent 2008 ozone NAAQS, effective on July 20, 2012. 77 FR 30088, 30143.

The Philadelphia Area consists of Bucks, Chester, Delaware, Montgomery and Philadelphia Counties in Pennsylvania; Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean and Salem Counties in New Jersey; Cecil County, Maryland; and New Castle County in Delaware. See 40 CFR 81.331, 81.339, 81.321, and 81.308.¹

In a separate rulemaking action, also published on May 21, 2012 and effective on July 20, 2012, EPA established the air quality thresholds that define the classifications assigned to all nonattainment areas for the 2008 ozone NAAQS (the Classifications Rule). See 77 FR 30160. This rule also established December 31 of each relevant calendar year as the attainment date for all nonattainment area classification categories. Section 181 of the CAA provides that the attainment deadline for ozone nonattainment areas is “as expeditiously as practicable” but no later than the prescribed dates provided in Table 1 of that section. In the Classifications Rule, EPA translated the deadlines in Table 1 of CAA section 181 for purposes of the 2008 standard by measuring those deadlines from the effective date of the new designations, but extended those deadlines by several months to December 31 of the corresponding calendar year. Pursuant to a challenge of EPA’s interpretation of the attainment deadlines, on December 23, 2014, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) issued a decision rejecting, among other things, the Classifications Rule’s attainment deadlines for the 2008 ozone nonattainment areas. *NRDC v. EPA*, 777 F.3d 456, 464–69 (D.C. Cir. 2014). The

D.C. Circuit ruled that EPA did not have statutory authority under the CAA to extend those deadlines to the end of the calendar year. Accordingly, as part of the final rule, “Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan (SIP) Requirements,” for the 2008 ozone NAAQS (80 FR 12264, March 6, 2015) (hereinafter, SIP Requirements Rule), EPA modified the maximum attainment dates for all nonattainment areas for the 2008 ozone NAAQS, consistent with the D.C. Circuit’s decision. The SIP Requirements Rule established a maximum deadline for marginal nonattainment areas of three years from the effective date of designation, or July 20, 2015, to attain the 2008 ozone NAAQS. See 80 FR at 12268; 40 CFR 51.1103.

In a final rulemaking action published on May 4, 2016, EPA determined that the Philadelphia Area did not attain the 2008 ozone NAAQS by its July 20, 2015 attainment date, based on ambient air quality monitoring data for the 2012 through 2014 monitoring period. In that same action, EPA determined that the Philadelphia Area qualified for a 1-year extension of its attainment date, as provided in section 181(a)(5) of the CAA and interpreted by regulation at 40 CFR 51.1107, and granted the requested extension. EPA established the new attainment date for the Philadelphia Area as July 20, 2016 to be based on ambient air quality monitoring data for the 2013–2015 monitoring period. See 81 FR 26697 (May 4, 2016).²

II. EPA’s Analysis of the Relevant Air Quality Data

Under EPA regulations at 40 CFR part 50, appendix P, the 2008 ozone NAAQS

is attained at a monitoring site when the three-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentration is less than or equal to 0.075 ppm. This three-year average is referred to as the design value. When the design value is less than or equal to 0.075 ppm at each ambient air quality monitoring site within the area, then the area is deemed to be meeting the NAAQS. 40 CFR part 50, appendix P dictates that concentrations shall be reported in ppm to the third decimal place, with additional digits to the right being truncated. Thus, a computed three-year average ozone concentration of 0.0759 ppm or lower would meet the standard, but 0.0760 ppm or higher is over the standard.

EPA’s proposed determination of attainment for the Philadelphia Area is based upon data that has been collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA’s Air Quality System (AQS) database. Ambient air quality monitoring data for the three-year period must also meet a data completeness requirement. 40 CFR part 50, appendix P. The ambient air quality monitoring data completeness requirement is met when the three-year average of the percent (%) of required monitoring days with valid ambient monitoring data is greater than 90%, and no single year has less than 75% data completeness, as determined according to 40 CFR part 50, appendix P. Tables 1 and 2 show the data completeness and ozone design values, respectively, for each of the 18 monitors in the Philadelphia Area for years 2013 through 2015.

TABLE 1—2013–2015 PHILADELPHIA AREA OZONE MONITOR DATA COMPLETENESS

| State | County | Site ID | Percent data completeness | | | 2013–2015 average percent completeness | Comment |
|------------------|------------------|-----------|---------------------------|------|------|--|---------------------------|
| | | | 2013 | 2014 | 2015 | | |
| Delaware | New Castle | 100031007 | 97 | 94 | 100 | 97 | Incomplete ^a . |
| | | 100031010 | 77 | 74 | 91 | 81 | |
| | | 100031013 | 91 | 99 | 93 | 94 | |
| | | 100032004 | 86 | 83 | 87 | 85 | |
| Maryland | Cecil | 240150003 | 98 | 95 | 89 | 94 | Incomplete ^a . |
| New Jersey | Atlantic | 340010006 | 96 | 99 | 96 | 97 | |
| New Jersey | Camden | 340070002 | 100 | 100 | 100 | 100 | |
| New Jersey | Camden | 340071001 | 96 | 100 | 97 | 98 | |
| New Jersey | Cumberland | 340110007 | 99 | 100 | 99 | 99 | |
| New Jersey | Gloucester | 340150002 | 99 | 84 | 96 | 93 | |

¹ In 2015, EPA revised the 8-hour ozone NAAQS from 0.075 ppm to 0.070 ppm (the 2015 ozone NAAQS). See 80 FR 65292 (October 26, 2015). The initial area designations for the 2015 ozone NAAQS are required by October 2017. Those designations will be based on ambient air quality monitoring data for the 2014–2016 monitoring period. This

proposed rulemaking action does not address the 2015 ozone NAAQS.

² On July 5, 2016, the State of Delaware filed a petition for review (the Petition) of that portion of EPA’s May 4, 2016 final rule granting the Philadelphia Area a 1-year extension of the 2008 ozone NAAQS attainment date, under CAA

181(a)(5), 42 U.S.C. 7511(a)(5), from July 20, 2015, to July 20, 2016. The Petition was filed in the U.S. Court of Appeals for the District of Columbia Circuit. See *State of Delaware Department of Natural Resources & Environmental Control v. United States Environmental Protection Agency*, No. 16–1230.

TABLE 1—2013–2015 PHILADELPHIA AREA OZONE MONITOR DATA COMPLETENESS—Continued

| State | County | Site ID | Percent data completeness | | | 2013–2015 average percent completeness | Comment |
|--------------|--------------|-----------|---------------------------|-------|-------|--|--|
| | | | 2013 | 2014 | 2015 | | |
| New Jersey | Mercer | 340210005 | 100 | 100 | 99 | 100 | |
| New Jersey | Mercer | 340219991 | 92 | 100 | 99 | 97 | |
| New Jersey | Ocean | 340290006 | 100 | 100 | 100 | 100 | |
| Pennsylvania | Bucks | 420170012 | 100 | 99 | 96 | 98 | |
| Pennsylvania | Chester | 420290100 | 100 | 94 | 97 | 97 | |
| Pennsylvania | Delaware | 420450002 | 100 | 98 | 96 | 98 | |
| Pennsylvania | Montgomery | 420910013 | 100 | 99 | 99 | 99 | |
| Pennsylvania | Philadelphia | 421010004 | 100 | 98 | 100 | 99 | |
| Pennsylvania | Philadelphia | 421010024 | 97 | 94 | 100 | 97 | |
| Pennsylvania | Philadelphia | 421010048 | 6 | 93 | 98 | 66 | Site began operation October 2013 ^b . |
| Pennsylvania | Philadelphia | 421011002 | 82 | | | 27 | Site shut down in July 2013 ^b . |

Notes:

a. Monitoring data at these sites does not meet completeness criteria set forth in 40 CFR part 50 Appendix P, section 2.3(b).

b. The monitoring site shutdowns and startups are included in the City of the Philadelphia’s Air Management Services (AMS) July 2013 Annual Network Plan. AMS submitted the monitoring plan to EPA on July 1, 2013, and EPA approved it on December 10, 2013.

As shown in Table 1, two monitoring sites in Philadelphia County do not meet the completeness criteria set out in 40 CFR part 50, appendix P. However, the reasons for the completeness issues were the shutdown of one monitor and startup of another monitor that were approved by EPA in the City of Philadelphia’s AMS July 2013 Annual Network Plan. Because three years of complete data is not possible at these monitoring sites, EPA does not look for valid design values at these sites.

Table 1 also shows that two monitors in New Castle County, Delaware, AQS ID # 100031010 (also known as the “Brandywine” monitor), and AQS ID # 100032004 (also known as the “MLK” monitor), which are maintained by the Delaware Department of Natural Resources and Environmental Control (DNREC), had insufficient data in the 2013 through 2015 period to meet the data completeness requirements in 40 CFR part 50, appendix P. As stated previously, the three-year average of the percent of required monitoring days with valid ambient monitoring data must be greater than 90%, with no single year having less than 75% data

completeness. The ozone season for the Philadelphia Area³ runs from April 1 through October 31. Therefore, a complete ozone season for this area contains 214 possible monitoring days, with at least 160 days of valid ozone season ambient monitoring data needed to meet the 75% data completeness requirement. Because of missed monitoring days at the Brandywine and MLK monitors (AQS ID # 100031010 and # 100032004), the design value for these two monitors would not be considered valid without further measures being taken to meet the data completeness requirements for these two monitors. Therefore, EPA conducted an analysis of the meteorological data and a regression analysis in order to meet the data completeness requirements for the Brandywine and MLK monitors. EPA also conducted a substitution analysis as a check on the validity of the meteorological analysis and regression analysis. Using these methods, EPA was able to “add” enough ozone season days for each of the two monitors to meet the data completeness requirements of 40 CFR part 50, appendix P. Further detail

on the missing monitor data at these two Delaware monitors and on the data completeness analysis undertaken by EPA for those monitors is provided in the January 10, 2017 Technical Support Document (TSD) prepared by EPA. This TSD is included in the docket for this rulemaking (EPA–R03–OAR–2016–0638) and is also available online at www.regulations.gov.

After ensuring data completeness for those two Delaware monitors (AQS ID # 100031010 and # 100032004), EPA reviewed the ozone ambient air quality monitoring data for the monitoring period from 2013 through 2015 for all the monitors in the Philadelphia Area, as recorded in the AQS database, in accordance with the requirements of 40 CFR part 50. As shown in Table 2, below, all 2013–2015 design values are less than or equal to 0.075 ppm. Therefore, EPA concludes the Philadelphia Area has attained the 2008 ozone NAAQS by July 20, 2016 based upon monitored ozone data for the 2013 through 2015 period in accordance with requirements in 40 CFR part 50.

TABLE 2—2013–2015 PHILADELPHIA AREA 2008 OZONE DESIGN VALUES

| State | County | Site ID | 4th highest daily maximum | | | 2013–2015 Design value (ppm) |
|------------|------------|-----------|---------------------------|-------|-------|------------------------------|
| | | | 2013 | 2014 | 2015 | |
| Delaware | New Castle | 100031007 | 0.062 | 0.071 | 0.065 | 0.066 |
| | | 100031010 | 0.063 | 0.074 | 0.071 | ^a 0.069 |
| | | 100031013 | 0.067 | 0.069 | 0.069 | 0.068 |
| | | 100032004 | 0.067 | 0.068 | 0.072 | ^a 0.069 |
| Maryland | Cecil | 240150003 | 0.072 | 0.074 | 0.074 | 0.073 |
| New Jersey | Atlantic | 340010006 | 0.070 | 0.061 | 0.068 | 0.066 |

³ 40 CFR part 58, appendix D specifies the applicable “ozone season” for the Philadelphia Area.

TABLE 2—2013–2015 PHILADELPHIA AREA 2008 OZONE DESIGN VALUES—Continued

| State | County | Site ID | 4th highest daily maximum | | | 2013–2015 Design value (ppm) |
|--------------|--------------|-----------|---------------------------|-------|-------|------------------------------------|
| | | | 2013 | 2014 | 2015 | |
| New Jersey | Camden | 340070002 | 0.065 | 0.068 | 0.079 | 0.070 |
| New Jersey | Camden | 340071001 | 0.068 | 0.068 | 0.072 | 0.069 |
| New Jersey | Cumberland | 340110007 | 0.061 | 0.067 | 0.068 | 0.065 |
| New Jersey | Gloucester | 340150002 | 0.073 | 0.070 | 0.076 | 0.073 |
| New Jersey | Mercer | 340210005 | 0.070 | 0.071 | 0.073 | 0.071 |
| New Jersey | Mercer | 340219991 | 0.069 | 0.071 | 0.075 | 0.071 |
| New Jersey | Ocean | 340290006 | 0.070 | 0.072 | 0.075 | 0.072 |
| Pennsylvania | Bucks | 420170012 | 0.073 | 0.071 | 0.082 | 0.075 |
| Pennsylvania | Chester | 420290100 | 0.068 | 0.071 | 0.068 | 0.069 |
| Pennsylvania | Delaware | 420450002 | 0.069 | 0.073 | 0.074 | 0.072 |
| Pennsylvania | Montgomery | 420910013 | 0.069 | 0.072 | 0.073 | 0.071 |
| Pennsylvania | Philadelphia | 421010004 | 0.047 | 0.058 | 0.057 | 0.054 |
| Pennsylvania | Philadelphia | 421010024 | 0.068 | 0.072 | 0.079 | 0.073 |
| Pennsylvania | Philadelphia | 421010048 | 0.036 | 0.068 | 0.078 | |
| Pennsylvania | Philadelphia | 421011002 | 0.071 | | | |

Notes:

a. Monitoring data at these sites did not meet completeness criteria set forth in 40 CFR part 50 Appendix P 2.3(b) prior to EPA undertaking the analyses set forth in the TSD.

EPA acknowledges that preliminary 2014 through 2016 ambient air quality monitoring data, which has not been quality assured or certified, shows potential violations of the 2008 ozone NAAQS in the Philadelphia Area.⁴ However, this does not affect EPA's proposed determination of attainment by the attainment date for section 181(b)(2) of the CAA. This determination for section 181(b)(2) is an evaluation of the Philadelphia Area's design value as of its attainment date, July 20, 2016, considering 2013–2015 ozone monitored data, and does not consider air quality monitoring data from any other monitoring period.

III. Proposed Action

EPA evaluated ozone data from air quality monitors in the Philadelphia Area in order to determine the Area's attainment status under the 2008 ozone NAAQS. State and local agencies responsible for ozone air monitoring networks supplied and quality assured the data. All the monitoring sites in the Philadelphia Area had design values equal to or less than 0.075 ppm based on the 2013 through 2015 monitoring period. Considering that review, EPA concludes that this area attained the 2008 ozone NAAQS based on complete, quality assured and certified data for the 2013 through 2015 ozone seasons. Thus, EPA proposes to determine, in accordance with its statutory obligations

under section 181(b)(2)(A) of the CAA, that the Philadelphia Area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016. EPA's proposed determination is in accordance with applicable regulatory requirements under 81 FR 26697 (with respect to issuance of the 1-year extension of the attainment date for Philadelphia Area) and with the related provisions of the SIP Requirements Rule (40 CFR 51.1103).

This proposed determination of attainment does not constitute a redesignation to attainment. Redesignations require states to meet a number of additional criteria, including EPA approval of a state plan to maintain the air quality standard for 10 years after redesignation. 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

This rulemaking action proposes to make a determination of attainment of the 2008 ozone NAAQS based on air quality and, if finalized, would not impose additional requirements. For that reason, this proposed determination of attainment:

- 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 rulemaking to determine that the Philadelphia Area attained the 2008 ozone NAAQS by its July 20, 2016 attainment date does not have tribal implications, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because this proposed determination of attainment does not apply in Indian country located in the states and because EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

⁴ On January 19, 2017, EPA received an email request from the Pennsylvania Department of Environmental Protection (PADEP) requesting EPA remove certain data from the PADEP Philadelphia monitors based on exceptional events. EPA is considering PADEP's request related to monitoring data for 2016, but has not taken further action at this time.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 2, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

Dated: March 1, 2017.

Catherine McCabe,

Acting Regional Administrator, Region II.

[FR Doc. 2017-07826 Filed 4-17-17; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R03-OAR-2016-0052; FRL-9961-50-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Major New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Commonwealth of Virginia state implementation plan (SIP). The revisions amend Virginia's major source New Source Review (NSR) regulations to make them consistent with the federal program. EPA is proposing to approve these revisions to the Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: Written comments must be received on or before May 18, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2016-0052 at <http://www.regulations.gov>, or via email to miller.linda@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: David Talley, (215) 814-2117, or by email at talley.david@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

The CAA's NSR programs are preconstruction review and permitting programs applicable to new and modified stationary sources of air pollutants regulated under the CAA. The NSR programs of the CAA include a combination of air quality planning and air pollution control technology program requirements. Briefly, section 109 of the CAA requires EPA to promulgate primary national ambient air quality standards (NAAQS) to protect public health and secondary NAAQS to protect public welfare. Once EPA sets those standards, states must develop, adopt, and submit to EPA for approval a SIP that contains emissions limitations and other control measures to attain and maintain the NAAQS. Pursuant to section 110, each SIP is required to contain a preconstruction review program for the construction and modification of any stationary source of air pollution to assure that the NAAQS are achieved and maintained; to protect areas of clean air; to protect air quality-related values (such as visibility) in national parks and other areas; to assure that appropriate emissions controls are applied; to maximize opportunities for economic development consistent with the preservation of clean air resources; and, to ensure that any decision to increase air pollution is made only after full public consideration of the consequences of the decision. Section 172 of the CAA requires a permit program in areas which are not attaining the NAAQS, and section 173 provides the specific requirements for that permit program.

On October 16, 2015, the Virginia Department of Environmental Quality (VADEQ), on behalf of the Commonwealth of Virginia, submitted a formal revision to the Virginia SIP. The SIP revision consists of amendments to

the preconstruction permit requirements under VADEQ's major NSR permit program. The revision affects sources subject to VADEQ's Prevention of Significant Deterioration (PSD) program, which applies in areas which are in attainment with (or unclassifiable for) the NAAQS, as well as affecting sources subject to its nonattainment NSR permit program, applicable in areas not in attainment with the NAAQS. By letter dated March 1, 2017, VADEQ officially withdrew a small and specific portion of the October 16, 2015 submittal from consideration for approval into the Virginia SIP. A copy of the letter has been included in the docket for this action. Further discussion of the withdrawal is provided in section II.A of this notice.

II. Summary of SIP Revision and EPA Analysis

Generally, the October 16, 2015 SIP submittal revision (as amended March 1, 2017) (hereinafter referred to as the 2015 NSR SIP Revision) is intended to make the Virginia Administrative Code regulations at 9VAC5 consistent with the federal NSR program at 40 CFR 51.165 and 51.166. The specific changes to 9VAC5 are intended to: (1) Allow the use of a 10-year lookback period to calculate pre-change emissions for sources other than electric utility steam generating units (EGUs); (2) Allow the use of different lookback periods for different regulated NSR pollutants; (3) Extend the effective period for plantwide applicability limits (PALs) to 10 years; and, (4) Allow replacement units to be treated as existing units, and thus provide the ability to use baseline actual and projected actual emissions when determining applicability. Additionally, there are a number of minor changes which are strictly administrative in nature, consisting of small grammatical revisions, or re-numbering. EPA is proposing to approve VADEQ's 2015 NSR SIP Revision as a revision to the Virginia SIP because it meets the federal requirements of 40 CFR 51.165 and 51.166, and CAA sections 110(a) and 173. Additionally, the revisions are in accordance with section 110(l) of the CAA because they will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable CAA requirement.

A. Baseline Actual Emissions

NSR applicability is determined by comparing the pre-change emissions of the project to the post-change emissions and determining whether the net increase is "significant." For new units, pre-change (baseline) emissions are