

and the Robert A. Young Federal Building, Room 2.107F, 1222 Spruce Street, St. Louis, MO 63103-2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on the rule, call Roger K. Wiebusch, Bridge Administrator, 314-269-2378. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, 202-366-9826.

SUPPLEMENTARY INFORMATION: CSX Transportation Inc. requested a temporary deviation for the Louisville and Nashville Railroad Drawbridge, mile 190.4, at Nashville, Tennessee, across the Cumberland River to close the bridge to navigation. The Louisville and Nashville Railroad Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that drawbridges shall open promptly and fully for the passage of vessels when a request to open is given in accordance with the subpart. In order to meet the bridge owner's request the deviation period is 7 a.m. to 7 p.m., November 17-20, 2008 for the draw span to remain in the closed-to-navigation position.

There are no alternate routes for vessels transiting this section of the Cumberland River. The bridge has a vertical clearance of 47 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows, barge fleet, and recreational watercraft. The majority of vessels can pass under the bridge in the closed position. On average there may be no more than two openings during a week. This temporary deviation has been coordinated with waterway users and no objections were raised.

In accordance with 33 CFR 117.35(e), the drawbridge shall return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 30, 2008.

Roger K. Wiebusch,
Bridge Administrator.

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BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2008-0166; FRL-8728-1]

Approval and Promulgation of Implementation Plans; Alaska; Interstate Transport of Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the actions of the Alaska Department of Environmental Conservation (ADEC) to address the provisions of Clean Air Act section 110(a)(2)(D)(i) for the 8-hour ozone and PM_{2.5} National Ambient Air Quality Standards (NAAQS). These provisions require each state to submit a State Implementation Plan (SIP) revision that prohibits emissions that adversely affect another state's air quality through interstate transport. ADEC has adequately addressed the four distinct elements related to the impact of interstate transport of air pollutants for the state of Alaska. These include prohibiting emissions that contribute significantly to nonattainment of the NAAQS in another state, interfere with maintenance of the NAAQS by another state, interfere with plans in another state to prevent significant deterioration of air quality, or interfere with efforts of another state to protect visibility.

DATES: This direct final rule will be effective December 15, 2008, without further notice, unless EPA receives adverse comment by November 14, 2008. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2008-0166, by one of the following methods:

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

B. *E-mail:* R10-Public_Comments@epa.gov.

C. *Mail:* Donna Deneen, Office of Air, Waste and Toxics, AWT-107, EPA, Region 10, 1200 Sixth Ave., Suite 900, Seattle, Washington 98101.

D. *Hand Delivery or Courier:* EPA, Region 10 Mail Room, 9th Floor, 1200 Sixth Ave., Seattle, Washington 98101. Attention: Donna Deneen, Office of Air, Waste and Toxics, AWT-107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R10-OAR-2008-0166. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://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 through *http://www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. The *http://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 e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail 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 *http://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 Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Donna Deneen at (206) 553-6706, e-mail address: *deneen.donna@epa.gov*, fax number: (206) 553-0110, or the above EPA Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean

EPA. Information is organized as follows:

Table of Contents:

- I. Background of Submittal
- II. How Alaska's Submittal Addresses the Provisions of Clean Air Act Section 110(a)(2)(D)(i)
- III. Statutory and Executive Order Reviews

I. Background of Submittal

EPA is approving Alaska's SIP revisions to address the requirements of Clean Air Act (CAA) section 110(a)(2)(D)(i). This CAA section requires each state to submit a SIP that prohibits emissions that could adversely affect another state, addressing four key elements. The SIP must prevent sources in the state from emitting pollutants in amounts which will: (1) Contribute significantly to nonattainment of the NAAQS in another state, (2) interfere with maintenance of the NAAQS by another state, (3) interfere with plans in another state to prevent significant deterioration of air quality, or (4) interfere with efforts of another state to protect visibility.

EPA issued guidance on August 15, 2006, entitled "Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and PM_{2.5} National Ambient Air Quality Standards," relating to SIP submissions to meet the requirements of CAA section 110(a)(2)(D)(i). As discussed below, Alaska's analyses of its SIP with respect to the statutory requirements of CAA section 110(a)(2)(D)(i) are consistent with the guidance. The discussion below covers how Alaska has addressed the four key requirements of CAA section 110(a)(2)(D)(i).

II. How Alaska's Submittal Addresses the Provisions of Clean Air Act Section 110(a)(2)(D)(i)

Alaska addressed the first two elements of CAA section 110(a)(2)(D)(i) by providing information supporting the conclusion that emissions from Alaska do not significantly contribute to nonattainment or interfere with maintenance of the 8-hour ozone and PM_{2.5} NAAQS in another state. Importantly, Alaska's southernmost border is separated from the border of the lower 48 states by over 500 air miles which means any 8-hour ozone or PM_{2.5} nonattainment or maintenance area in another state is more than 500 miles from the Alaska border. Alaska also points to aggregate manmade PM_{2.5} and ozone levels that are minimal relative to national levels. A statewide emission inventory shows that facilities in Alaska

make up only 0.1 percent of the total PM_{2.5} emissions in the United States. Similarly, precursor emissions to PM_{2.5} (e.g., sulfur dioxide and nitrogen oxides) and precursor emissions to ozone (e.g., volatile organic compounds and nitrogen oxides) from facilities in Alaska make up only from 0.0 to 0.2 percent of United States' emissions for those pollutants. The mountainous terrain of Alaska, with summits along the state borders that reach more than 5000 feet in height, further provides a natural topographical barrier for emissions of Alaska sources. Based on this information, it is reasonable to conclude that emissions from Alaska do not significantly contribute to nonattainment or interfere with maintenance of the 8-hour ozone or PM_{2.5} NAAQS in another state.

The third element Alaska addressed is prevention of significant deterioration (PSD). For 8-hour ozone, the state has met the obligation by confirming that it has a fully approved PSD/NSR program. Alaska's PSD/NSR program was approved on February 16, 1995 (60 FR 8943) and more recently on August 14, 2007. 72 FR 45378. The approved program implements the 8-hour ozone standard and relevant requirements of the Phase II ozone implementation rule as required in 69 FR 23951 (April 30, 2004) and 70 FR 71612 (November 29, 2005). For PM_{2.5}, Alaska's PSD program is being implemented in accordance with EPA's interim guidance calling for the use of PM₁₀ as a surrogate for PM_{2.5} for the purposes of PSD review.

The fourth element Alaska addressed is protection of visibility. EPA's regional haze regulations, 64 FR 35714 (July 1, 1999), require states to submit regional haze SIPs to EPA by December 17, 2007. Since states generally have not submitted their regional haze SIPs, Alaska indicates that it is not possible for Alaska to assess its compatibility or interference with control measures in another state's Regional Haze (visibility) SIP and is working with the Western Regional Air Partnership to prepare a SIP to address EPA's regional haze regulations.^a

Based on this and other information provided by Alaska in its SIP submittal, EPA believes the state has sufficiently demonstrated that emissions from Alaska do not significantly contribute to nonattainment or interfere with

^a ADEC combined its CAA section 110(a)(2)(d)(i) SIP revision with revisions to ADEC's regulations at 18 AAC 50 relating to Best Available Retrofit Technology for purposes of public notice and hearing. In this action, EPA is approving ADEC's submittal as it relates to CAA section 110(a)(2)(d)(i) and is taking no actions on the revisions to 18 AAC 50 relating to Best Available Retrofit Technology.

maintenance of the NAAQS in another state, or interfere with measures required to be included in the SIP for any other State to prevent significant deterioration of air quality or to protect visibility. Additional supporting information can be found in the docket.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act 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 Clean Air Act. 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 Clean Air Act; 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.

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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 15, 2008. 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 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 1, 2008.

Elin D. Miller,

Regional Administrator, Region 10.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart C—Alaska

■ 2. Section 52.97 is added to read as follows:

§ 52.70 Interstate Transport for the 1997 8-hour ozone and PM_{2.5} NAAQS.

On February 7, 2008, the Alaska Department of Environmental Conservation submitted a SIP revision to meet the requirements of Clean Air Act section 110(a)(2)(D)(i). EPA has approved this submittal.

[FR Doc. E8-24279 Filed 10-14-08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2005-AL-0002-200819; FRL-8727-7]

Approval and Promulgation of Implementation Plans: Alabama: Approval of Revisions to the Visible Emissions Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve revisions to the Visible Emissions portion of the State Implementation Plan (SIP) submitted to EPA by the State of Alabama, via the Alabama Department of Environmental Management (ADEM), on September 11, 2003 (the "2003 ADEM submittal"), and amended by a revision submitted to EPA on August 22, 2008 (the "2008 ADEM amendment"). The open burning portion of the State of Alabama's 2003 ADEM submittal was previously approved in a separate action on March 9, 2006 (71 FR 12138) and is not relevant to this action. These revisions amend the requirements for units that are required to operate continuous opacity monitoring systems (COMS) and that are not subject to any opacity limits other than those of the Alabama SIP.

DATES: *Effective Date:* This rule will be effective November 14, 2008.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2005-AL-0002. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information 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 at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Joel Huey, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9104. Mr. Huey can also be reached via electronic mail at huey.joel@epa.gov. For information regarding the Alabama SIP, contact Ms. Stacy Harder at the same address listed above. The telephone number is (404) 562-9042. Ms. Harder can also be reached via electronic mail at harder.stacy@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. What Is the Background for This Action?
- II. What Action Is EPA Taking?
- III. Response to Comments
- IV. Final Action
- V. Statutory and Executive Order Reviews

I. What Is the Background for This Action?

On September 11, 2003, ADEM submitted a request for EPA approval of a SIP submittal containing proposed revisions to the Visible Emissions portion of the Alabama SIP, found at ADEM Administrative Code (AAC) Chapter 335-3-4-.01, "Visible Emissions," and pertaining to sources of particulate matter (PM) emissions. In an action published on April 12, 2007 (72 FR 18428), EPA proposed to approve the proposed revisions contingent upon Alabama submitting a revised SIP submittal addressing EPA's concerns regarding impacts of the rule changes on attainment of the National Ambient Air Quality Standards (NAAQS), as set forth in 72 FR 18428-18434. EPA's proposal notice stated that the State would have to provide EPA with a revised SIP submittal consistent with certain changes described by EPA in our April 12, 2007, notice of proposed