

7, 1979. Rescinded in 2008; see paragraph (c)(156) of this section.

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(51) On October 1, 1982, and February 28, 1983 the State of Ohio submitted revisions to Ohio Administrative Code (OAC) Rules 3745-35-03 which set forth requirements for obtaining variances. Rescinded in 2008; see paragraph (c)(156) of this section.

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(98) * * *

(i) Incorporation by reference. Rule 3745-35-07, adopted November 3, 1994, effective November 18, 1994. Rescinded in 2008; see paragraph (c)(156) of this section.

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(119) * * *

(i) * * *

(A) Ohio Administrative Code 3745-35-02, adopted April 4, 1994, effective April 20, 1994. Rescinded in 2008; see paragraph (c)(156) of this section.

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(156) On April 24, 2006, Ohio EPA submitted two permanent exemptions from the Permit to Install program and six Permit-by-Rule provisions for approval into its SIP. On July 18, 2008, Ohio EPA submitted provisions for a Permit to Install and Operate (PTIO) program and a general permit program for approval into its SIP. The changes to Ohio's SIP involve the modification of various parts of OAC 3745-31, the removal of OAC 3745-35, and the addition of OAC 3745-31-29 to enable the issuance of federally enforceable general PTIs and general PTIOs. On June 30, 2008, the state regulations to implement the PTIO program became effective and OAC 3745-35 was rescinded.

(i) Incorporation by reference.

(A) Paragraph (A) of Ohio Administrative Code Rule 3745-15-03, "Submission of emission information.", effective June 30, 2008.

(B) Ohio Administrative Code Rule 3745-31-01, "Definitions.", effective December 14, 2007, except for paragraphs (I), (LLL)(2)(a)(xxi), (LLL)(4)(t), and (QQQ)(1)(b).

(C) Ohio Administrative Code Rule 3745-31-02, "Applicability, requirements, and obligations.", effective June 30, 2008.

(D) Ohio Administrative Code Rule 3745-31-03, "Exemptions.", effective June 30, 2008.

(E) Ohio Administrative Code Rule 3745-31-04, "Applications.", effective June 30, 2008.

(F) Ohio Administrative Code Rule 3745-31-05, "Criteria for decision by the director.", effective June 30, 2008, except for paragraph (A)(3)(a)(ii).

(G) Ohio Administrative Code Rule 3745-31-06, "Completeness determinations, processing requirements, public participation, public notice, and issuance.", effective June 30, 2008.

(H) Ohio Administrative Code Rule 3745-31-07, "Termination, revocation, expiration, renewal, revision and transfer.", effective June 30, 2008.

(I) Ohio Administrative Code Rule 3745-31-08, "Registration status permit-to-operate.", effective June 30, 2008.

(J) Ohio Administrative Code Rule 3745-31-09, "Variances on operation.", effective June 30, 2008.

(K) Ohio Administrative Code Rule 3745-31-10, "NSR projects at existing emissions units at a major stationary source.", effective June 30, 2008.

(L) Ohio Administrative Code Rule 3745-31-20, "Attainment provisions—innovative control technology.", effective June 30, 2008.

(M) Ohio Administrative Code Rule 3745-31-22, "Nonattainment provisions—conditions for approval.", effective June 30, 2008.

(N) Ohio Administrative Code Rule 3745-31-29, "General permit-to-install and general PTIO.", effective June 30, 2008.

(O) Ohio Administrative Code Rule 3745-31-32, "Plantwide applicability limit (PAL).", effective June 30, 2008.

(P) Ohio Administrative Code Rule 3745-31-33, "Site preparation activities prior to obtaining a final permit-to-install or PTIO.", effective June 30, 2008.

(Q) June 2, 2008, "Director's Final Findings and Orders", signed by Chris Korleski, Director, Ohio EPA.

[FR Doc. 2012-23987 Filed 9-28-12; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2012-0343; FRL-9734-5]

Approval and Promulgation of Implementation Plans; Alabama 110(a)(1) and (2) Infrastructure Requirements for the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve the State Implementation Plan (SIP) submission, submitted by the State of Alabama, through the Alabama

Department of Environmental Management (ADEM), as demonstrating that the State meets certain state implementation plan (SIP) requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA or the Act) for the 1997 annual and 2006 24-hour fine particulate matter (PM_{2.5}) national ambient air quality standards (NAAQS). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an "infrastructure" SIP. Alabama certified that the Alabama SIP contains provisions that ensure the 1997 annual and 2006 24-hour PM_{2.5} NAAQS are implemented, enforced, and maintained in Alabama (hereafter referred to as "infrastructure submission"). Alabama's infrastructure submissions, provided to EPA on July 25, 2008, and September 23, 2009, addressed all the required infrastructure elements for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS with the exception of sections 110(a)(2)(D)(i) and (E)(ii), which will be addressed in separate actions.

DATES: This rule is effective October 31, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2012-0343. 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: Sean Lakeman, 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. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background
- II. This Action
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. Background

Upon promulgation of a new or revised NAAQS, sections 110(a)(1) and (2) of the CAA require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance for that new NAAQS. On July 18, 1997 (62 FR 38652), EPA promulgated a new annual PM_{2.5} NAAQS and on October 17, 2006 (71 FR 61144), EPA promulgated a new 24-hour NAAQS. On June 11, 2012, EPA proposed to approve Alabama's July 25, 2008, and September 23, 2009, infrastructure submissions for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS. See 77 FR 34288. A summary of the background for today's final action is provided below. See EPA's June 11, 2012, proposed rulemaking at 77 FR 34288 for more detail.

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. The data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 1997 annual and 2006 24-hour PM_{2.5} NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous PM NAAQS.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for "infrastructure" SIP requirements related to a newly established or revised NAAQS. As already mentioned, these requirements

include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of this final rulemaking are listed below¹ and in EPA's October 2, 2007, memorandum entitled "Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and PM_{2.5} National Ambient Air Quality Standards." and September 25, 2009, memorandum entitled "Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 2006 24-Hour Fine Particle (PM_{2.5}) National Ambient Air Quality Standards."

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.²
- 110(a)(2)(D): Interstate transport.³
- 110(a)(2)(E): Adequate resources.
- 110(a)(2)(F): Stationary source monitoring system.
- 110(a)(2)(G): Emergency power.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(I): Areas designated nonattainment and meet the applicable requirements of part D.⁴
- 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

¹ Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather are due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA, and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. Today's final rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment plan requirements of section 110(a)(2)(C).

² This rulemaking only addresses requirements for this element as they relate to attainment areas.

³ Today's final rule does not address element 110(a)(2)(D)(i) (Interstate Transport) for the 1997 and 2006 PM_{2.5} NAAQS.

⁴ This requirement was inadvertently omitted from EPA's October 2, 2007, memorandum entitled "Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and PM_{2.5} National Ambient Air Quality Standards," but as mentioned above is not relevant to today's final rulemaking.

II. This Action

EPA is taking final action to approve Alabama's infrastructure submissions as demonstrating that the State meets certain applicable requirements of sections 110(a)(1) and (2) of the CAA for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS. EPA notes that sections 110(a)(2)(D)(i) and (E)(ii) are not addressed by today's action. Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an "infrastructure" SIP. ADEM certified that the Alabama SIP contains provisions that ensure the 1997 annual and 2006 24-hour PM_{2.5} NAAQS are implemented, enforced, and maintained in Alabama.

EPA received no adverse comments on its June 11, 2012, proposed approval of Alabama's July 25, 2008, and September 23, 2009, infrastructure submissions. Additionally, on September 10, 2012, EPA signed a final rulemaking action approving revisions to Alabama's New Source Review (NSR) requirements. EPA is not taking action today on Alabama's NSR program, as these requirements are already approved in Alabama's SIP.

Alabama's infrastructure submissions, provided to EPA on July 25, 2008, and September 23, 2009, address all the required infrastructure elements for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS with the exception of sections 110(a)(2)(D)(i) and (E)(ii) which will be addressed in a separate action. EPA has determined that Alabama's July 25, 2008, and September 23, 2009, submissions are consistent with the requirements of CAA section 110 being acted upon today.

III. Final Action

As already described, ADEM has addressed certain elements of the CAA 110(a)(1) and (2) SIP requirements pursuant to EPA's October 2, 2007, guidance to ensure that 1997 annual and 2006 24-hour PM_{2.5} NAAQS are implemented, enforced, and maintained in Alabama. EPA is taking final action to approve Alabama's July 25, 2008, and September 23, 2009, submissions for 1997 annual and 2006 24-hour PM_{2.5} NAAQS (with the exception of sections 110(a)(2)(D)(i) and (E)(ii)) because these submissions are consistent with section 110 of the CAA. Today's action is not approving any specific rule, but rather making a determination that Alabama's already approved SIP meets certain CAA requirements.

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 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 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, 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 30, 2012. Filing a petition for reconsideration by the

Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action 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, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 14, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 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 B—Alabama

■ 2. Section 52.50(e) is amended by adding two new entries for "110(a)(1) and (2) Infrastructure Requirements for the 1997 Fine Particulate Matter National Ambient Air Quality Standards" and "110(a)(1) and (2) Infrastructure Requirements for the 2006 Fine Particulate Matter National Ambient Air Quality Standards" at the end of the table to read as follows:

§ 52.50 Identification of plan.

* * * * *
(e) * * *

EPA-APPROVED ALABAMA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
110(a)(1) and (2) Infrastructure Requirements for 1997 Fine Particulate Matter National Ambient Air Quality Standards.	Alabama	7/25/2008	10/1/12 [Insert citation of publication].	With the exception of sections 110(a)(2)(D)(i) and 110(a)(2)(E)(ii).
110(a)(1) and (2) Infrastructure Requirements for 2006 Fine Particulate Matter National Ambient Air Quality Standards.	Alabama	9/23/2009	10/1/12 [Insert citation of publication].	With the exception of sections 110(a)(2)(D)(i) and 110(a)(2)(E)(ii).

[FR Doc. 2012-23989 Filed 9-28-12; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[EPA-R10-RCRA-2011-0973; FRL-9707-1]

Idaho: Incorporation by Reference of Approved State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Resource Conservation and Recovery Act, as amended, (RCRA), allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs if the EPA finds that such programs are equivalent to and consistent with the Federal RCRA program and if such programs provide adequate enforcement of compliance. The regulations are used by the EPA to codify its decision to authorize individual State programs and incorporate by reference those provisions of the State statutes and regulations that are subject to the EPA's RCRA inspection and enforcement authorities as authorized provisions of the State's program. This direct final rule revises the codification of the authorized Idaho hazardous waste management program and incorporates by reference authorized provisions of the State's rules and regulations.

DATES: This rule is effective November 30, 2012, unless the EPA receives adverse comment on this regulation by the close of business October 31, 2012. If the EPA receives such comments, the EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that the rule will not take effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to codify Idaho's authorized hazardous waste management program. The Director of the Federal Register approves this incorporation by reference as of November 30, 2012 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-RCRA-2011-0973 by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *Email*: kocourek.nina@epa.gov.
- *Mail*: Nina Kocourek, U.S. EPA, Region 10, 1200 Sixth Avenue, Suite

900, Mail Stop AWT-122, Seattle, WA 98101.

• *Hand Delivery*: Nina Kocourek, U.S. EPA, Region 10, 1200 Sixth Avenue, Suite 900, Mail Stop AWT-122, Seattle, WA 98101. Such deliveries are only accepted during the normal business hours of operation; special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R10-RCRA-2011-0973.

The 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 the 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 the 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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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. For additional information about the EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI 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 in *www.regulations.gov* or in hard copy at the EPA Region 10 Library, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.

The EPA Region 10 Library is open from 9:00 a.m. to noon, and 1:00 to 4:00 p.m. Monday through Friday, excluding legal holidays. The EPA Region 10 Library telephone number is (206) 553-1289.

FOR FURTHER INFORMATION CONTACT:

Nina Kocourek, U.S. EPA, Region 10, 1200 Sixth Avenue, Suite 900, Mail Stop AWT-122, Seattle, WA 98101, email: kocourek.nina@epa.gov, phone number (206) 553-6502.

SUPPLEMENTARY INFORMATION:

I. Incorporation by Reference

A. What is codification?

Codification is the process of including the rules and regulations that comprise the State's authorized hazardous waste management program in the Code of Federal Regulations (CFR). Section 3006(b) of RCRA, 42 U.S.C. 6926(b), allows the Environmental Protection Agency to authorize State hazardous waste management programs. The State regulations authorized by the EPA supplant the federal regulations concerning the same matter with the result that after authorization the EPA enforces the authorized regulations. Infrequently, State statutory language which acts to regulate a matter is also authorized by the EPA with the consequence that the EPA enforces the authorized statutory provision. The EPA does not authorize State enforcement authorities and does not authorize State procedural requirements. EPA codifies the authorized State program in 40 CFR part 272 and incorporates by reference State statutes and regulations that make up the approved program which is Federally enforceable. The EPA retains independent enforcement authority pursuant to sections 3007, 3008, 3013 and 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934 and 6973 and any other applicable statutory and regulatory provisions.

This action codifies the EPA's authorization of revisions to Idaho's hazardous waste management program. This direct final action codifies the State program in effect at the time the EPA authorized revisions to the Idaho hazardous waste management program in a final rule effective July 11, 2012 (77 FR 34229, June 11, 2012). Notice and an opportunity for comment regarding those revisions to the authorized State program were provided to the public at the time those revisions were proposed. The EPA is not reopening its decision to authorize changes to the State's program nor is the EPA requesting comment on those revisions.