

the bridge to remain closed-to-navigation daily except that the bridge will open if at least four hours notice is given except Monday through Friday from 7 a.m.-8:30 a.m. and from 5 p.m.-6:30 p.m., daily. During the closure period, the contractor will make every effort to minimize the delays to mariners by opening the bridge with less than four hour notice whenever possible. However, the bridge is not required to open with less than a four-hour notice. Marine traffic, when allowed to pass, should pass at the slowest safe speed.

Navigation on the waterway consists of small tugs with and without tows, commercial vessels, and recreational craft, including sailboats.

Vessels able to pass through the bridge in the closed-to-navigation position may do so at anytime. The bridge will be able to open for emergencies, and there is no immediate alternate route. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: January 5, 2016.

**David M. Frank,**

*Bridge Administrator, Eighth Coast Guard District.*

[FR Doc. 2016-00268 Filed 1-8-16; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R07-OAR-2015-0710; FRL-9941-04-Region 7]

#### Approval of Nebraska's Air Quality State Implementation Plan (SIP); Infrastructure SIP Requirements for the 2008 Ozone National Ambient Air Quality Standard in Regards to Section 110(a)(2)(D)(i)(I)—Prongs 1 and 2

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve elements of a State

Implementation Plan (SIP) submission from the State of Nebraska addressing the applicable requirements of Clean Air Act (CAA) section 110 for the 2008 National Ambient Air Quality Standards (NAAQS) for Ozone (O<sub>3</sub>). CAA section 110 requires that each state adopt and submit a SIP to support implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by EPA. These SIPs are commonly referred to as "infrastructure" SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. Specifically, EPA is approving Nebraska's SIP as it relates to section 110 (a)(2)(D)(i)(I) prongs 1 and 2, for the 2008 O<sub>3</sub> NAAQS.

**DATES:** This final rule is effective on February 10, 2016.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2015-0710. All documents in the docket are listed on the <http://www.regulations.gov> Web site. 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 electronically at [www.regulations.gov](http://www.regulations.gov) and at EPA Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219. Please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section. For additional information and general guidance, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gregory Crable, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, KS 66219; *telephone number:* (913) 551-7391; *email address:* [crable.gregory@epa.gov](mailto:crable.gregory@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the terms "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

- I. Background
- II. Summary of SIP Revision
- III. Final Action
- IV. Statutory and Executive Order Review

## I. Background

On November 16, 2015 (80 FR 70721), EPA published a notice of proposed rulemaking (NPR) for the State of Nebraska. The NPR proposed approval of Nebraska's submission that provides the basic elements specified in section 110(a)(2) of the CAA, or portions thereof, necessary to implement, maintain, and enforce the 2008 O<sub>3</sub> NAAQS. Specifically, the NPR proposed approval of section 110 (a)(2)(D)(i)(I) prongs 1 and 2, for the 2008 O<sub>3</sub> NAAQS.

## II. Summary of SIP Revision

On February 11, 2013, EPA received a SIP submission from the state of Nebraska that addressed the infrastructure elements specified in section 110(a)(2) for the 2008 O<sub>3</sub> NAAQS. On September 15, 2015 (80 FR 55266) EPA approved the following infrastructure elements, or portions thereof: 110(a)(2)(A), (B), (C), (D)(i)(II) (prong 3), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) which are necessary to implement, maintain, and enforce the 2008 O<sub>3</sub> NAAQS, as a revision to the Nebraska SIP, and disapproved section 110(a)(2)(D)(i)(II)- prong 4, as it relates to the protection of visibility. At that time, EPA did not take action on section 110(a)(2)(D)(i)(I)- prongs 1 and 2. Specific requirements of section 110(a)(2)(D)(i)(I)- prongs 1 and 2 of the CAA and the rationale for EPA's proposed action to approve these specific provisions of the SIP submission, not previously acted on, is explained in the NPR and will not be restated here. The public comment period for the notice of proposed rulemaking (NPR) closed on December 16, 2015. EPA received no comments on the NPR.

## III. Final Action

EPA is approving Nebraska's February 11, 2013, submission addressing the requirements of the CAA sections 110(a)(1) and (2) as applicable to the 2008 O<sub>3</sub> NAAQS. Specifically, EPA approves section 110(a)(2)(D)(i)(I)—prongs 1 and 2, which are necessary to implement, maintain, and enforce the 2008 O<sub>3</sub> NAAQS, as a revision to the Nebraska SIP. As EPA noted in the NPR, this final action fulfills EPA's commitment to take final action as to Nebraska's SIP submission addressing 110(a)(2)(D)(i)(I), as set forth by the court in *Sierra Club v. McCarthy*, 4:14-cv-05091-YGR (N.D. Cal. May 15, 2015).

## IV. Statutory and Executive Order Review

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 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 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 March 11, 2016. 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, Ozone, Reporting and recordkeeping requirements.

Dated: December 22, 2015.

**Mark Hague,**

*Regional Administrator, Region 7.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart CC—Nebraska**

- 2. In § 52.1420(e), the table is amended by adding entry (31) to read as follows:

**§ 52.1420 Identification of Plan.**

\* \* \* \* \*

(e) \* \* \*

**EPA—APPROVED NEBRASKA NONREGULATORY PROVISIONS**

Name of nonregulatory SIP provision	Applicable geographic area or nonattainment area	State submittal date	EPA approval date	Explanation
(31) Section 110(a)(2) Infrastructure Requirements for the 2008 O <sub>3</sub> NAAQS.	Statewide .....	2/11/13	1/11/2016 [ <i>Insert Federal Register citation</i> ].	[EPA-R07-OAR-2015-0710; 9941-04-Region 7] This action addresses the following CAA elements: 110(a)(2)(D)(i) (I)—Prongs 1 and 2.

[FR Doc. 2015-33301 Filed 1-8-16; 8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2012-0079; FRL-9940-89-Region 4]

#### Air Plan Approval; Alabama: Nonattainment New Source Review

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve portions of a revision to the Alabama State Implementation Plan (SIP) submitted by the Alabama Department of Environmental Management (ADEM) to EPA on May 2, 2011. The SIP revision modifies Alabama's nonattainment new source review (NNSR) regulations in their entirety to be consistent with the federal new source review (NSR) regulations for the implementation of the criteria pollutant national ambient air quality standards (NAAQS). EPA is approving portions of the NNSR rule changes in Alabama's May 2, 2011, SIP revision because the Agency has determined that the changes are consistent with the Clean Air Act (CAA or Act) and federal regulations regarding NNSR permitting.

**DATES:** This rule will be effective February 10, 2016.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2012-0079. All documents in the docket are listed on the [www.regulations.gov](http://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](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation 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 a.m. to 4:30 p.m., excluding Federal holidays. **FOR FURTHER INFORMATION CONTACT:** For information regarding the Alabama SIP,

contact Mr. D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Mr. Akers can be reached by telephone at (404) 562-9089 or via electronic mail at [akers.brad@epa.gov](mailto:akers.brad@epa.gov). For information regarding NSR, contact Ms. Yolanda Adams, Air Permits Section, at the same address above. Telephone number: (404) 562-9214; email address: [adams.yolanda@epa.gov](mailto:adams.yolanda@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

EPA is taking final action to approve the portion of Alabama's May 2, 2011, SIP revision that makes changes to Alabama's NNSR program, set forth at ADEM Administrative Code, Division 3, Chapter 14, Subchapter .05 (ADEM Rule 335-3-14-.05), which applies to the construction and modification of any major stationary source in or near a nonattainment area (NAA) as required by part D of title I of the CAA. Alabama's NNSR regulations at ADEM Rule 335-3-14-.05 were originally approved into the SIP on November 26, 1979 (*see* 44 FR 67375), with periodic revisions approved through December 8, 2000 (*see* 65 FR 76938). Alabama's May 2, 2011, SIP revision modifies the State's NNSR regulations in their entirety<sup>1</sup> with a new version that reflects changes to the federal NNSR regulations at 40 Code of Federal Regulations (CFR) 51.165,<sup>2</sup> including provisions promulgated in the following federal rules: (1) "Requirements for Preparation, Adoption and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans; Standards of Performance for New Stationary Sources," Final Rule, 57 FR 32314 (July 21, 1992) (hereafter referred to as the Wisconsin Electric Power

<sup>1</sup> Some portions of the 2011 version of the regulations now being approved were previously approved by EPA. These portions remain the same in substance but may have undergone administrative updates and renumbering in the 2011 version.

<sup>2</sup> EPA's regulations governing the implementation of NSR permitting programs are contained in 40 CFR 51.160-51.166; 52.21, 52.24; and part 51, appendix S. The CAA NSR program is composed of three separate programs: PSD, NNSR, and Minor NSR. PSD is established in part C of title I of the CAA and applies in areas that meet the NAAQS—"attainment areas"—as well as areas where there is insufficient information to determine if the area meets the NAAQS—"unclassifiable areas." The NNSR program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS—"nonattainment areas." The Minor NSR program addresses construction or modification activities that do not qualify as "major" and applies regardless of the designation of the area in which a source is located. Together, these programs are referred to as the NSR programs.

Company (WEPCO) Rule); (2) "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Baseline Emissions Determination, Actual-to-Future-Actual Methodology, Plantwide Applicability Limitations, Clean Units, Pollution Control Projects," Final Rule, 67 FR 80186 (December 31, 2002) (hereafter referred to as the NSR Reform Rule); (3) "Prevention of Significant Deterioration (PSD) and Non-Attainment New Source Review (NSR): Reconsideration," Final Rule, 68 FR 63021 (November 7, 2003) (hereafter referred to as the Reconsideration Rule); (4) "Prevention of Significant Deterioration (PSD) and Non-Attainment New Source Review (NSR): Removal of Vacated Elements," Final Rule, 72 FR 32526 (June 13, 2007) (hereafter referred to as the Vacated Elements Rule); (4) "Prevention of Significant Deterioration and Nonattainment New Source Review: Reasonable Possibility in Recordkeeping," Final Rule, 72 FR 72607 (December 21, 2007), (hereafter referred to as the Reasonable Possibility Rule); (5) "Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule To Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter and Ozone NAAQS; Final Rule for Reformulated Gasoline," Final Rule, 70 FR 71612 (November 29, 2005) (hereafter referred to as the Phase 2 Rule); (6) "Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>)," Final Rule, 73 FR 28321 (May 16, 2008) (hereafter referred to as the NSR PM<sub>2.5</sub> Rule); (7) "Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)," Final Rule, 75 FR 64864 (October 20, 2010) (hereafter referred to as the PM<sub>2.5</sub> PSD Increments-SILs-SMC Rule<sup>3</sup>); and (8) "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions; Interim Rule; Stay and Revisions", Interim Rule, 76 FR 17548 (March 30, 2011) (hereafter referred to as the Fugitive Emissions Interim Rule).

<sup>3</sup> The D.C. Circuit vacated the portions of the PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule addressing the SMC and SILs (and remanded the SILs portion to EPA for further consideration) for PSD, but left the PM<sub>2.5</sub> SILs in place for the NSR program in the table in § 51.165(b)(2). *See Sierra Club v. EPA*, 705 F.3d 458 (D.C. Cir. 2013).