

- 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, 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).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 6, 2017.

**Cheryl L. Newton,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 2017-14941 Filed 7-14-17; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2017-0361; FRL-9964-93-Region 4]

#### Air Plan Approval; KY; Revisions to Ambient Air Quality Standards

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

**ACTION:** Proposed rule.

**SUMMARY:** On September 9, 2016, the Commonwealth of Kentucky, through the Kentucky Division for Air Quality (KDAQ), submitted a revision to the Kentucky State Implementation Plan (SIP). The Environmental Protection Agency (EPA) is proposing to approve changes to the Commonwealth's air quality standards for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO<sub>2</sub>), ozone, particulate matter (both PM<sub>10</sub> and PM<sub>2.5</sub>), and sulfur dioxide (SO<sub>2</sub>) to reflect the historical and current National Ambient Air Quality Standards (NAAQS). EPA is proposing to approve

this SIP revision because the Commonwealth has demonstrated that these change are consistent with the Clean Air Act (CAA or Act). KDAQ's submission also includes additional air quality standards for hydrogen sulfide, fluorides, and odor; however, EPA is not proposing to approve these state standards into the SIP.

**DATES:** Written comments must be received on or before August 16, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2017-0361 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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, 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:

Madolyn Sanchez, 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. Ms. Sanchez can be reached via telephone at (404) 562-9644 or via electronic mail at [sanchez.madolyn@epa.gov](mailto:sanchez.madolyn@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Sections 108 and 109 of the CAA govern the establishment, review, and revision, as appropriate, of the NAAQS to protect public health and welfare. The CAA requires periodic review of the air quality criteria—the science upon which the standards are based—and the standards themselves. EPA's regulatory provisions that govern the NAAQS are found at 40 CFR 50—*National Primary and Secondary Ambient Air Quality Standards*. In this rulemaking, EPA is proposing to approve changes in

Kentucky's September 9, 2016, submission amending the Commonwealth's regulations for ambient air quality standards to reflect the historical and current NAAQS, which are found at 401 KAR 53:010. The revision also includes textual changes to language in the regulation to provide regulatory clarity, as well as updating and reformatting the Appendix A table of ambient air quality standards and Appendix A footnotes. The SIP submittal amending Kentucky's regulations can be found in the docket for this rulemaking at [www.regulations.gov](http://www.regulations.gov) and is summarized below.

## II. EPA's Analysis of Kentucky's SIP Revisions

The September 9, 2016, SIP submission revises Kentucky regulation 401 KAR 53:010 by updating the Commonwealth's ambient air quality standards to reflect the historical and current NAAQS for CO, Pb, NO<sub>2</sub>, ozone, PM<sub>10</sub>, PM<sub>2.5</sub>, and SO<sub>2</sub>; modifying language in the regulation to provide regulatory clarity; and updating and reformatting the Appendix A ambient air quality standards table and Appendix A footnotes. The updates to the air quality standards are discussed in further detail below.

### a. CO

On September 13, 1985, EPA revoked the 1-hour and 8-hour secondary NAAQS for CO. *See* 50 FR 37484. Accordingly, in the September 9, 2016, SIP submission, Kentucky revised regulation 401 KAR 53:010 to update its air quality standards for CO to be consistent with the NAAQS promulgated by EPA in 1985.

### b. Pb

On November 12, 2008, EPA promulgated a new 1-hour primary and secondary NAAQS for Pb at a level of 0.15 micrograms per cubic meter (µg/m<sup>3</sup>), based on a rolling 3-month average. *See* 73 FR 66964. Accordingly, in the September 9, 2016, SIP submission, Kentucky revised regulation 401 KAR 53:010 to update its air quality standards for Pb to be consistent with the NAAQS promulgated by EPA in 2008.

### c. NO<sub>2</sub>

On February 9, 2010, EPA promulgated a new 1-hour primary NAAQS for NO<sub>2</sub> at a level of 100 parts per billion (ppb), based on a 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. *See* 75 FR 6474. Accordingly, in the September 9,

2016, SIP submission, Kentucky revised regulation 401 KAR 53:010 to update its air quality standards for NO<sub>2</sub> to be consistent with the NAAQS promulgated by EPA in 2010.

*d. Ozone*

On July 18, 1997, EPA revoked the 1-hour primary and secondary NAAQS for ozone.<sup>1</sup> To replace the 1-hour primary and secondary NAAQS for ozone, EPA promulgated a new primary and secondary 8-hour NAAQS for ozone at a level of 0.08 parts per million (ppm), based on an annual fourth-highest maximum 8-hour concentration averaged over three years. See 62 FR 38856. On March 27, 2008, EPA promulgated a new 8-hour primary and secondary NAAQS for ozone at a level of 0.075 ppm, based on an annual fourth-highest maximum 8-hour concentration averaged over three years. See 73 FR 16483. On October 26, 2015, EPA promulgated a new primary and secondary NAAQS for ozone at a level of 0.070 ppm, based on an annual fourth-highest maximum 8-hour concentration averaged over three years. See 80 FR 65292. At that same time, EPA revoked the 1997 8-hour primary and secondary NAAQS for ozone.<sup>2</sup> Accordingly, in the September 9, 2016, SIP submission, Kentucky revised regulation 401 KAR 53:010 to update its air quality standards for ozone to be consistent with the NAAQS promulgated by EPA in 1997, 2008, and 2015.

*e. Particulate Matter (PM<sub>10</sub> and PM<sub>2.5</sub>)*

On July 18, 1997, EPA promulgated a new 24-hour primary and secondary NAAQS for PM<sub>2.5</sub> at a level of 65 µg/m<sup>3</sup>, based on the 98th percentile of 24-hour PM<sub>2.5</sub> concentrations averaged over three years. EPA also promulgated a new annual primary and secondary NAAQS for PM<sub>2.5</sub> at a level of 15.0 µg/m<sup>3</sup>, based on the annual arithmetic mean averaged over three years. See 62 FR 38652. On October 17 2006, EPA revised the 24-hour primary and secondary PM<sub>2.5</sub> NAAQS to 35 µg/m<sup>3</sup>, based on the 98th percentile of 24-hour PM<sub>2.5</sub> concentrations averaged over three years. At that same time, EPA revoked the annual PM<sub>10</sub> NAAQS. See 71 FR 61144. On December 14, 2012, EPA revised the primary annual NAAQS for PM<sub>2.5</sub> at a level of 12 µg/m<sup>3</sup>, based on the annual arithmetic mean averaged over three years. See 78 FR

3085; January 15, 2013. Accordingly, in the September 9, 2016, SIP submission, Kentucky revised regulation 401 KAR 53:010 to update its air quality standards for PM<sub>10</sub> and PM<sub>2.5</sub> to be consistent with the NAAQS promulgated by EPA in 1997, 2006, and 2012.

*f. SO<sub>2</sub>*

On June 22, 2010, EPA promulgated a revised primary SO<sub>2</sub> NAAQS to an hourly standard of 75 ppb, based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentration. At that same time, EPA revoked the 24-hour SO<sub>2</sub> NAAQS.<sup>3</sup> See 75 FR 35520. Accordingly, in the September 9, 2016, SIP submission, Kentucky revised regulation 401 KAR 53:010 to update its air quality standards for SO<sub>2</sub> to be consistent with the NAAQS promulgated by EPA in 2010.

### III. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Kentucky regulation 401 KAR 53:010—*Ambient air quality standards*, effective July 19, 2016. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### IV. Proposed Action

EPA is proposing to approve the Commonwealth of Kentucky September 9, 2016, SIP revision identified in section II above, because these changes are consistent with the CAA.

### V. 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. See 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 proposed action merely proposes to approve 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 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).

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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

<sup>1</sup> EPA revoked the 1-hour ozone standard in all areas in 2005. However, some areas have continuing obligations under the standard.

<sup>2</sup> EPA revoked the 1997 8-hour ozone standard in 2015. However, some areas have continuing obligations under the standard.

<sup>3</sup> The 1971 sulfur dioxide standards remain in effect until one (1) year after an area is designated for the 2010 standard, except that in areas designated nonattainment for the 1971 standards, the 1971 standards remain in effect until implementation plans to attain or maintain the 2010 standards are approved, in accordance with 40 CFR part 52, subpart S.

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

Dated: June 29, 2017.

**V. Anne Heard,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 2017-14944 Filed 7-14-17; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2016-0327; FRL-9964-96-Region 5]

### Air Plan Approval; Minnesota; 2008 Ozone Transport

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a May 26, 2016, State Implementation Plan (SIP) submission from Minnesota that is intended to demonstrate that the Minnesota SIP meets certain interstate transport requirements of the Clean Air Act (CAA) for the 2008 ozone National Ambient Air Quality Standards (NAAQS). This submission addresses the requirement that each SIP contain adequate provisions prohibiting air emissions that will have certain adverse air quality effects in other states. EPA is proposing to approve this SIP as containing adequate provisions to ensure that Minnesota emissions do not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in any other state.

**DATES:** Comments must be received on or before August 16, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2016-0327 at <https://www.regulations.gov> or via email to [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov). For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://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 <https://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-4489, [svingen.eric@epa.gov](mailto:svingen.eric@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background.
- II. EPA’s Analysis of Minnesota’s Submittal
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews.

#### I. Background

On March 12, 2008, EPA revised the levels of the primary and secondary ozone standards from 0.08 parts per million (ppm) to 0.075 ppm (73 FR 16436). The CAA requires states to submit, within three years after promulgation of a new or revised standard, SIPs meeting the applicable “infrastructure” elements of sections 110(a)(1) and (2). One of these applicable infrastructure elements, CAA section 110(a)(2)(D)(i), requires SIPs to contain “good neighbor” provisions to prohibit certain adverse air quality effects on neighboring states due to interstate transport of pollution. There are four sub-elements within CAA section 110(a)(2)(D)(i). This action addresses the first two sub-elements of the good neighbor provisions, at CAA section 110(a)(2)(D)(i)(I). These sub-elements require that each SIP for a new or revised standard contain adequate provisions to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will “contribute significantly to nonattainment” or “interfere with maintenance” of the applicable air quality standard in any other state.

#### II. EPA’s Analysis of Minnesota’s Submittals

On May 26, 2016, the State of Minnesota submitted a revision to its SIP to address the first two sub-elements

of the good neighbor provisions, at CAA section 110(a)(2)(D)(i)(I). Specifically, Minnesota’s submission asserts that the state’s SIP contains adequate provisions to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will “contribute significantly to nonattainment” or “interfere with maintenance” of the 2008 ozone standard in any other state. The SIP submission highlights rules and statutes already in Minnesota’s SIP that limit emissions of nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC), the precursor pollutants contributing to ozone formation. Minnesota primarily limits VOC emissions through emission limitations in state-issued part 70 permits. Minnesota has also incorporated by reference EPA’s National Emission Standards for Hazardous Air Pollutants, which further limit VOC emissions. *See* Minn. R. 7011.7000–9990. Minnesota limits NO<sub>x</sub> emissions through application of Minn. R. 7011.0500–0553, “Indirect Heating Fossil Fuel Burning Equipment,” as well as Minn. R. 7011.1700–1705, “Nitric Acid Plants.” Additionally, an administrative order issued to the Xcel Energy Sherburne County Generating Station (Sherco) as part of Minnesota’s Regional Haze SIP imposes additional limits on NO<sub>x</sub> emissions in Minnesota. Finally, Minnesota sources are also subject to a Federal Implementation Plan (FIP) for the Cross-State Air Pollution Rule (CSAPR) at 40 CFR 52.1240, and are required to reduce annual emissions of NO<sub>x</sub> in support of the 2006 NAAQS for fine particulate matter (PM<sub>2.5</sub>).

EPA developed technical information and a related analysis to assist states with meeting section 110(a)(2)(D)(i)(I) requirements for the 2008 ozone NAAQS, and used this technical analysis to support the CSAPR Update for the 2008 Ozone NAAQS (“CSAPR Update”).<sup>1</sup> As explained below, this analysis supports the conclusion of Minnesota’s analysis regarding interstate transport for the 2008 ozone NAAQS.

In the technical analysis supporting the CSAPR Update, EPA used detailed air quality analyses to determine where projected nonattainment or maintenance areas would be and whether emissions from a state would contribute to downwind air quality problems at those projected nonattainment or maintenance receptors. Specifically, EPA determined whether a state’s contributing emissions were at or above a specific threshold (*i.e.*, one percent of the ozone NAAQS).

<sup>1</sup> 81 FR 74504 (October 26, 2016).