

(1)(i) Whenever the Office cannot meet the statutory time limit for processing a request because of “unusual circumstances,” as defined in paragraph (c)(2) of this section, the Office will notify the requester in writing of the unusual circumstances and the estimated date of determination, and alert requesters to the availability of the Office of Government Information Services (OGIS) to provide dispute resolution services. Where an extension of time greater than 10 days is required, the Office will give the requester the opportunity to:

\* \* \* \* \*

#### § 203.10 [Amended]

■ 3. Amend § 203.10 by removing “General Records Schedule 14” and adding in its place “General Records Schedule 4.2”.

■ 4. Amend § 203.11 by revising paragraphs (j) and (k) to read as follows:

#### § 203.11 Fees.

\* \* \* \* \*

(j) *Other statutes specifically providing for fees.* The provisions of this section do not apply with respect to the charging of fees for which the copyright law requires a fee to be charged. Requests processed under the Privacy Act of 1974, 5 U.S.C. 552a, shall be subject to the fee schedule found in § 204.6 of this chapter. Fees for services by the Office in the administration of the copyright law are contained in § 201.3 of this chapter. In instances where records responsive to a request are subject to the statutorily-based fee schedule, the Office will inform the requester of the service and appropriate fee.

(k) *Requirements for waiver or reduction of fees.* (1) Requesters may seek a waiver of fees by submitting a written application demonstrating how disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(2) The Office shall furnish records responsive to a request without charge or at a reduced rate when it determines, based on all available information, that the factors described in paragraphs (k)(2)(i) through (iii) of this section are satisfied:

(i) Disclosure of the requested information would shed light on the operations or activities of the government. The subject of the request must concern identifiable operations or activities of the Federal Government

with a connection that is direct and clear, not remote or attenuated.

(ii) Disclosure of the requested information is likely to contribute significantly to public understanding of those operations or activities. This factor is satisfied when the following criteria are met:

(A) Disclosure of the requested records must be meaningfully informative about government operations or activities. The disclosure of information that already is in the public domain, in either the same or a substantially identical form, would not be meaningfully informative if nothing new would be added to the public’s understanding.

(B) The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester’s expertise in the subject area as well as the requester’s ability and intention to effectively convey information to the public will be considered. The Office will presume that a representative of the news media will satisfy this consideration.

(iii) The disclosure must not be primarily in the commercial interest of the requester. To determine whether disclosure of the requested information is primarily in the commercial interest of the requester, the Office will consider the following criteria:

(A) The Office shall identify whether the requester has any commercial interest that would be furthered by the requested disclosure. A commercial interest includes any commercial, trade, or profit interest. Requesters shall be given an opportunity to provide explanatory information regarding this consideration.

(B) If there is an identified commercial interest, the Office shall determine whether that is the primary interest furthered by the request. A waiver or reduction of fees is justified when the requirements of paragraphs (k)(2)(i) and (ii) of this section are satisfied and any commercial interest is not the primary interest furthered by the request. The Office ordinarily will presume that when a news media requester has satisfied factors in paragraphs (k)(2)(i) and (ii) of this section, the request is not primarily in the commercial interest of the requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(3) Where only some of the records to be released satisfy the requirements for

a waiver of fees, a waiver shall be granted for those records.

(4) Requests for a waiver or reduction of fees should be made when the request is first submitted to the Office and should address the criteria referenced above. A requester may submit a fee waiver request at a later time so long as the underlying record request is pending or on administrative appeal. When a requester who has committed to pay fees subsequently asks for a waiver of those fees and that waiver is denied, the requester shall be required to pay any costs incurred up to the date the fee waiver request was received.

Dated: January 28, 2019.

**Karyn A. Temple,**

*Acting Register of Copyrights and Director of the U.S. Copyright Office.*

Approved by:

**Carla D. Hayden,**

*Librarian of Congress.*

[FR Doc. 2019-02181 Filed 2-12-19; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2017-0212; FRL-9989-23-Region 5]

### Air Plan Approval; Wisconsin; Reasonable Further Progress Plan and Other Plan Elements for the Moderate Nonattainment Chicago Area for the 2008 Ozone Standards

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing approval of a revision to the Wisconsin State Implementation Plan (SIP) to meet the base year emissions inventory, reasonable further progress (RFP), RFP contingency measure, nitrogen oxides (NO<sub>x</sub>) reasonably available control technology (RACT), and motor vehicle inspection and maintenance (I/M) requirements of the Clean Air Act (CAA) for the Wisconsin portion of the Chicago-Naperville, Illinois-Indiana-Wisconsin nonattainment area (Chicago area) for the 2008 ozone National Ambient Air Quality Standards (NAAQS or standards). EPA is also finalizing approval of the 2017 and 2018 transportation conformity motor vehicle emissions budgets (MVEBs) for the Wisconsin portion of the Chicago area for the 2008 ozone NAAQS. EPA proposed approval of these attainment planning elements on August 16, 2018,

and received no adverse comments germane to this action. Therefore, EPA is finalizing approval of this SIP revision pursuant to section 110 and part D of the CAA and EPA's regulations because it satisfies the emission inventory, RFP, RFP contingency measure, NO<sub>x</sub> RACT, I/M, and transportation conformity requirements for the Wisconsin portion of the Chicago area, which is classified as moderate nonattainment for the 2008 ozone NAAQS.

**DATES:** This final rule is effective on March 15, 2019.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2017-0212. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (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 through [www.regulations.gov](http://www.regulations.gov) or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Jenny Liljegren, Physical Scientist, at (312) 886-6832 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Jenny Liljegren, Physical Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6832, [Liljegren.Jennifer@epa.gov](mailto:Liljegren.Jennifer@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. What is the background for this action?
- II. What action is EPA taking?
- III. Statutory and Executive Order Reviews

#### **I. What is the background for this action?**

##### *A. Background on the 2008 Ozone NAAQS*

On March 27, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075

parts per million (ppm).<sup>1</sup> Promulgation of a revised NAAQS triggers a requirement for EPA to designate areas of the country as nonattainment, attainment, or unclassifiable for the standards. For the ozone NAAQS, this also involves classifying any nonattainment areas at the time of designation.<sup>2</sup> Ozone nonattainment areas are classified based on the severity of their ozone levels (as determined based on the area's "design value," which represents air quality in the area for the most recent three years). The classifications for ozone nonattainment areas are marginal, moderate, serious, severe, and extreme.<sup>3</sup>

Areas that EPA designates nonattainment for the ozone NAAQS are subject to certain requirements, including the general nonattainment area planning requirements of CAA section 172 and the ozone-specific nonattainment planning requirements of CAA section 182. Ozone nonattainment areas in the lower classification levels have fewer and/or less stringent mandatory air quality planning and control requirements than those in higher classifications. For marginal areas, a state is required to submit a baseline emissions inventory, adopt provisions into the SIP requiring emissions statements from stationary sources in the area, and implement a nonattainment new source review (NSR) program for the relevant ozone NAAQS.<sup>4</sup> For moderate areas, a state needs to comply with the marginal area requirements, plus additional moderate area requirements, including the requirement to submit a modeled demonstration that the area will attain the NAAQS as expeditiously as practicable but no later than six years after designation, the requirement to submit an RFP plan, the requirement to adopt and implement certain emissions controls, such as RACT and I/M, and the requirement for greater emissions offsets for new or modified major stationary sources under the state's nonattainment NSR program.<sup>5</sup>

##### *B. Background on the Chicago 2008 Ozone Nonattainment Area*

On June 11, 2012,<sup>6</sup> EPA designated the Chicago area as a marginal nonattainment area for the 2008 ozone NAAQS. The Chicago area includes Cook, DuPage, Kane, Lake, McHenry, and Will Counties and part of Grundy

and Kendall Counties in Illinois; Lake and Porter Counties in Indiana; and the eastern portion of Kenosha County in Wisconsin. On May 4, 2016,<sup>7</sup> pursuant to section 181(b)(2) of the CAA, EPA determined that the Chicago area failed to attain the 2008 ozone NAAQS by the July 20, 2015, marginal area attainment deadline and thus reclassified the area from marginal to moderate nonattainment. In that action, EPA established January 1, 2017, as the due date for all moderate area nonattainment plan SIP requirements applicable to newly reclassified areas.

#### **II. What action is EPA taking?**

As explained in the proposed rulemaking,<sup>8</sup> EPA is approving revisions to Wisconsin's SIP pursuant to section 110 and part D of the CAA and EPA's regulations. Wisconsin's April 17, 2017, submission and January 23, 2018, supplement along with a prior submission made on August 15, 2016, satisfy the emission inventory, RFP, RFP contingency measure, NO<sub>x</sub> RACT, emissions statement, I/M, and transportation conformity requirements for the Wisconsin portion of the Chicago area for the 2008 ozone NAAQS.

#### **III. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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

<sup>1</sup> 73 FR 16436.

<sup>2</sup> CAA sections 107(d)(1) and 181(a)(1).

<sup>3</sup> CAA section 181(a)(1).

<sup>4</sup> CAA section 182(a).

<sup>5</sup> CAA section 182(b).

<sup>6</sup> 77 FR 34221, effective July 20, 2012.

<sup>7</sup> 81 FR 26697.

<sup>8</sup> 83 FR 40715 (August 16, 2018).

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, 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 April 15, 2019. 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, Volatile organic compounds.

Dated: December 20, 2018.

**James O. Payne,**

*Acting Deputy Regional Administrator,  
Region 5.*

40 CFR part 52 is amended as follows:

#### 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.*

■ 2. Section 52.2585 is amended by adding paragraph (ff) to read as follows:

#### § 52.2585 Control strategy: Ozone.

\* \* \* \* \*

(ff) Approval—On April 17, 2017, as supplemented on January 23, 2018, Wisconsin submitted a revision to its State Implementation Plan along with a prior submission on August 15, 2016, to satisfy the emissions statement, emission inventory, reasonable further progress (RFP), RFP contingency measure, oxides of nitrogen (NO<sub>x</sub>) reasonably available control technology (RACT), motor vehicle inspection and maintenance (I/M), and transportation conformity requirements for the Wisconsin portion of the Chicago area for the 2008 ozone NAAQS moderate nonattainment plan. These elements of the plan meet the requirements of section 110 and part D of the CAA for the Wisconsin portion of the Chicago area, which was reclassified on May 4, 2016, as moderate nonattainment for the 2008 ozone NAAQS. The April 17, 2017, submittal as supplemented on January 23, 2018, also established new Motor Vehicle Emissions Budgets (MVEB) for volatile organic compounds (VOC) and NO<sub>x</sub> for the years 2017 and 2018. The MVEBs for the Wisconsin portion of the Chicago 2008 ozone NAAQS nonattainment area, which is the portion of Kenosha County inclusive and east of Interstate 94, are now: 1.56 tons per summer day of VOC emissions and 3.05 tons per summer day of NO<sub>x</sub>

emissions for the year 2017, and 1.44 tons per summer day of VOC emissions and 2.75 tons per summer day of NO<sub>x</sub> emissions for the year 2018.

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R07-OAR-2018-0700; FRL-9988-46-Region 7]

#### Air Plan Approval; Missouri; Emissions Inventory for the Missouri Jackson County and Jefferson County 2010 Sulfur Dioxide National Ambient Air Quality Standard Nonattainment Areas

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving two submissions from the Missouri Department of Natural Resources (MoDNR) revising the State Implementation Plan (SIP) for the State of Missouri. The SIP revision submissions address the Clean Air Act (CAA) section 172 requirement to submit a base year emissions inventory for Missouri's partial Jackson County and partial Jefferson County nonattainment areas of the 2010 1-hour Sulfur Dioxide (SO<sub>2</sub>) National Ambient Air Quality Standard (NAAQS).

**DATES:** This final rule is effective on March 15, 2019.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2018-0700. All documents in the docket are listed on the <https://www.regulations.gov> website. 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 through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** Tracey Casburn, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219, by telephone at (913) 551-7016, or by email at [casburn.tracey@epa.gov](mailto:casburn.tracey@epa.gov).