The EPA previously finalized a limited approval and limited disapproval of Rule 1–220 on July 3, 2017. We listed the following two deficiencies in our final limited approval and limited disapproval of Rule 1–220:

- Rule 1–220 does not contain any provisions specifying that required air quality modeling shall be based on the applicable models, databases, and other requirements specified in part 51 Appendix W; therefore, the requirements of 40 CFR 51.160(f) and 51.166(l) have not been met.

The requirements of 40 CFR 51.166(r)(2) have not been met because the rule does not include the necessary information about a source’s obligations. The District resolved the first deficiency by adding the required air quality modeling provisions to Rule 1–220 and addressed the second deficiency by revising Rule 1–230 to include information about a source’s obligations under the CAA. We have determined that the amended sections of these rules satisfy the statutory and regulatory requirements for a PSD program as set forth in the applicable provisions of part C of title I of the Act and in 40 CFR 51.160–51.164 and 51.166.

Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

The EPA’s proposed action provided a 30-day public comment period. During this period, we received one comment, which is included in the docket for this action. We do not consider this comment to be germane or relevant to the decision.
this action, thus this comment is not adverse to this action. Moreover, the comment lacks the required specificity to the proposed SIP revisions and the relevant CAA requirements, and does not address the specific regulations or provisions in question, or recommend an action on the SIP submission different from what the EPA proposed. Therefore, we are finalizing our action as proposed.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. We continue to find that MCAQMD Rules 1–220 and 1–230 correct the previously identified deficiencies and fulfill all relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving these rules into the MCAQMD portion of the California SIP. The April 7, 2020, versions of Rules 1–220 and 1–230 will replace the previously approved versions of the rules in the SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the MCAQMD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through https://www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the FOR FURTHER INFORMATION CONTACT section of this preamble for more information).

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at https://www.epa.gov/laws-regulations/laws-and-executive-orders. 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, the 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 CAA; and
• Does not provide the 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 the 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. The 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 August 24, 2021. 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 CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: June 10, 2021.

Deborah Jordan,
Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(489)(i)(A)(5) through (6) and (c)(555) to read as follows:

§ 52.220 Identification of plan-in-part.

* * * * * (c) * * * (489) * * * (i) * * * (A) * * *


(6) Previously approved on July 3, 2017, in paragraph (c)(489)(i)(A)(4) of this section and now deleted with replacement in (c)(555)(i)(A)(2), Rule
I. What is being addressed in this document?

The EPA is amending Nebraska’s SIP to include revisions to title 129 of the Nebraska Administrative Code. The EPA is approving revisions to the Nebraska SIP received on July 16, 2020. Specifically, the EPA is amending the Nebraska SIP by removing a portion of the SIP as follows: Title 129, Chapter 39. Visible Emissions from Diesel-powered Motor Vehicles. EPA is approving these revisions as they do not substantively change any existing statutory or regulatory requirement or impact the stringency of the SIP or air quality.

II. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP revisions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice of the SIP revision from September 28, 2019, to November 6, 2019, and held a public hearing on November 7, 2019. In a letter to the state dated November 7, 2019, the EPA stated that the agency “has no comment on the proposed repeal of this regulation.” EPA further recommended that NDEE include a justification that the rule is redundant to state statute. The SIP revision meets the substantive requirements of the CAA, including section 110 and implementing regulations.

III. What action is the EPA taking?

The EPA is taking final action to amend the Nebraska SIP by approving the State’s request to remove Title 129 section 39. Visible Emissions from Diesel-powered Vehicles. The removal of this portion of the SIP will ensure consistency between state and federally-approved rules. The EPA has determined that these changes will not adversely impact air quality because the rule duplicates the State’s statute, which applies in the same jurisdiction.

IV. Incorporation by Reference

In this document, the EPA is amending regulatory text that includes incorporation by reference. As described in the amendments to 40 CFR part 52 set forth below, the EPA is removing provisions of the EPA-Approved Nebraska Regulations from the Nebraska State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

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 CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the 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.