• 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.

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

Dated: June 28, 2021.

John Blevins,
Acting Regional Administrator, Region 4.

[FR Doc. 2021–14175 Filed 7–1–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Air Plan Approval; Michigan; Partial Approval and Partial Disapproval for Infrastructure SIP Requirements for the 2015 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to partially approve and partially disapprove elements of a State Implementation Plan (SIP) submission from Michigan regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2015 ozone National Ambient Air Quality Standards (NAAQS). 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. The disapproval portion of this action does not begin a new Federal Implementation Plan (FIP) clock, because the FIPs are already in place.

DATES: Comments must be received on or before August 2, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2019–0215 at http://www.regulations.gov, or via email to Leslie.Michael@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from 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 http://www2.epa.gov/docketsgs/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Olivia Davidson, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–0266, davidson.olivia@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 of this SIP submission?
II. What is EPA’s analysis of this SIP submission?
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews

I. What is the background of this SIP submission?

In this rulemaking, EPA is proposing to approve most elements and disapprove one element of a March 8, 2019 submission from Michigan’s Department of Environment, Great Lakes and Energy (EGLE) intended to address all applicable infrastructure requirements for the 2015 ozone NAAQS. EPA is disapproving the portion of the submission pertaining to the visibility protection requirements of section 110(a)(2)(D)(i)(II) with respect to the 2015 ozone NAAQS. The disapproval portion of this action does not begin a new FIP clock, because the FIPs are already in place. EPA will take action in a separate rulemaking on the portion of the submission pertaining to the interstate transport requirements of section 110(a)(2)(D)(i)(II) with respect to the 2015 ozone NAAQS.

Whenever EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires states to make SIP submissions to provide for the implementation, maintenance, and enforcement of the NAAQS. This type of SIP submission is commonly referred to as an “infrastructure SIP.” These submissions must meet the various requirements of CAA section 110(a)(2), as applicable. Due to ambiguity in some of the language of CAA section 110(a)(2), EPA believes that it is appropriate to interpret these provisions in the specific context of acting on infrastructure SIP submissions. EPA has previously provided comprehensive guidance on the application of these provisions through our September 13, 2013 Infrastructure SIP Guidance and through regional actions on infrastructure submissions (EPA’s 2013 Guidance).1 Unless otherwise noted below, we are following that existing approach in acting on this submission. In addition, in the context of acting on such infrastructure submissions, EPA evaluates the submitting state’s SIP for facial compliance with statutory and regulatory requirements, not for the state’s implementation of its SIP.2 EPA has no authority to address any issues concerning a state’s implementation of the rules, regulations, consent orders, etc. that comprise its SIP.

1 EPA explains and elaborates on these ambiguities and its approach to address them in our September 13, 2013 Infrastructure SIP Guidance (available at https://www3.epa.gov/airquality/urbanair/sipstatus/docs/Guidance_on_Infrastructure_SIP_Elements_Multipollutant_FINAL_Sep_2013.pdf), as well as in numerous agency actions, including EPA’s prior action on Minnesota’s infrastructure SIP to address the 2008 ozone, 2010 nitrogen dioxide (NO₂), 2010 sulfur dioxide (SO₂), and 2012 fine particulate matter (PM₂.₅) NAAQS (80 FR 63436 (October 20, 2015)).

II. What is EPA’s analysis of this SIP submission?

Pursuant to section 110(a), states must provide reasonable notice and opportunity for public hearing for all infrastructure SIP submissions. On September 28, 2018, EGLE opened a five-week comment period and provided the opportunity for public hearing. Comments were integrated into the SIP submission.

Michigan provided a detailed synopsis of how various components of its SIP meet each of the applicable requirements in section 110(a)(2) for the 2015 ozone NAAQS, as applicable. The following review evaluates the state’s submission.

A. Section 110(a)(2)(A)—Emission Limits and Other Control Measures

This section requires SIPs to include enforceable emission limitations and other control measures, means, or techniques, as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements. This submission is required to demonstrate that the state of Michigan can comply with the implementation of the NAAQS 2015 Ozone standard.

Under Part 55 of the Natural Resources Protection Act, (PA 451) promulgated in 1994, Michigan Compiled Laws (MCL) Sections 324.5503 and 324.5512 authorize the EGLE director to regulate the discharge of air pollutants, to create rules and to establish standards regarding air quality and emissions.

EPA’s 2013 Guidance states that to satisfy section 110(a)(2)(A) requirements, “an air agency’s submission should identify existing EPA-approved SIP provisions or new SIP provisions that the air agency has adopted and submitted for EPA approval that limit emissions of pollutants relevant to the subject NAAQS, including precursors of the relevant NAAQS pollutant where applicable.”

We believe that EGLE has the necessary components contained in its MCL and MAC to comply with the 2015 NAAQS Ozone standard. Emission limits for ozone precursors are contained in Michigan Administrative Code (MAC) Rules 336.2908 through 336.2908. Specifically, MAC Rules 336.1601 through 336.1601 apply to existing sources of volatile organic compounds (VOC), Rules 336.1701 through 336.1710 apply to new sources of VOCs, and Rules 336.1801 through 336.1834 apply to oxides of nitrogen (NOx) from stationary sources. Methods of control and compliance are contained within these rules.

In this rulemaking, EPA is not proposing to approve any new provisions in MCL Chapter 336 or MCL Chapter 324. EPA is also not proposing to approve or disapprove any existing state provisions or rules related to start-up, shutdown or malfunction or director’s discretion in the context of section 110(a)(2)(A). EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2015 ozone NAAQS.

B. Section 110(a)(2)(B)—Ambient Air Quality Monitoring/Data System

This section requires SIPs to provide for installation and operation of devices used to monitor, compile, and analyze ambient air quality data, and upon request, make such data available to EPA. These requirements include monitoring air quality for the relevant NAAQS pollutants at the proper locations in accordance with network requirements (40 CFR parts 53 and 58), submitting said data to the Air Quality System (AQS) in a timely manner (40 CFR part 58), providing the data with description of any discrepancies to the appropriate EPA Regional Office (40 CFR 58.10) and obtaining EPA approval for any changes to monitoring sites or network plan.

EGLE’s annual reporting requirements are contained in Rules 336.201 through 336.205 of MAC. EGLE enters air monitoring data into AQS, and the state provides EPA with prior notification when changes to its monitoring network or plan are being considered. An annual network review is submitted to EPA to ensure EGLE’s air monitoring operations comply with applicable Federal requirements, including the updated ozone NAAQS standard. The last submission to EPA was approved on October 28, 2020. EPA approved air quality monitors and monitor locations capable of detecting ozone and ozone precursors at the revised NAAQS level. EPA proposes that EGLE has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2015 ozone NAAQS.

C. Section 110(a)(2)(C)—Program for Enforcement of Control Measures; Minor NSR; PSD

This section requires SIPs to set forth a program providing for enforcement of all SIP measures, and the regulation of construction of new and modified stationary sources to meet New Source Review (NSR) requirements under Prevention of Significant Deterioration (PSD) and Nonattainment NSR (NNSR) programs. Part C of the CAA (sections 160–169B) addresses PSD, while part D of the CAA (sections 171–193) addresses NNSR requirements. EPA’s 2013 Guidance states that the NNSR requirements of section 110(a)(2)(C) are generally outside the scope of infrastructure SIPs; however, a state must provide for regulation of minor sources and minor modifications (minor NSR).

1. Program for Enforcement of Control Measures

A state’s infrastructure SIP submission should identify the statutes, regulations, or other provisions in the SIP that provide for enforcement of emission limits and control measures. EGLE maintains this authority through MCL 324.5501–324.5542. The authority for rulemaking to establish emission limits and promulgate rules for permit programs is contained in MCL 324.5505 and MCL 324.5506. MCL 324.5526 and 324.5528 gives EGLE authority to reasonably inspect facilities and to enforce violations of the established rules, respectively. Civil action may be taken against any entity that violates these provisions under PA 451.

Additional enforcement provisions including voluntary agreement of investigation, notice to discontinue pollution, power of investigation and inspection, and other violation rules are contained in MCL 324.5515, 324.5518 and 324.5526–324.5532 respectively. EPA proposes that EGLE meets the requirements of 110(a)(2)(C) with respect to enforceability of control measures contained in its MCL regarding the 2015 ozone NAAQS.

2. Minor NSR

To satisfy the sub element for preconstruction regulation of the modification and construction of minor stationary sources and the minor modification of major stationary sources, an infrastructure SIP submission should identify the existing EPA approved SIP provisions and/or include new provisions that govern the minor source pre-construction program that regulates emissions of the relevant NAAQS pollutant(s). The EPA rules addressing SIP requirements for pre-construction regulatory programs that apply to minor sources and minor modifications are at 40 CFR 51.160 through 51.164.

The State of Michigan’s minor source permit to install rules are contained in Part 2 (Air Use Approval) of the Michigan Administrative Code. Changes to the Part 2 rules were submitted on November 12, 1998, May 16, 1998; April 3, 1998; September 2, 2003; March 24, 2009; and February 28, 2017. EPA
approved changes to the Part 2 rules most recently in a final approval dated July 1, 2019 (84 FR 25180), and therefore proposes that Michigan has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

3. PSD

To satisfy the sub element regarding the PSD program required by CAA title I part C, an infrastructure SIP submission should demonstrate that one or more air agencies have the authority to implement a comprehensive PSD permit program under CAA title I part C, for all PSD-subject sources located in areas that are designated attainment or unclassifiable for one or more NAAQS. The infrastructure SIP submission should also identify the existing SIP provisions that govern the major source PSD program.

The evaluation of each state’s submission addressing the infrastructure SIP requirements of section 110(a)(2)(C) covers: (i) Enforcement of SIP measures; (ii) PSD provisions that explicitly identify NOX as a precursor to ozone in the PSD program; (iii) identification of precursors to PM2.5 and identification of PM2.5 and PM10 condensables in the PSD program; (iv) PM2.5 increments in the PSD program; and, (v) greenhouse gas (GHG) permitting and the “Tailoring Rule.”

Sources in Michigan that install equipment that will emit ozone precursors are subject to permit-to-install regulations under MAC Rules 336.1201 through 336.1209 and include consideration of VOCs and NOX, PSD program regulations (MAC Rules 336.2801 through R 336.2823) require any new major or modified source to undergo PSD review.6

---

5. PSD Provisions That Explicitly Identify NOX as a Precursor to Ozone in the PSD Program

EPA’s “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” (Phase 2 Rule) was published on November 29, 2005. Among other requirements, the Phase 2 Rule obligated states to revise their PSD programs to explicitly identify NOX as a precursor to ozone (70 FR 71612 at 71679, 71699–71700). This requirement was codified in 40 CFR 51.166.7. EPA approved revisions to Michigan’s PSD SIP reflecting these requirements on April 4, 2014 (see 79 FR 18802), and therefore proposes that Michigan has met the set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

b. Identification of Precursors to PM2.5 and the Identification of PM2.5 and PM10 Condensables in the PSD Program

On May 16, 2008 (see 73 FR 28321), EPA issued the Final Rule on the “Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers (PM2.5)” (2008 NSR Rule). The 2008 NSR Rule finalized several new requirements for SIPs to address sources that emit direct PM2.5 and other pollutants that contribute to secondary PM2.5 formation. One of these requirements is for NSR permits to address pollutants responsible for the secondary formation of PM2.5, otherwise known as precursors. In the 2008 rule, EPA identified precursors to PM2.5 for the PSD program to be SO2 and NOX (unless the state demonstrates to the Administrator’s satisfaction or EPA demonstrates that NOX emissions in an area are not a significant contributor to that area’s ambient PM2.5 concentrations). The 2008 NSR Rule also specifies that VOCs are not considered to be precursors to PM2.5 in the PSD program unless the state demonstrates to the Administrator’s satisfaction or EPA demonstrates that emissions of VOCs in an area are significant contributors to that area’s ambient PM2.5 concentrations.

6. The Clean Air Act defines “significant” as it relates to a net emissions increase or the potential of a source to emit pollutants. Specifically, 40 CFR 51.166(b)(23)(i) and 40 CFR 52.21(b)(23)(i) define “significant” for PM2.5 to mean the following emissions rates: 10 tons per year (tpy) of direct PM2.5, 40 tpy of SO2, and 40 tpy of NOX (unless the state demonstrates to the Administrator’s satisfaction or EPA demonstrates that NOX emissions in an area are not a significant contributor to that area’s ambient PM2.5 concentrations). The deadline for states to submit SIP revisions to their PSD programs incorporating these changes was May 16, 2011 (see 73 FR 28321 at 28341).7

The 2008 NSR Rule did not require states to immediately account for gases that could condense to form particulate matter, known as condensables, in PM2.5 and PM10 emission limits in NSR permits. Instead, EPA determined that such states should account for PM2.5 and PM10 condensables for applicability determinations and in establishing emissions limitations for PM2.5 and PM10 in PSD permits beginning on or after January 1, 2011. This requirement is codified in 40 CFR 51.166(b)(49)(i)(a)


6 Effective February 16, 2017, EPA updated the modeling appendix at 40 CFR part 51, appendix W to references PM2.5 and VOCs as they pertain to secondary PM2.5 formation are codified at 40 CFR 51.166(b)(49)(i)(b) and 40 CFR 52.21(b)(50)(i)(b). As part of identifying pollutants that are precursors to PM2.5, the 2008 NSR Rule also required states to revise the definition of “significant” as it relates to a net emissions increase or the potential of a source to emit pollutants. Specifically, 40 CFR 51.166(b)(23)(i) and 40 CFR 52.21(b)(23)(i) define “significant” for PM2.5 to mean the following emissions rates: 10 tpy of PM2.5, 40 tpy of SO2, and 40 tpy of NOX (unless the state demonstrates to the Administrator’s satisfaction or EPA demonstrates that NOX emissions in an area are not a significant contributor to that area’s ambient PM2.5 concentrations). The deadline for states to submit SIP revisions to their PSD programs incorporating these changes was May 16, 2011 (see 73 FR 28321 at 28341).7

---

6. EPA notes that on January 4, 2013, the U.S. Court of Appeals for the D.C. Circuit, in Natural Resources Defense Council v. EPA, 706 F.3d 428 (D.C. Cir.), held that EPA should have issued the 2008 NSR Rule in accordance with the CAA's requirements for PM2.5 nonattainment areas (Title 1, part D, subpart 4), and not the general requirements for nonattainment areas under subpart 1 (Natural Resources Defense Council v. EPA, 68 F.3d 1250). As the subpart 4 provisions apply only to nonattainment areas, EPA does not consider the portions of the 2008 rule that address requirements for PM2.5 attainment and unclassifiable areas to be affected by the court’s opinion. Moreover, EPA does not anticipate the need to revise any PSD requirements promulgated by the 2008 NSR rule in order to comply with the court’s decision. Accordingly, EPA’s approval of Michigan’s infrastructure SIP as to elements (C), (D), (II), or (J) with respect to the PSD requirements promulgated by the 2008 implementation rule does not conflict with the court’s opinion. The court’s decision with respect to the nonattainment NSR requirements promulgated by the 2008 implementation rule also does not affect EPA’s action on the present infrastructure action. EPA interprets the CAA to exclude nonattainment area requirements, including requirements associated with a nonattainment SIP program, from infrastructure SIP submissions due three years after adoption or revision of a NAAQS. Instead, these elements are typically referred to as nonattainment SIP or attainment plan elements, which would be due by the dates statutorily prescribed under subpart 2 through 5 under part D, extending as far as 10 years following designations for some elements.
and 40 CFR 52.21(b)(50)(i)(a). Revisions to states’ PSD programs incorporating the inclusion of condensables were required to be submitted to EPA by May 16, 2011 (see 73 FR 28321 at 28341). EPA approved revisions to Michigan’s PSD SIP reflecting these requirements on April 4, 2014 (see 79 FR 18802), and therefore proposes that Michigan has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

c. **PM**\textsubscript{2.5} Increments in the PSD Program

On October 20, 2010, EPA issued the final rule on the “Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM\textsubscript{2.5}), Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)” (2010 NSR Rule). This rule established several components for making PSD permitting determinations for PM\textsubscript{2.5}, including a system of “increments” which is the mechanism used to estimate significant deterioration of ambient air quality for a pollutant. These increments are codified in 40 CFR 51.166(c) and 40 CFR 52.21(c), and are included in Table 1 below.

The 2010 NSR Rule also established a new “major source baseline date” for PM\textsubscript{2.5} as October 20, 2010, and a new trigger date for PM\textsubscript{2.5} as October 20, 2011. These revisions are codified in 40 CFR 51.166(b)(14)(i)(c) and (b)(14)(ii)(c), and 40 CFR 52.21(b)(14)(i)(c) and (b)(14)(ii)(c). Lastly, the 2010 NSR Rule revised the definition of ‘‘baseline area’’ to include a level of significance of 0.3 micrograms per cubic meter, annual average, for PM\textsubscript{2.5}. This change is codified in 40 CFR 51.166(b)(15)(i) and 40 CFR 52.21(b)(15)(i). On April 4, 2014 (79 FR 18802), EPA finalized approval of the applicable infrastructure SIP PSD revisions; therefore, we are proposing that Michigan has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

### Table 1—PM\textsubscript{2.5} Increments Established by the 2010 NSR Rule in Micrograms per Cubic Meter

<table>
<thead>
<tr>
<th>Class</th>
<th>Annual arithmetic mean</th>
<th>24-hour max</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Class II</td>
<td>4</td>
<td>9</td>
</tr>
<tr>
<td>Class III</td>
<td>8</td>
<td>18</td>
</tr>
</tbody>
</table>

The 2010 NSR Rule also established a new “major source baseline date” for PM\textsubscript{2.5} as October 20, 2010, and a new trigger date for PM\textsubscript{2.5} as October 20, 2011. These revisions are codified in 40 CFR 51.166(b)(14)(i)(c) and (b)(14)(ii)(c), and 40 CFR 52.21(b)(14)(i)(c) and (b)(14)(ii)(c). Lastly, the 2010 NSR Rule revised the definition of ‘‘baseline area’’ to include a level of significance of 0.3 micrograms per cubic meter, annual average, for PM\textsubscript{2.5}. This change is codified in 40 CFR 51.166(b)(15)(i) and 40 CFR 52.21(b)(15)(i). On April 4, 2014 (79 FR 18802), EPA finalized approval of the applicable infrastructure SIP PSD revisions; therefore, we are proposing that Michigan has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

Table 1—PM\textsubscript{2.5} Increments Established by the 2010 NSR Rule in Micrograms per Cubic Meter

<table>
<thead>
<tr>
<th>Class</th>
<th>Annual arithmetic mean</th>
<th>24-hour max</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Class II</td>
<td>4</td>
<td>9</td>
</tr>
<tr>
<td>Class III</td>
<td>8</td>
<td>18</td>
</tr>
</tbody>
</table>

The 2010 NSR Rule also established a new “major source baseline date” for PM\textsubscript{2.5} as October 20, 2010, and a new trigger date for PM\textsubscript{2.5} as October 20, 2011. These revisions are codified in 40 CFR 51.166(b)(14)(i)(c) and (b)(14)(ii)(c), and 40 CFR 52.21(b)(14)(i)(c) and (b)(14)(ii)(c). Lastly, the 2010 NSR Rule revised the definition of ‘‘baseline area’’ to include a level of significance of 0.3 micrograms per cubic meter, annual average, for PM\textsubscript{2.5}. This change is codified in 40 CFR 51.166(b)(15)(i) and 40 CFR 52.21(b)(15)(i). On April 4, 2014 (79 FR 18802), EPA finalized approval of the applicable infrastructure SIP PSD revisions; therefore, we are proposing that Michigan has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

The 2010 NSR Rule also established a new “major source baseline date” for PM\textsubscript{2.5} as October 20, 2010, and a new trigger date for PM\textsubscript{2.5} as October 20, 2011. These revisions are codified in 40 CFR 51.166(b)(14)(i)(c) and (b)(14)(ii)(c), and 40 CFR 52.21(b)(14)(i)(c) and (b)(14)(ii)(c). Lastly, the 2010 NSR Rule revised the definition of ‘‘baseline area’’ to include a level of significance of 0.3 micrograms per cubic meter, annual average, for PM\textsubscript{2.5}. This change is codified in 40 CFR 51.166(b)(15)(i) and 40 CFR 52.21(b)(15)(i). On April 4, 2014 (79 FR 18802), EPA finalized approval of the applicable infrastructure SIP PSD revisions; therefore, we are proposing that Michigan has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

Table 1—PM\textsubscript{2.5} Increments Established by the 2010 NSR Rule in Micrograms per Cubic Meter

<table>
<thead>
<tr>
<th>Class</th>
<th>Annual arithmetic mean</th>
<th>24-hour max</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Class II</td>
<td>4</td>
<td>9</td>
</tr>
<tr>
<td>Class III</td>
<td>8</td>
<td>18</td>
</tr>
</tbody>
</table>

The 2010 NSR Rule also established a new “major source baseline date” for PM\textsubscript{2.5} as October 20, 2010, and a new trigger date for PM\textsubscript{2.5} as October 20, 2011. These revisions are codified in 40 CFR 51.166(b)(14)(i)(c) and (b)(14)(ii)(c), and 40 CFR 52.21(b)(14)(i)(c) and (b)(14)(ii)(c). Lastly, the 2010 NSR Rule revised the definition of ‘‘baseline area’’ to include a level of significance of 0.3 micrograms per cubic meter, annual average, for PM\textsubscript{2.5}. This change is codified in 40 CFR 51.166(b)(15)(i) and 40 CFR 52.21(b)(15)(i). On April 4, 2014 (79 FR 18802), EPA finalized approval of the applicable infrastructure SIP PSD revisions; therefore, we are proposing that Michigan has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.
D. Section 110(a)(2)(D)—Interstate Transport

Section 110(a)(2)(D) has two components: 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). Section 110(a)(2)(D)(i) includes four distinct components, commonly referred to as “prongs,” that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(II), prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (prong 1) and from interfering with maintenance of the NAAQS in another state (prong 2). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(III), prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (prong 3) or from interfering with measures to protect visibility in another state (prong 4).

Section 110(a)(2)(D)(i)(II) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of the NAAQS in another state.

Section 110(a)(2)(D)(i)(II) requires that SIPs include provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality or to protect visibility in another state.

1. Significant Contribution to Nonattainment

In this rulemaking, EPA is not evaluating section 110(a)(2)(D)(i)(II) requirements relating to significant contribution to nonattainment for the 2015 ozone NAAQS. Instead, EPA will evaluate these requirements in a separate rulemaking.

2. Interference With Maintenance

In this rulemaking, EPA is not evaluating section 110(a)(2)(D)(i)(II) requirements relating to significant contribution to nonattainment for the 2015 ozone NAAQS. Instead, EPA will evaluate these requirements in a separate rulemaking.

3. Interference With PSD

EPA notes that Michigan’s satisfaction of the applicable infrastructure SIP PSD requirements for the 2015 ozone NAAQS have been detailed in the section addressing section 110(a)(2)(C). EPA further notes that the proposed actions that are necessary as a result of this element.

5. Interstate and International Pollution Abatement

Section 110(a)(2)(D)(ii) requires each SIP to contain adequate provisions for the 2015 ozone NAAQS. Instead, EPA will evaluate these requirements in a separate rulemaking.

E. Section 110(a)(2)(E)—Adequate Authority and Resources; State Board Requirements

This section requires each state to provide for adequate personnel, funding, and legal authority under state law to carry out its SIP and related issues. Section 110(a)(2)(E)(ii) also requires each state to comply with the requirements respecting state boards under section 128.

1. Adequate Resources

To satisfy the adequate resources requirements of section 110(a)(2)(E), the state should provide assurances that its air agency has adequate resources, personnel, and legal authority to implement the relevant NAAQS. EGLE’s SIP program is funded through 105 and 103 grants and matching funds from the state’s General Fund. As discussed in earlier sections,
EGL has the legal authority to carry out the Michigan SIP under Act 451 and the Executive Reorganization Order 2011–1. Michigan’s PSD regulations provide adequate resources to permit GHG sources. EPA proposes that Michigan has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E) with respect to the 2015 ozone NAAQS.

2. State Board Requirements

In this rulemaking, EPA is not proposing to approve or disapprove Michigan’s satisfaction of the state board requirements of section 110(a)(2)(E) for the 2015 ozone NAAQS. Instead, EPA will evaluate Michigan’s compliance with these requirements in a separate rulemaking.

F. Section 110(a)(2)(F)—Stationary Source Monitoring System

Section 110(a)(2)(F) contains several requirements, each of which are described below.

States must establish a system to monitor emissions from stationary sources and submit periodic emissions reports. Each plan shall also require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources. The state plan shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and correlation of such reports by each state agency with any emission limitations or standards established pursuant to this chapter. Lastly, the reports shall be available at reasonable times for public inspection.

EGL continues to update and implement needed revisions to Michigan’s SIP as necessary to meet ambient air quality standards. Authority for EGL to adopt emissions standards and compliance schedules is found at MCL 324.5512 and MCL 324.5503 of Act 451. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(G) related to authority to implement measures to restrain sources from causing or contributing to emissions which present an imminent and substantial endangerment to public health or welfare, or the environment with respect to the 2015 ozone NAAQS.

H. Section 110(a)(2)(H)—Future SIP Revisions

This section requires states to have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or to an EPA finding that the SIP is substantially inadequate.

EGL has the authority to require immediate discontinuation of air contamination discharges that constitute an imminent and substantial endangerment to public health, safety, welfare, or the environment under MCL 324.5518 of Act 451. MCL 324.5530 provides for civil action by the Michigan Attorney General for a violation as just described. EPA proposes that Michigan has met the applicable infrastructure SIP requirements of section 110(a)(2)(G) related to authority to implement measures to restrain sources from causing or contributing to emissions which present an imminent and substantial endangerment to public health or welfare, or the environment with respect to the 2015 ozone NAAQS.

I. Section 110(a)(2)(I)—Nonattainment Planning Requirements of Part D

The CAA requires that each plan or plan revision for an area designated as a nonattainment area meet the applicable requirements of part D of the CAA. Part D relates to nonattainment areas.

EPA has determined that section 110(a)(2)(I) is not applicable to the infrastructure SIP process. Instead, EPA takes action on Part D attainment plans through separate processes.

J. Section 110(a)(2)(J)—Consultation With Government Officials; Public Notification; PSD; Visibility Protection

The evaluation of the submissions from Michigan with respect to the requirements of section 110(a)(2)(J) is described below.
emissions of any NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, we find that there is no new visibility obligation “triggered” under section 110(a)(2)(J) when a new NAAQS becomes effective. In other words, the visibility protection requirements of section 110(a)(2)(J) are not germane to infrastructure SIPs for the 2015 ozone NAAQS.

K. Section 110(a)(2)(K)—Air Quality Modeling/Data

SIPs must provide for performing air quality modeling for predicting effects on air quality of emissions of any NAAQS pollutant and submission of such data to EPA upon request.

EGLE continues to review the potential impact of major, and some minor, new and modified sources using computer models. Effective February 16, 2017, EPA updated the modeling appendix at 40 CFR part 51, appendix W (82 FR 5182). This action included enhancements to the formulation and application of the EPA’s preferred near-field dispersion modeling system, AERMOD (American Meteorological Society (AMS)/EPA Regulatory Model), and the incorporation of a tiered demonstration approach to address the secondary chemical formation of ozone and PM2.5 associated with precursor emissions from single sources. EPA proposed approval of Michigan’s Part 9 Rule Update on March 24, 2021 (86 FR 15837) incorporating the CFR update. The finalization of the rule update will dictate finalization of this element. Modeling data are available to EPA or other interested parties upon request. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2015 ozone NAAQS.

L. Section 110(a)(2)(L)—Permitting Fees

EGLE implements and operates the title V permit program, which EPA approved on December 4, 2001 (66 FR 62969) EPA approved revisions to the program on February 28, 2006 (71 FR 9934). EGLE’s authority to levy and collect an annual air quality fee from fee-subject facilities is found in section 324.5522 of Act 451. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(L) with respect to the 2015 ozone NAAQS.

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 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 

In the above table, the key is as follows:

A.....Approve.
D.....Disapprove.
NA....No Action/Separate Rulemaking.
*.....Not germane to infrastructure SIPs.
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).

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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 28, 2021.

Cheryl Newton,
Acting Regional Administrator, Region 5.

[FR Doc. 2021–14152 Filed 7–1–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81


Air Quality Designations; NC: Redesignation of the Brunswick County 2010 Sulfur Dioxide Unclassifiable Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a submission by the State of North Carolina, through the Department of Air Quality (DAQ), on April 23, 2021, to redesignate the Brunswick County, North Carolina, unclassifiable area (hereinafter referred to as the “Brunswick County Area” or “Area”) to attainment/unclassifiable for the 2010 1-hour primary sulfur dioxide (SO2) national ambient air quality standard (hereinafter referred to as the “2010 SO2 1-hour NAAQS”). Because EPA now has sufficient information to determine that the Brunswick County Area is attaining the 2010 1-hour SO2 national ambient air quality standards (NAAQS), the Agency is proposing to approve the State’s redesignation request, thereby redesignating the Area from unclassifiable to attainment/unclassifiable for the 2010 1-hour SO2 NAAQS.

DATES: Comments must be received on or before August 2, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2021–0322 at http://www.regulations.gov. Follow the online instructions for submitting comments. On 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: Evan Adams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Adams can be reached by telephone at (404) 562–9009 or via electronic mail at adams.evan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act (CAA or Act) establishes a process for air quality management through the establishment and implementation of the NAAQS. On June 2, 2010, EPA revised the primary SO2 NAAQS, establishing a new 1-hour SO2 standard of 75 parts per billion (ppb). See 75 FR 35520 (June 22, 2010). After the promulgation of a new or revised NAAQS, EPA is required to designate all areas of the country pursuant to section 107(d)(1)–(2) of the CAA. For the 2010 1-hour SO2 NAAQS, designations were based on EPA’s application of the nationwide analytical approach to, and technical assessment of, the weight of evidence for each area, including but not limited to available air quality monitoring data and air quality modeling results. In advance of designating the Brunswick County Area, EPA issued updated designations guidance through a March 20, 2015, memorandum from Stephen D. Page, Director, U.S. EPA, Office of Air Quality Planning and Standards, to Regional Air Division Directors, U.S. EPA Regions 1–10, titled “Updated Guidance for Area Designations for the 2010 Primary Sulfur Dioxide National Ambient Air Quality Standard.” This document contains the factors that EPA evaluated in determining the appropriate designations and associated boundaries when designating the Brunswick County Area, including: (1) Air quality characterization via ambient monitoring or dispersion modeling results; (2) emissions-related data; (3) meteorology; (4) geography and topography; and (5)

On February 25, 2019 (effective April 17, 2019), EPA issued a decision to retain the existing NAAQS for SO2. See 84 FR 9866 (March 18, 2019).