SUPPLEMENTARY INFORMATION: In response to this request by the SDDC, and pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3), the Corps is proposing to amend its regulations at 33 CFR 334.1110(a) by revising the restricted area boundaries and making additional editorial changes to clarify the description of the new boundaries. The existing restricted area boundary at the western terminus would be shifted approximately 700 yards west along the shoreline so that it encompasses the mouth of Hastings Slough and eliminates a potential route of unauthorized encroachment into the MOTCO installment. Along the central and eastern parts of the restricted area, the existing restricted area boundary would be shifted bayward to the existing ship channel, in order to provide an adequate security buffer around MOTCO's piers. The revised eastern boundary of the restricted area would follow the southern edge of the ship channel, and would therefore not impact vessel traffic in the ship channel. The eastern shoreline terminus of the restricted area would remain at its current location.

Procedural Requirements

a. *Regulatory Planning and Review.* This proposed rule is not a ''significant regulatory action'' under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011) and it was not submitted to the Office of Management and Budget for review.

b. *Review Under the Regulatory Flexibility Act.* This proposed rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354). The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (*i.e.,* small businesses and small governments). The proposed change to the restricted area boundaries is necessary to eliminate a potential route of unauthorized encroachment into the MOTCO installation. Small entities can utilize navigable waters outside of the restricted area. Unless information is obtained to the contrary during the public notice comment period, the Corps expects that the modification of the boundaries of this restricted area would have practically no economic impact on the public, no anticipated navigational hazard, or interference with existing waterway traffic. Unless information is obtained to the contrary during the comment period, the Corps certifies that the proposed rule would have no significant economic impact on the public.

c. *Review Under the National Environmental Policy Act.* The Corps expects that the proposed rule will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment will be prepared after the public notice period is closed and all comments have been received and considered. If no adverse comments are received, the environmental assessment will be prepared for the decision-making for the final rule. After the environmental assessment is prepared, it may be reviewed by contacting the Corps' San Francisco District office at 415–503–6795 or by email at *CESPN-RG-Info@usace.army.mil.*

d. *Unfunded Mandates Act.* The proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Reform Act (Pub. L. 104–4, 109 Stat. 48, 2 U.S.C. 1501 *et seq.*). The Corps has also found, under Section 203 of the Act, that small governments will not be significantly or uniquely affected by this rulemaking.

e. *Congressional Review Act.* The Congressional Review Act, 5 U.S.C. 801 *et seq.,* 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 Corps will submit a report containing the final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This proposed rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps is proposing to amend 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for 33 CFR part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. Amend § 334.1110 by revising paragraph (a) to read as follows:

§ 334.1110 Military Ocean Terminal Concord; restricted area.

(a) *The area.* Beginning at point A on the shore west of the mouth of a small slough (known as Hastings Slough) and passing east of buoy R ''6'' bearing 60°30′ for 2,860 yards, through Point B on the eastern end of the two Seal Islands, to point C on the southern edge of the Roe Island Channel near buoy R ''16A''; thence in a generally easterly direction running along the southern edge of the Roe Island Channel, Port Chicago Reach and Middle Ground West Reach (points D and E) to point F directly north of the eastern shore boundary (point G); thence 180° to point G on the shore line; thence following the high water shore line in a general westerly direction to the point of beginning.

	Latitude	Longitude
Point A (shoreline) ..	38.0513	−122.0576
Point B	38.0579	−122.043
Point C	38.063	−122.0307
Point D	38.0612	−122.0204
Point E	38.0594	−122.001
Point F	38.0594	−121.9882
Point G (shoreline)	38.0521	−121.9882

The datum for these coordinates is North Atlantic Datum (NAD) 83.

* * * * *

Thomas P. Smith,

Chief, Operations and Regulatory Division.

[FR Doc. 2023–00380 Filed 1–10–23; 8:45 am]

BILLING CODE 3720–58–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2022–0158; FRL–10541–01–R4]

Air Plan Approval; Tennessee; Eastman Chemical Company Nitrogen Oxides SIP Call Alternative Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to conditionally approve a source-specific

State Implementation Plan (SIP) revision submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), through a letter dated August 11, 2021, which establishes alternative monitoring and reporting requirements under the Nitrogen Oxides (NO_X) SIP Call.

DATES: Comments must be received on or before February 10, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2022–0158 at *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 *www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Steven Scofield, 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. The telephone number is (404) 562–9034. Mr. Scofield can also be reached via electronic mail at *scofield.steve@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Under Clean Air Act (CAA or Act) section 110(a)(2)(D)(i)(I), also called the good neighbor provision, states are required to address the interstate transport of air pollution. Specifically, the good neighbor provision requires that each state's implementation plan contain adequate provisions to prohibit air pollutant emissions from within the state that will significantly contribute to nonattainment of the national ambient air quality standards (NAAQS), or that will interfere with maintenance of the NAAQS, in any other state.

On October 27, 1998 (63 FR 57356), EPA finalized the ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone'' (NO_X SIP Call). The NO_X SIP Call required eastern states, including Tennessee, to submit SIPs limiting emissions of ozone season NO_X by implementing statewide emissions budgets. The NO_X SIP Call addressed the good neighbor provision for the 1979 ozone NAAQS and was designed to mitigate the impact of transported NO_X emissions, one of the precursors of ozone.[1] EPA developed the NO_X Budget Trading Program, an allowance trading program that states could adopt to meet their obligations under the NO_X SIP Call. This trading program allowed the following sources to participate in a regional cap and trade program: generally, electricity generating units (EGUs) with capacity greater than 25 megawatts (MW); and large industrial non-EGUs, such as boilers and combustion turbines, with a rated heat input greater than 250 million British thermal units per hour (MMBtu/hr). The NO_X SIP Call also identified potential reductions from cement kilns and stationary internal combustion engines.

To comply with the NO_X SIP Call requirements, in 2000 and 2001, TDEC submitted a revision to add new rule sections to the SIP-approved version of Chapter 1200–3–27, *Nitrogen Oxides,* of the Tennessee Rules. EPA approved the revision as compliant with Phase I of the NO_X SIP Call in 2004. *See* 69 FR 3015 (January 22, 2004). The approved revision required EGUs and large non-EGUs in the State to participate in the NO_X Budget Trading Program beginning in 2004. In 2005, Tennessee submitted, and EPA approved, a SIP revision to address additional emissions reductions required for the NO_X SIP Call under Phase II. *See* 70 FR 76408 (December 27, 2005).

In 2005, EPA published the Clean Air Interstate Rule (CAIR), which required several eastern states, including Tennessee, to submit SIPs that prohibited emissions consistent with revised ozone season NO_X budgets (as well as annual budgets for NO_X and sulfur dioxide). *See* 70 FR 25162 (May 12, 2005); *see also* 71 FR 25328 (April 28, 2006). CAIR addressed the good neighbor provision for the 1997 ozone NAAQS and 1997 fine particulate matter ($PM_{2.5}$) NAAQS and was designed to mitigate the impact of transported NO_X emissions with respect to ozone and $PM_{2.5}$. CAIR established several trading programs that EPA implemented through federal implementation plans (FIPs) for EGUs greater than 25 MW in each affected state, but not large non-EGUs; states could submit SIPs to replace the FIPs that achieved the required emission reductions from EGUs and/or other types of sources.[2] When the CAIR trading program for ozone season NO_X was implemented beginning in 2009, EPA discontinued administration of the NO_X Budget Trading Program; however, the requirements of the NO_X SIP Call continued to apply.

On November 25, 2009 (74 FR 61535), EPA approved revisions to Tennessee's SIP that incorporated requirements for CAIR. Consistent with CAIR's requirements, EPA approved a SIP revision in which Tennessee regulations: (1) terminated its NO_X Budget Trading Program requirements, and (2) incorporated CAIR annual and ozone season NO_X state trading programs. *See* 74 FR 61535. Participation of EGUs in the CAIR ozone season NO_X trading program addressed the State's obligation under the NO_X SIP Call for those units, and Tennessee also chose to require non-EGUs subject to the NO_X SIP Call to participate in the same CAIR trading program. In this manner, Tennessee's CAIR rules incorporated into the SIP addressed the State's obligations under the NO_X SIP Call with respect to both EGUs and non-EGUs.

The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR in 2008, but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR. *See North Carolina* v. *EPA,* 531 F.3d 896, *modified on rehearing,* 550 F.3d 1176 (D.C. Cir. 2008). The ruling allowed CAIR to remain in effect temporarily until a replacement rule consistent with the court's opinion was developed. While EPA worked on developing a replacement rule, the CAIR program continued to be implemented with the NO_X annual and ozone season trading programs beginning in 2009 and the SO_2 annual trading program beginning in 2010.

Following the D.C. Circuit's remand of CAIR, EPA promulgated the Cross-

[1] As originally promulgated, the NO_X SIP Call also addressed good neighbor obligations under the 1997 8-hour ozone NAAQS, but EPA subsequently stayed and later rescinded the rule's provisions with respect to that standard. *See* 65 FR 56245 (September 18, 2000); 84 FR 8422 (March 8, 2019).

[2] CAIR had separate trading programs for annual sulfur dioxide (SO_2) emissions, seasonal NO_X emissions, and annual NO_X emissions.

State Air Pollution Rule (CSAPR) to replace CAIR and address good neighbor obligations for the 1997 ozone NAAQS, the 1997 $PM_{2.5}$ NAAQS, and the 2006 $PM_{2.5}$ NAAQS. *See* 76 FR 48208 (August 8, 2011). Through FIPs, CSAPR required EGUs in eastern states, including Tennessee, to meet annual and ozone season NO_X emission budgets and annual SO_2 emission budgets implemented through new trading programs. Implementation of CSAPR began on January 1, 2015.[3] CSAPR also contained provisions that would sunset CAIR-related obligations on a schedule coordinated with the implementation of the CSAPR compliance requirements. Participation by a state's EGUs in the CSAPR trading program for ozone season NO_X generally addressed the state's obligation under the NO_X SIP Call for EGUs. CSAPR did not initially contain provisions allowing states to incorporate large non-EGUs into that trading program to meet the requirements of the NO_X SIP Call for non-EGUs. EPA also stopped administering CAIR trading programs with respect to emissions occurring after December 31, 2014.[4]

Even though the CAIR programs have not been implemented in Tennessee since 2014, ozone season NO_X emissions have remained well below the NO_X SIP Call budget levels. Through a letter to EPA dated February 27, 2017,[5] Tennessee provided a SIP revision to incorporate a new provision—TACPR 1200–03–27–.12, ''NO_X SIP Call Requirements for Stationary Boilers and Combustion Turbines'' (TN 2017 NO_X SIP Call Rule)—into the SIP. The TN 2017 NO_X SIP Call Rule established a state control program for sources that are subject to the NO_X SIP Call, but not covered under CSAPR or the CSAPR Update (background regarding the CSAPR Update is provided later in this document). The TN 2017 NO_X SIP Call Rule contains several subsections that together comprise a non-EGU control program under which Tennessee will allocate a specified budget of allowances to affected sources. Subsequently, on May 11, 2018, and October 11, 2018, Tennessee submitted letters requesting conditional approval[6] of the TN 2017 NO_X SIP Call Rule and committing to provide a SIP revision to EPA by December 31, 2019, to address a deficiency by revising the definition of ''affected unit'' to remove the unqualified exclusion for any unit that serves a generator that produces power for sale. Based on the State's commitment to submit a SIP revision addressing the identified deficiency, EPA conditionally approved the February 27, 2017, submission. In the same action, EPA approved removal of the State's NO_X Budget Trading Program and CAIR rules from Tennessee's SIP. *See* 84 FR 7998 (March 6, 2019).

Tennessee submitted a SIP revision on December 19, 2019, which revised Tennessee Air Pollution Control Regulation (TAPCR) 1200–03–27–.12, ''NO_X SIP Call Requirements for Stationary Boilers and Combustion Turbines'' to correct the definition of ''affected unit'' and to clarify requirements related to stationary boilers and combustion turbines. On March 2, 2021 (86 FR 12092), EPA published a final rule which corrected the definition of ''affected unit'' and clarified requirements related to stationary boilers and combustion turbines. EPA also converted the conditional approval of the TN 2017 NO_X SIP Call Rule to a full approval. See EPA's March 2, 2021 (86 FR 12092), final rule for further detail on these changes and EPA's rationale for approving them.

After litigation that reached the Supreme Court, the D.C. Circuit generally upheld CSAPR but remanded several state budgets to EPA for reconsideration. *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118, 129–30 (D.C. Cir. 2015). EPA addressed the remanded ozone season NO_X budgets in the Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS (CSAPR Update), which also partially addressed eastern states' good neighbor obligations for the 2008 ozone NAAQS. *See* 81 FR 74504 (October 26, 2016). The air quality modeling for the CSAPR Update demonstrated that Tennessee contributes significantly to nonattainment and/or interferes with maintenance of the 2008 ozone NAAQS in other states. The CSAPR Update reestablished an option for most states to meet their ongoing obligations for non-EGUs under the NO_X SIP Call by including the units in the CSAPR Update trading program.

The CSAPR Update trading program replaced the original CSAPR trading program for ozone season NO_X for most covered states. Tennessee's EGUs participate in the CSAPR Update trading program, which generally also addresses the State's obligations under the NO_X SIP Call for EGUs. However, Tennessee elected not to include its large non-EGUs in the CSAPR Update ozone season trading program. Because Tennessee's large non-EGUs do not participate in any CSAPR or CSAPR Update trading program for ozone season NO_X emissions, the NO_X SIP Call regulations at 40 CFR 51.121(r)(2), as well as anti-backsliding provisions at 40 CFR 51.905(f) and 40 CFR 51.1105(e), require these non-EGUs to maintain compliance with NO_X SIP Call requirements in some other way.

Under 40 CFR 51.121(f)(2) of the NO_X SIP Call regulations, where a state's implementation plan contains control measures for EGUs and large non-EGU boilers and combustion turbines, the SIP must contain enforceable limits on the ozone season NO_X mass emissions from these sources. In addition, under 40 CFR 51.121(i)(4) of the NO_X SIP Call regulations as originally promulgated, the SIP also had to require these sources to monitor emissions according to the provisions of 40 CFR part 75, which generally entails the use of continuous emission monitoring systems. Tennessee triggered these requirements by including control measures in its SIP for these types of sources, and the requirements have remained in effect despite the discontinuation of the NO_X Budget Trading Program after the 2008 ozone season.

On March 8, 2019, EPA revised some of the regulations that were originally promulgated in 1998 to implement the NO_X SIP Call.[7] The revision gave states covered by the NO_X SIP Call greater flexibility concerning the form of the NO_X emissions monitoring requirements that the states must include in their SIPs for certain emissions sources. The revision amended 40 CFR 51.121(i)(4) to make part 75 monitoring, recordkeeping, and reporting optional, such that SIPs may establish alternative monitoring requirements for NO_X SIP Call budget units that meet the general requirements of 40 CFR 51.121(f)(1) and 51.121(i)(1). Under the updated provision, a state's implementation plan still needs to include some form of emissions monitoring requirements for these types of sources, consistent with the NO_X SIP Call's general enforceability and monitoring requirements at 40 CFR 51.121(f)(1) and 51.121(i)(1), respectively, but states are no longer required to satisfy these general NO_X SIP Call requirements

[3] *See* 79 FR 71663 (December 3, 2014).

[4] *See* 79 FR 71663 (December 3, 2014) and 81 FR 13275 (March 14, 2016).

[5] EPA notes that it received the submittal on February 28, 2017.

[6] Under CAA section 110(k)(4), EPA may conditionally approve a SIP revision based on a commitment from a state to adopt specific enforceable measures by a date certain, but not later than one year from the date of approval. If the state fails to meet the commitment within one year of the final conditional approval, the conditional approval will be treated as a disapproval.

[7] *See* ''Emissions Monitoring Provisions in State Implementation Plans Required Under the NO_X SIP Call,'' 84 FR 8422 (March 8, 2019).

specifically through the adoption of 40 CFR part 75 monitoring requirements.

Following EPA's March 8, 2019, revision to the NO_X SIP Call requirements, Eastman petitioned TDEC to adopt revised permit conditions applicable to its Kingsport, Tennessee facility with an alternative monitoring option for this large non-EGU, along with corresponding revised recordkeeping and reporting conditions. This petition resulted in the issuance of the permit for Eastman included as part of TDEC's SIP submittal. The changes allow Eastman to address the NO_X SIP Call's requirements for enforceable limits on ozone season NO_X mass emissions through alternative monitoring and reporting methodologies. The August 11, 2021, source-specific SIP revision submitted by TDEC contains the permit provisions that TDEC modified to specifically address the alternative monitoring provisions allowed under the NO_X SIP Call and requests conditional approval of those provisions into the SIP. The contents of the submittal and EPA's analysis is further discussed in Sections II and III.

II. Why is EPA proposing this action?

TDEC's August 11, 2021, letter requests that EPA conditionally approve into Tennessee's SIP Tennessee Air Pollution Control Board operating permit No. 077509 for Eastman, state effective on August 11, 2021, to provide alternative NO_X monitoring and reporting for Natural Gas-Fired Boilers 25–29 (PES B–253–1) at this facility in accordance with 40 CFR 51.121(i). TDEC requests that this approval be conditioned on Tennessee's commitment to modify the provisions at chapter 1200–03–27.12(11) to specify permissible alternative monitoring and reporting methodologies for large industrial non-EGUs subject to the NO_X SIP Call, such as the alternative monitoring and reporting provisions in permit No. 077509. The submission also includes a demonstration under CAA section 110(l) intended to show that the revision would not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA. As discussed later in this document, EPA has reviewed these changes, preliminarily finds them to be consistent with the CAA and regulations governing the NO_X SIP Call, and is proposing to conditionally approve the revisions to incorporate the source-specific SIP revision into the State's implementation plan.

III. Analysis of Tennessee's Submission

On September 17, 2019, Eastman submitted a petition to request approval of alternative monitoring, recordkeeping, and reporting requirements for five boilers subject to the NO_X SIP Call (Boilers 25, 26, 27, 28, and 29) at Eastman's B–253 powerhouse. The petition states that NO_X emission rates from Eastman's B–253 boilers, which were converted from coal to natural gas operation between 2013 and 2018, are approximately 20% of the pre-conversion NO_X emission rates. As a result, Eastman operates with a substantial margin of compliance relative to the facility's NO_X allocation of 3,047 tons.[8] The petition states that Eastman emitted 70% of its allocation during the 2018 ozone season. The petition also notes that if Boiler 26 had been converted to gas for the 2018 control period, Eastman would have emitted approximately 60% of its allocation. The petition indicates that these boilers burn only pipeline quality natural gas and that the units have had similar average NO_X emission rates from 2016–2020. Specifically, the petition requested that Eastman be permitted to demonstrate compliance with Tennessee Rule 1200–03–27–.12 by monitoring NO_X emissions from PES B–253–1, Boilers 25 through 29, using the monitoring methodology for NO_X emission rate set forth in 40 CFR part 75, appendix E.

That petition resulted in TDEC's issuance of operating permit No. 077509 to address NO_X SIP Call requirements and to adopt an alternative monitoring option (along with corresponding recordkeeping and reporting requirements) for this large non-EGU. Condition 1 of operating permit No. 077509 allows Eastman to use the alternative NO_X monitoring provisions in Condition 2 in lieu of the requirements established by TAPCR 1200–03–27–.12(11)(a). Condition 2 provides that Eastman may demonstrate compliance with Tennessee Rule 1200–03–27–.12 by monitoring NO_X emissions from PES B 253–1, Boilers 25 through 29, using the monitoring methodologies set forth in 40 CFR part 75, appendices D and E, except that the units shall not be required to meet the definition of a ''peaking unit'' under 40 CFR 72.2 as otherwise required under 40 CFR part 75, appendix E, section 1.1. Appendix E generally includes requirements for performance testing, periodic re-testing, procedures for determining the hourly NO_X rate, quality assurance standards, recordkeeping requirements, and reporting requirements.[9] These revised permit conditions are consistent with the flexibility provided to states on March 8, 2019 (84 FR 8422) concerning the form of the NO_X emissions monitoring requirements that the states must include in their SIPs for certain emissions sources, such as Eastman, to comply with the NO_X SIP Call.

Section 110(l) of the CAA prohibits revision of a SIP that would interfere with attainment or maintenance of a NAAQS, reasonable further progress toward attainment of a NAAQS, or any other applicable requirement of the CAA. In its submittal, TDEC includes a demonstration in accordance with section 110(l) of the CAA that the proposed revision would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. Tennessee's demonstration concludes that the proposed changes are compliant with section 110(l) of the CAA because: (1) NO_X emissions from Eastman's affected units, including B–253 Boilers 25 through 29, are substantially below the facility's NO_X budget established pursuant to TAPCR 1200–03–27–.12, and the change would not result in an increase in NO_X emissions; (2) the proposed monitoring alternative would not alter the NO_X SIP Call budget that limits emissions from the affected unit; (3) the alternative monitoring requirements would be permanent, enforceable, and sufficient to determine whether the source is in compliance with the NO_X SIP Call emissions requirements; and (4) the work practice requirements of 40 CFR 63, subpart DDDDD (periodic tune-ups) will provide additional assurance that the boilers are operating properly. EPA agrees with Tennessee's rationale summarized above and the conclusion that the proposed revision would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

In order to address the requirements of the NO_X SIP Call for sources that are not covered under a CSAPR trading program for ozone season NO_X emissions, SIP revisions must provide for enforceable emissions limitations

[8] Additional information about how this NO_X budget allocation was developed is available within the proposed rule to adopt this budget into the Tennessee's SIP at 83 FR 64497 (December 17, 2018) and the final rule adopting this budget allocation into Tennessee's SIP at 86 FR 12092 (March 2, 2021).

[9] 40 CFR part 75, appendix D is also referred to in Condition 2 operating permit No. 077509 because 40 CFR part 75, appendix E cross-references appendix D's methodology to determine heat input values.

and require emissions monitoring consistent with the NO_X SIP Call's general enforceability and monitoring requirements.[10] *See* 40 CFR 51.121(f)(2). EPA is proposing to find that TDEC's submittal meets these requirements and all other requirements of the CAA, including 40 CFR 51.121(i)(1) and (4), except that Tennessee additionally will need to modify TAPCR 1200–03–27.12(11) to specify permissible alternative monitoring and reporting methodologies within one year of the effective date of EPA's conditional approval. Thus, EPA is proposing to conditionally approve TDEC operating permit No. 077509, state effective on August 11, 2021, into Tennessee's SIP pursuant to CAA section 110(k)(4), subject to TDEC's specific commitment to modify the provisions of TAPCR 1200–03–27.12(11) to specify permissible alternative monitoring and reporting methodologies within one year of EPA's conditional approval, as described in TDEC's submittal.

If Tennessee meets its commitment to submit a SIP revision modifying the provisions of TAPCR 1200–03–27.12(11) to specify permissible alternative monitoring and reporting methodologies, as allowed under 40 CFR 51.121(i)(1) and (4), by 12 months from the date of final approval of this proposed action, TDEC operating permit No. 077509 will remain a part of the SIP. However, if the State fails to submit this revision on or before 12 months from the date of final approval of this action, the conditional approval will become a disapproval pursuant to CAA section 110(k)(4).

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, and as discussed in Sections I through III of this preamble, EPA is proposing to incorporate by reference Tennessee Air Pollution Control Board's operating permit No. 077509 for the Eastman Chemical Company, state effective on August 11, 2021. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Proposed Action

EPA is proposing to conditionally approve Tennessee Air Pollution Control Board operating permit No. 077509 for the Eastman Chemical Company, state effective August 11, 2021 for incorporation into the Tennessee SIP. These changes were submitted by Tennessee on August 11, 2021.

VI. 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. *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. This proposed action merely proposes to conditionally approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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 an impose 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 proposed 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, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: December 30, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

[FR Doc. 2022–28656 Filed 1–10–23; 8:45 am]

BILLING CODE 6560–50–P

[10] *See* 40 CFR 51.121(f)(2)(ii) and 51.121(i)(4).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2022–0957; FRL–10543–01–R9]

Partial Approval, Conditional Approval, and Partial Disapproval of Air Quality State Implementation Plans; Nevada; Infrastructure Requirements for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve in part, conditionally approve in part, and disapprove in part a state implementation plan (SIP) revision submitted by the State of Nevada pursuant to the requirements of the Clean Air Act (CAA or ''Act'') for the implementation, maintenance, and enforcement of the 2015 national ambient air quality standards (NAAQS) for ozone. As part of this action, we are proposing to reclassify a region of the State for emergency episode planning purposes with respect to ozone. Finally, we are proposing to approve a regulatory revision into the Nevada SIP. We are taking comments on this proposal and, after considering any comments submitted, plan to take final action.

DATES: Written comments must be received on or before February 10, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0957 at *https://www.regulations.gov.* For comments