

## § 51.122

## 40 CFR Ch. I (7–1–23 Edition)

(1)(1) A revision may assign legal authority to local agencies in accordance with § 51.232.

(2) Each revision must comply with § 51.240 (regarding general plan requirements).

(m) Each revision must comply with § 51.280 (regarding resources).

(n) For purposes of the SIP revisions required by this section, EPA may make a finding as applicable under section 179(a)(1)–(4) of the CAA, 42 U.S.C. 7509(a)(1)–(4), starting the sanctions process set forth in section 179(a) of the CAA. Any such finding will be deemed a finding under 40 CFR 52.31(c) and sanctions will be imposed in accordance with the order of sanctions and the terms for such sanctions established in 40 CFR 52.31.

(o) Each revision must provide for State compliance with the reporting requirements set forth in § 51.122.

(p)–(q) [Reserved]

(r)(1) Notwithstanding any provisions of subparts A through I of 40 CFR part 96 and any State's SIP to the contrary, with regard to any ozone season that occurs after September 30, 2008, the Administrator will not carry out any of the functions set forth for the Administrator in subparts A through I of 40 CFR part 96 or in any emissions trading program provisions in a State's SIP approved under this section.

(2) Except as provided in 40 CFR 52.38(b)(13)(ii), a State whose SIP is approved as meeting the requirements of this section and that includes or included an emissions trading program approved under this section must revise the SIP to adopt control measures that satisfy the same portion of the State's NO<sub>x</sub> emissions reduction requirements under this section as the State projected such emissions trading program would satisfy.

[63 FR 57491, Oct. 27, 1998, as amended at 63 FR 71225, Dec. 24, 1998; 64 FR 26305, May 14, 1999; 65 FR 11230, Mar. 2, 2000; 65 FR 56251, Sept. 18, 2000; 69 FR 21642, Apr. 21, 2004; 70 FR 25317, May 12, 2005; 70 FR 51597, Aug. 31, 2005; 73 FR 21538, Apr. 22, 2008; 76 FR 48353, Aug. 8, 2011; 79 FR 71671, Dec. 3, 2014; 84 FR 8442, Mar. 8, 2019; 86 FR 23164, Apr. 30, 2021]

### § 51.122 Emissions reporting requirements for SIP revisions relating to budgets for NO<sub>x</sub> emissions.

(a) As used in this section, words and terms shall have the meanings set forth in § 51.50. In addition, the following terms shall apply to this section:

(1) Ozone season emissions means emissions during the period from May 1 through September 30 of a year.

(2) Summer day emissions means an average day's emissions for a typical summer work weekday. The state will select the particular month(s) in summer and the day(s) in the work week to be represented.

(b) For its transport SIP revision under § 51.121, each state must submit to EPA NO<sub>x</sub> emissions data as described in this section.

(c) Each revision must provide for periodic reporting by the state of NO<sub>x</sub> emissions data to demonstrate whether the state's emissions are consistent with the projections contained in its approved SIP submission.

(1) For the every-year reporting cycle, each revision must provide for reporting of NO<sub>x</sub> emissions data every year as follows:

(i) The state must report to EPA emissions data from all NO<sub>x</sub> sources within the state for which the state specified control measures in its SIP submission under § 51.121(g), including all sources for which the state has adopted measures that differ from the measures incorporated into the baseline inventory for the year 2007 that the state developed in accordance with § 51.121(g). The state must also report to EPA ozone season emissions of NO<sub>x</sub> and summer day emissions of NO<sub>x</sub> from any point, nonpoint, onroad mobile, or nonroad mobile source for which the state specified control measures in its SIP submission under § 51.121(g).

(ii) If sources report NO<sub>x</sub> emissions data to EPA for a given year pursuant to the monitoring and reporting requirements of 40 CFR part 75, then the state need not provide an every-year cycle report to EPA for such sources.

(2) For the 3-year cycle reporting, each plan must provide for triennial (*i.e.*, every third year) reporting of NO<sub>x</sub> emissions data from all sources within the state. The state must also report to

EPA ozone season emissions of NO<sub>x</sub> and summer day emissions of NO<sub>x</sub> from all point sources, nonpoint sources, onroad mobile sources, and nonroad mobile sources.

(3) The data availability requirements in § 51.116 must be followed for all data submitted to meet the requirements of paragraphs (c)(1) and (2) of this section.

(d) [Reserved]

(e) Each state must submit for EPA approval an example of the calculation procedure used to calculate ozone season emissions along with sufficient information to verify the calculated value of ozone season emissions.

(f) Data collection is to begin during the ozone season 1 year prior to the state's NO<sub>x</sub> SIP Call compliance date.

(g) The state shall report emissions as point sources according to the point source emissions thresholds of the Air Emissions Reporting Rule (AERR), 40 CFR part 51, subpart A. The detail of the emissions inventory shall be consistent with the data elements required by 40 CFR part 51, subpart A. When submitting a formal NO<sub>x</sub> Budget Emissions Report and associated data, states shall notify the appropriate EPA Regional Office.

[73 FR 76558, Dec. 17, 2008, as amended at 80 FR 8796, Feb. 19, 2015; 84 FR 8443, Mar. 8, 2019]

**§ 51.123 Findings and requirements for submission of State implementation plan revisions relating to emissions of oxides of nitrogen pursuant to the Clean Air Interstate Rule.**

(a)(1) Under section 110(a)(1) of the CAA, 42 U.S.C. 7410(a)(1), the Administrator determines that each State identified in paragraph (c)(1) and (2) of this section must submit a SIP revision to comply with the requirements of section 110(a)(2)(D)(i)(I) of the CAA, 42 U.S.C. 7410(a)(2)(D)(i)(I), through the adoption of adequate provisions prohibiting sources and other activities from emitting NO<sub>x</sub> in amounts that will contribute significantly to nonattainment in, or interfere with maintenance by, one or more other States with respect to the fine particles (PM<sub>2.5</sub>) NAAQS.

(2)(a) Under section 110(a)(1) of the CAA, 42 U.S.C. 7410(a)(1), the Administrator determines that each State identified in paragraph (c)(1) and (3) of this

section must submit a SIP revision to comply with the requirements of section 110(a)(2)(D)(i)(I) of the CAA, 42 U.S.C. 7410(a)(2)(D)(i)(I), through the adoption of adequate provisions prohibiting sources and other activities from emitting NO<sub>x</sub> in amounts that will contribute significantly to nonattainment in, or interfere with maintenance by, one or more other States with respect to the 8-hour ozone NAAQS.

(3) Notwithstanding the other provisions of this section, such provisions are not applicable as they relate to the State of Minnesota as of December 3, 2009.

(b) For each State identified in paragraph (c) of this section, the SIP revision required under paragraph (a) of this section will contain adequate provisions, for purposes of complying with section 110(a)(2)(D)(i)(I) of the CAA, 42 U.S.C. 7410(a)(2)(D)(i)(I), only if the SIP revision contains control measures that assure compliance with the applicable requirements of this section.

(c) In addition to being subject to the requirements in paragraphs (b) and (d) of this section:

(1) Alabama, Delaware, Florida, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia shall be subject to the requirements contained in paragraphs (e) through (cc) of this section;

(2) Georgia, Minnesota, and Texas shall be subject to the requirements in paragraphs (e) through (o) and (cc) of this section; and

(3) Arkansas, Connecticut, and Massachusetts shall be subject to the requirements contained in paragraphs (q) through (cc) of this section.

(d)(1) The State's SIP revision under paragraph (a) of this section must be submitted to EPA by no later than September 11, 2006.

(2) The requirements of appendix V to this part shall apply to the SIP revision under paragraph (a) of this section.

(3) The State shall deliver 5 copies of the SIP revision under paragraph (a) of