



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2014-0444; FRL 9924-16-Region 4]

Approval and Promulgation of Implementation Plans; North Carolina Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a portion of the July 20, 2012, State Implementation Plan (SIP) submission, provided by the North Carolina Department of Environment and Natural Resources (NC DENR), Division of Air Quality (NCDAQ) for inclusion into the North Carolina SIP. This final action pertains to the Clean Air Act (CAA or the Act) infrastructure requirements for the 2008 Lead national ambient air quality standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an “infrastructure” SIP. NCDAQ certified that the North Carolina SIP contains provisions that ensure the 2008 Lead NAAQS is implemented, enforced, and maintained in North Carolina. With the exception of provisions pertaining to prevention of significant deterioration (PSD) permitting and state board requirements, EPA is taking final action to approve North Carolina’s infrastructure SIP submission, provided to EPA on July 20, 2012, because it addresses the required infrastructure elements for the 2008 Lead NAAQS.

DATES: This rule is effective on **[INSERT 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2014-0444. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section (formerly the Regulatory Development Section), Air Planning and Implementation Branch (formerly the Air Planning Branch), Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 am to 4:30 pm excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Zuri Farngalo, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta,

Georgia 30303-8960. The telephone number is (404) 562-9152. Mr. Farnvalo can be reached via electronic mail at farnvalo.zuri@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Upon promulgation of a new or revised NAAQS, sections 110(a)(1) and (2) of the CAA require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance for that new NAAQS. Section 110(a) of the CAA generally requires states to make a SIP submission to meet applicable requirements in order to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. These SIP submissions are commonly referred to as “infrastructure” SIP submissions. Section 110(a) imposes the obligation upon states to make an infrastructure SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the infrastructure SIP for a new or revised NAAQS affect the content of the submission. The contents of such infrastructure SIP submissions may also vary depending upon what provisions the state’s existing SIP already contains. In the case of the 2008 Lead NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous lead NAAQS.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for infrastructure SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include basic structural SIP elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The applicable infrastructure SIP requirements that are the subject of this rulemaking are listed below.¹

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement, prevention of significant deterioration (PSD) and new source review (NSR).²
- 110(a)(2)(D): Interstate and international transport provisions.
- 110(a)(2)(E): Adequate personnel, funding, and authority.
- 110(a)(2)(F): Stationary source monitoring and reporting.
- 110(a)(2)(G): Emergency episodes.
- 110(a)(2)(H): Future SIP revisions.

¹Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather due at the time the nonattainment area plan requirements are due pursuant to other provisions of the CAA for submission of SIP revisions specifically applicable for attainment planning purposes. These requirements are: (1) submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA; and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. Today's proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C).

²This rulemaking only addresses requirements for this element as they relate to attainment areas.

- 110(a)(2)(J): Consultation with government officials, public notification, and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

On November 20, 2014, EPA proposed to approve North Carolina's July 20, 2012, 2008 Lead NAAQS infrastructure SIP submission with the exception of preconstruction PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i), and (J) and the state board requirements of 110(E)(ii), which EPA will address in a separate action. *See* 79 FR 69082.

II. Today's Action

In this rulemaking, EPA is taking final action to approve North Carolina's July 20, 2012, infrastructure submission as demonstrating that the State meets the applicable requirements of sections 110(a)(1) and (2) of the CAA for the 2008 Lead NAAQS, with the exception of preconstruction PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i), and (J); and the state board requirements of 110(E)(ii). EPA will act on these portions of North Carolina's July 20, 2012, submission in a separate action.

III. Final Action

With the exception of provisions pertaining to preconstruction PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i), and (J); and the state board requirements of 110(E)(ii), EPA is approving North Carolina's July 20, 2012,

infrastructure submission because it addresses the required infrastructure elements for the 2008 Lead NAAQS. This submission addresses infrastructure requirements for the 2008 Lead NAAQS for the North Carolina SIP. With the exceptions noted above, NC DENR has addressed the elements of the CAA 110(a)(1) and (2) SIP requirements to ensure that the 2008 Lead NAAQS is implemented, enforced, and maintained in North Carolina.

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 Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 (Public Law 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).

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 [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which

a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements.

See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 20, 2015.

Heather McTeer Toney

Regional Administrator,

Region 4.

40 CFR part 52 is amended as follows:

PART 52-APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart II—North Carolina

2. Section 52.1770(e), the table is amended by adding an entry “110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards” at the end of the table to read as follows:

§ 52.1770 Identification of plan.

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(e) * * *

EPA-APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	FEDERAL REGISTER citation	Explanation
**	**	*	*	*
110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards	6/15/2012	[Insert date of publication in <u>Federal Register</u>]	[Insert Federal Register citation]	With the exception of PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i), and (J) and the state board requirements of 110(E)(ii).

[FR Doc. 2015-05242 Filed: 3/6/2015 08:45 am; Publication Date: 3/9/2015]