



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2012-0933; FRL-9958-35-Region 8]

Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2008 Lead, 2008 Ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} National Ambient Air Quality Standards; Wyoming

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of State Implementation Plan (SIP) revisions from the State of Wyoming to demonstrate the State meets infrastructure requirements of the Clean Air Act (CAA) for the National Ambient Air Quality Standards (NAAQS) promulgated for ozone on March 12, 2008, lead (Pb) on October 15, 2008, nitrogen dioxide (NO₂) on January 22, 2010, sulfur dioxide (SO₂) on June 2, 2010, and fine particulate matter (PM_{2.5}) on December 14, 2012. The EPA is also approving SIP revisions the State submitted regarding state boards.

DATES: This rule is effective on [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2012-0933. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI 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 <http://www.regulations.gov> or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Abby Fulton, Air Program, U.S.

Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6563, fulton.abby@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Infrastructure requirements for SIPs are set forth in section 110(a)(1) and (2) of the CAA. Section 110(a)(2) lists the specific infrastructure elements that a SIP must contain or satisfy.

In our proposed rule (PR), the EPA proposed to approve and take no action on some infrastructure elements for the 2008 Pb, 2008 ozone, 2010 NO₂, 2010 SO₂ and 2012 PM_{2.5} NAAQS from the State's certifications.¹ In this rulemaking, we are taking final action to approve infrastructure elements from the State's certifications. We are also taking final action to approve new rules to Wyoming Department of Environmental Quality General Rules of Practice and

¹ "Where an air agency determines that the provisions in or referred to by its existing EPA approved SIP are adequate with respect to a given infrastructure SIP element (or subelement) even in light of the promulgation of a new or revised NAAQS, the air agency may make a SIP submission in the form of a certification." EPA's "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)," September 13, 2013, at 7.

Procedure submitted on May 31, 2016, to satisfy requirements of section 110(a)(2)(E)(ii), state boards.

II. Response to Comments

We received one comment letter from the Wyoming Department of Environmental Quality (Wyoming DEQ) in support of the EPA's proposed approval of infrastructure requirements of the CAA and the state boards requirement under CAA section 128.

III. Final Action

For reasons expressed in the proposed rule, the EPA is taking final action to approve infrastructure elements from the State's certifications as shown in Table 1. Elements we are taking no action on are reflected in Table 2. We are also approving new rules to Wyoming Department of Environmental Quality General Rules of Practice and Procedure, Chapter 1, General Provisions, section 16 submitted on May 31, 2016, to satisfy requirements of section 110(a)(2)(E)(ii), which pertains to the state boards requirement under section 128 (Table 1).

A comprehensive summary of infrastructure elements and new rules being approved into the Wyoming SIP through this final rule action are provided in Table 1 and Table 2.

TABLE 1. LIST OF WYOMING INFRASTRUCTURE ELEMENTS AND REVISIONS THAT THE EPA IS APPROVING

Approval
<u>October 12, 2011 submittal – 2008 Pb NAAQS:</u> (A), (B), (C), (D)(i)(II) prong 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
<u>March 6, 2015 submittal - 2010 SO₂ NAAQS:</u> (A), (B), (C), (D)(i)(II) prong 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
<u>February 6, 2014 submittal - 2008 Ozone NAAQS:</u> (A), (B), (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).

<u>January 24, 2014 submittal</u> - 2010 NO₂ NAAQS: (A), (B), (C), (D)(i)(II) prong 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
<u>June 24, 2016 submittal</u> - 2012 PM_{2.5} NAAQS: (A), (B), (C), (D)(i)(II) prong 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
<u>May 31, 2016 submittal</u> – New Rules to Wyoming DEQ General Rules of Practice and Procedure, CAA Section 128 Chapter 1, General Provisions, Section 16, Air Program State Implementation Plan.

**TABLE 2 - LIST OF WYOMING INFRASTRUCTURE ELEMENTS AND REVISIONS THAT
THE EPA IS TAKING NO ACTION ON**

No Action (Revision to be made in separate rulemaking action.)
<u>October 12, 2011 submittal</u> - 2008 Pb NAAQS: (D)(i)(I) prongs 1 and 2, (D)(i)(II) prong 4.
<u>February 06, 2014 submittal</u> – 2008 Ozone NAAQS: (D)(i)(I) prongs 1 and 2, D(i)(II) prongs 3 and 4 and (C) (final action on (D)(i)(II) prong 3 and (C) at 81 FR 70362, Oct. 12, 2016).
<u>January 24, 2014 submittal</u> – 2010 NO₂ NAAQS: (D)(i)(I) prongs 1 and 2, (D)(i)(II) prong 4.
<u>March 06, 2015 submittal</u> – 2010 SO₂ NAAQS: (D)(i)(I) prongs 1 and 2, (D)(i)(II) prong 4.
<u>June 24, 2016 submittal</u> – 2012 PM_{2.5} NAAQS: (D)(i)(I) prongs 1 and 2, (D)(i)(II) prong 4.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Wyoming DEQ General Rules of Practice and Procedure discussed in section III, Final Action of this preamble. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

V. Statutory and Executive Orders Review

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication 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 CAA Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, 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: April 11, 2017.

Debra H. Thomas,
Acting Regional Administrator,
Region 8.

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 ZZ--Wyoming

2. In §52.2620:

a. The table in paragraph (c) is amended by:

i. Adding a centered heading for “Chapter I. General Rules of Practice and Procedure.” at the end of the table; and

ii. Adding, under the centered heading “Chapter I. General Rules of Practice and Procedure.,” a table entry for “Section 16.”

b. The table in paragraph (e) is amended by adding an entry for “(28) XXVIII” at the end of the table.

The additions read as follows:

§52.2620 Identification of plan.

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(c) * * *

Rule No.	Rule title	State effective date	EPA Effective date	Final rule citation/ date	Comments
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Chapter I. General Rules of Practice and Procedure.					
Section 16	Air Quality Division, State Implementation Plan	4/21/2016	[insert date 30 days after date of publication	[insert Federal Register citation],	CAA section 128 Requirements

			in the Federal Register]	[insert date of publication in the Federal Register]	
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Rule No.	Rule title	State effective date	EPA Effective date	Final rule citation/ date	Comments
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(28) XXVIII	Infrastructure SIP for Section 110(a)(2)- 2008 Lead, 2008 Ozone, 2010 NO ₂ , 2010 SO ₂ , and 2012 PM _{2.5} NAAQS	10/12/2011, 2/6/2014, 1/24/2014, 3/6/2015, and 6/24/2016	[insert date 30 days after date of publication in the Federal Register]	[insert Federal Register citation], [insert date of publication in the Federal Register]	

[FR Doc. 2017-08252 Filed: 4/24/2017 8:45 am; Publication Date: 4/25/2017]