



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2020-0422; FRL-10013-71-Region 7]

Air Plan Approval; Kansas; Infrastructure State Implementation Plan Requirements for the 2015 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve certain elements of a State Implementation Plan (SIP) submission from the State of Kansas addressing the applicable requirements of section 110 of the Clean Air Act (CAA) for the 2015 Ozone (O₃) National Ambient Air Quality Standard (NAAQS). Section 110 requires that each state adopt and submit a SIP revision to support the implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by the EPA. These SIPs are commonly referred to as "infrastructure" SIPs. 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.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-R07-OAR-2020-0422 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Written Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: William Stone, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551-7714; email address stone.william@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to the EPA. A technical support document (TSD) is included in this proposed rulemaking docket.

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I. Written Comments.

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2020-0422, at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from Regulations.gov. The 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. The 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 <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. What is Being Addressed in this Document?

The EPA is proposing to approve the infrastructure SIP submission received from the state on April 11, 2019, and supplemented by letter dated February 6, 2020, in accordance with section 110(a)(1) of the CAA. Specifically, the EPA is proposing to approve the following infrastructure elements of

section 110(a)(2) of the CAA: (A) through (C), (D)(i)(II)- prevent significant deterioration of air quality (prong 3) and protection of visibility (prong 4), (D)(ii), (E) through (H), and (J) through (M). Elements of section 110(a)(2)(D)(i)(I) - significant contribution to nonattainment (prong 1) and interfering with maintenance of the NAAQS (prong 2) will be addressed in a separate action.

Section 110(a)(2)(I) was also not addressed in the submission, however, the EPA does not expect infrastructure SIP submissions to address element (I). Section 110(a)(2)(I) requires states to meet the applicable SIP requirements of part D of the CAA relating to designated nonattainment areas. The specific part D submissions for designated nonattainment areas are subject to different submission schedules than those for section 110 infrastructure elements. The EPA will act on part D attainment plan SIP submissions through a separate rulemaking governed by the requirements for nonattainment areas, as described in part D.

A TSD is included as part of the docket to discuss the details of this proposed action, including an analysis of how the SIP meets the applicable 110 requirements for infrastructure SIPs. Included in the TSD is the EPA's analysis concerning Kansas' authority to conduct modeling in accordance with the EPA's *"Revisions to the Guideline on Air Quality Models:*

Enhancements to the AERMOD Dispersion Modeling System and Incorporation of Approaches To Address Ozone and Fine Particulate Matter'' (also referred to as the 2017 *Guideline*).¹ 82 FR 5182. While Kansas has not yet formally adopted the 2017 *Guideline* into its regulations, Kansas states that it has the authority to integrate the requirements and recommendations of the 2017 *Guideline* in its regulatory processes. As detailed in the TSD, the EPA proposes to find that Kansas' April 11, 2019 submission, supplemented by letter dated February 6, 2020, satisfies the PSD-related requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3), and 110(a)(2)(J), and modeling requirements related to CAA section 110(a)(2)(K).

III. Have the Requirements for Approval of a SIP Revision Been Met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The state provided a public comment period for this SIP revision from August 23, 2018 to September 24, 2018, and received no comments. In addition, as explained in more detail in the technical support document which is part of this docket, the revision meets the substantive SIP requirements

¹ EPA's *Guideline on Air Quality Models* is codified at 40 CFR part 51, appendix W and is generically referred to as *Guideline* herein.

of the CAA, including section 110 and implementing regulations.

IV. What Action is EPA Taking?

The EPA is proposing to approve elements of the September 27, 2018, submission addressing the infrastructure elements for the 2015 O₃ NAAQS. Specifically, the EPA is proposing to approve the following infrastructure elements of section 110(a)(2): (A) through (C), (D)(i)(II) prong 3 and prong 4, (D)(ii), (E) through (H), (J) through (M). The EPA is not acting on the elements of section 110(a)(2)(D)(i)(I)- prong 1 and prong 2 because those elements were not addressed in the submission. Section 110(a)(2)(I) was not addressed in the submission and the EPA would not expect it to be. The EPA's analysis of the submission is addressed in a TSD which is part of this docket.

We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

V. Statutory and Executive Order Reviews

Under the Clean Air Act (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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- 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 the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; 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 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, Infrastructure, Intergovernmental relations, Ozone.

Dated: August 11, 2020.

James Gulliford,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

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-R Kansas

2. In §52.870, paragraph (e), the table is amended by adding the entry "(45)" in numerical order to read as follows:

§ 52.870 Identification of Plan.

* * * * *

(e) * * *

EPA-APPROVED KANSAS NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA Approval date	Explanation
* * * * *				
(45) Section 110(a)(2) Infrastructure Requirements for the 2015 O ₃ NAAQS	Statewide	9/27/18	[Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule]	[EPA-R07-OAR-2020-0422; FRL-10013-71-Region 7]. This action proposes to approve the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II) - prongs 3 and 4, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). 110(a)(2)(D)(i)(I) - prongs 1 and 2 were not included in the submission. 110(a)(2)(I) is not applicable.

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