This document is scheduled to be published in the Federal Register on 2026-09-24 and available online at https://www.federalregister.gov/d/2026-19566, and on https://govinfo.gov

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2024-0362; FRL-13404-02-R4]

Air Plan Approval; Alabama; Transportation Conformity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) is approving a State Implementation Plan (SIP) revision submitted by the State of Alabama, through the Alabama Department of Environmental Management (ADEM) on April 7, 2026. The SIP revision replaces the previously approved transportation conformity memorandum of agreement (MOA) with an updated MOA concerning transportation conformity criteria and procedures related to interagency consultation, conflict resolution, public participation, and enforceability of certain transportation-related control and mitigation measures. The SIP revision also makes a minor stylistic change to the Transportation Conformity and General Conformity rules in the Alabama SIP. The EPA has determined that Alabama's April 7, 2026, SIP revision is consistent with the applicable provisions of the Clean Air Act (CAA or Act).

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

ADDRESSES: The EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2024-0362 at *www.regulations.gov*. All documents in the docket are listed on the regulations.gov web site. Although listed in the index, some information may not be 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, 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 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 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Weston Freund, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8773. Mr. Freund can also be reached via electronic mail at *freund.weston@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this rule, the use of "we," "us," or "our" is intended to refer to the EPA. We use multiple abbreviations and terms in this rule. While this list may not be exhaustive, for ease of reading and for reference purposes, the EPA defines the following terms and acronyms here:

ADEM - Alabama Department of Environmental Management
CAA - Clean Air Act
EPA - Environmental Protection Agency
MOA - Memorandum of Agreement
NPRM - Notice of Proposed Rulemaking
SIP - State Implementation Plan

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I. Executive Summary

The EPA is approving a SIP revision submitted by ADEM on April 7, 2026. The revision replaces the existing Alabama Interagency Transportation Conformity MOA with a revised MOA signed by the Federal and State transportation and air quality partners and the Birmingham Planning Organization, which is subject to the transportation conformity requirements. The

MOA establishes procedures for interagency consultation, dispute resolution, public participation, and enforceability of certain transportation-related control measures and mitigation measures. The EPA is also approving minor stylistic changes to Rules 335-3-17-.01, *Transportation Conformity*, and 335-3-17-.02, *General Conformity*, in the Alabama SIP.[1] The State made this stylistic change to be more consistent with Alabama's Legislative Agency Service Requirements. The EPA has reviewed the April 7, 2026, submittal, and has determined that it is consistent with the CAA and the applicable requirements of the Conformity Rule.

II. Background

Through a notice of proposed rulemaking (NPRM), published on July 2, 2026,[2] the EPA proposed to approve the April 7, 2026, changes to the conformity MOA and updates to Rules 335-3-17-.01 and 335-3-17-.02 in the Alabama SIP. The details of Alabama's submission, as well as the EPA's rationale for approving these changes, are described in more detail in the July 2, 2026, NPRM. Comments on the July 2, 2026, NPRM were due on August 3, 2026. One comment supportive of the EPA's proposed action and one comment that was outside the scope of this rulemaking were received on the NPRM. These comments are available in the docket for this action.

III. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in section I of this preamble, the EPA is finalizing the incorporation by reference of Rules 335-3-17-.01, *Transportation Conformity*, and 335-3-17-.02, *General Conformity*, State effective February 12,

[1] The changes to Rules 335-3-17-.01 and 335-3-17-.02 were initially submitted to the EPA on December 20, 2023, as part of a package that contained revisions to several other SIP-approved rules. The changes to Rules 335-3-17-.01 and 335-3-17-.02 were resubmitted to the EPA along with the updated MOA and together they comprise the April 7, 2026, conformity submission. The only revisions addressed in this final rule are the updated MOA and the changes to Rules 335-3-17-.01 and 335-3-17-.02. *See* clarification email from Lisa Edwards, ADEM, to Denisse Diaz, EPA Region 4, on May 18, 2026, available in the docket for this final rule.

[2] *See* 91 FR 40491.

2024, which removes "(1) General" from the beginning of their respective paragraphs. The 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). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rule of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[3]

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 CAA and applicable Federal regulations.[4] Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action 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 Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not exempt 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

[3] *See* 62 FR 27968 (May 22, 1997).
[4] *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a).

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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

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.[5]

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under CAA section 307(b)(1), 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

[5] *See* 65 FR 67249 (Nov. 9, 2000).

may not be challenged later in proceedings to enforce its requirements.[6]

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 14, 2026.

Kevin McOmber,
Regional Administrator,
Region 4.

[6] *See* CAA section 307(b)(2).

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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 B—Alabama

2. Section 52.50 is amended by:

a. In table 1 to paragraph (c) under the heading "Chapter No. 335-3-17 Conformity of Federal Actions to State Implementation Plans" by revising the entries for "Section 335-3-17-.01" and "Section 335-3-17-.02"; and

b. In the table to paragraph (e) by adding an entry for "Alabama Interagency Transportation Conformity Memorandum of Agreement" at the end of the table.

The revisions and addition read as follows:

§ 52.50 Identification of plan.

* * * * *

(c) * * *

TABLE 1 TO PARAGRAPH (C)—EPA-APPROVED ALABAMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
CHAPTER NO. 335-3-17 CONFORMITY OF FEDERAL ACTIONS TO STATE IMPLEMENTATION PLANS				
Section 335-3-17-.01	Transportation Conformity	2/12/2024	**[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, 91 FR **[INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]**	

Section 335-3-17-.02	General Conformity	2/12/2024	**[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, 91 FR **[INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]**	

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(e) * * *

EPA APPROVED ALABAMA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	**Applicable geographic or nonattainment area**	**State submittal date/effective date**	**EPA approval date**	**Explanation**
**	**	*	*	*
Alabama Interagency Transportation Conformity Memorandum of Agreement		4/7/2026	**[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, 91 FR **[INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]**	Supersedes the previous Alabama Interagency Transportation Conformity Memorandum of Agreement approved by the EPA on 5/11/2000.

[FR Doc. 2026-19566 Filed: 9/23/2026 8:45 am; Publication Date: 9/24/2026]