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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R07-OAR-2021-0365; FRL-8705-02-R7]

**Interstate Transport Prongs 1 and 2 for the 2010 Sulfur Dioxide (SO<sub>2</sub>) Standard for Kansas and Nebraska****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve State Implementation Plan (SIP) submissions from Kansas and Nebraska addressing the Clean Air Act (CAA or Act) interstate transport SIP requirements for the 2010 Sulfur Dioxide (SO<sub>2</sub>) National Ambient Air Quality Standards (NAAQS). These submissions address the requirement that each SIP contain adequate provisions prohibiting air emissions that will have certain adverse air quality effects in other states. The EPA is approving portions of these infrastructure SIPs for the aforementioned states as containing adequate provisions to ensure that air emissions in the states will not significantly contribute to nonattainment or interfere with maintenance of the 2010 SO<sub>2</sub> NAAQS in any other state.

**DATES:** This final rule is effective on September 10, 2021.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2021-0365. All documents in the docket are listed on the <https://www.regulations.gov> website. 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](https://www.regulations.gov) or in hard copy at the Atmospheric Programs Section, Air Quality Planning Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219. 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:** Ashley Keas, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7629, or by email at [keas.ashley@epa.gov](mailto:keas.ashley@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” refer to the EPA.

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**I. What is being addressed in this document?**

In this action, the EPA is approving the prong 1 and prong 2 portions of infrastructure SIP submissions submitted by Kansas on April 7, 2020, and Nebraska on October 27, 2020, as demonstrating that the SIP contains adequate provisions to ensure that air emissions from sources in these states will not significantly contribute to nonattainment or interfere with maintenance of the 2010 SO<sub>2</sub> NAAQS in any other state or each other. All other applicable infrastructure SIP requirements for these SIP submissions are addressed in separate rulemakings.

As discussed in Section IV of the proposed action (see 86 FR 31645), the EPA first reviewed each state's analysis to assess how the state evaluated the transport of SO<sub>2</sub> to other states, the types of information used in the analysis and the conclusions drawn by the state. The EPA then conducted a weight of evidence analysis, including review of each state's submission and other available information, including air quality, emission sources and emission trends within the state and in bordering states to which it could potentially contribute or interfere.<sup>1</sup>

<sup>1</sup> This approval action is based on the information contained in the administrative record for this action and does not prejudice any other future EPA action that may make other determinations regarding any of the subject state's air quality status. Any such future actions, such as area designations under any NAAQS, will be based on their own administrative records and the EPA's analyses of information that becomes available at those times. Future available information may include, and is not limited to, monitoring data and modeling analyses conducted pursuant to the EPA's SO<sub>2</sub> Data Requirements Rule (80 FR 51052, August 21, 2015) and information submitted to the EPA by states, air

Please see the EPA's proposed rule for the full analysis of the state submittals.

The public comment period on the EPA's proposed rule opened on June 15, 2021, the date of its publication in the **Federal Register** and closed on July 15, 2021. During this period, the EPA received no comments.

**II. Have the requirements for approval of a SIP revision been met?**

The State submissions have met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submissions also satisfied the completeness criteria of 40 CFR part 51, appendix V. Kansas provided public notice on its SIP revision from January 16, 2020, to February 17, 2020, and received no comments. Nebraska provided public notice on its SIP revision from September 14, 2020, to October 16, 2020, and received no comments. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

**III. What are the actions the EPA is taking?**

The EPA is taking final action to approve the following submittals as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2010 SO<sub>2</sub> NAAQS: Kansas' April 7, 2020 submittal and Nebraska's October 27, 2020 submittal. The EPA is finalizing this approval based on our review of the information and analysis provided by each state, as well as additional relevant information, as detailed in the EPA's proposed rule, which indicates that in-state air emissions will not contribute significantly to nonattainment or interfere with maintenance of the 2010 SO<sub>2</sub> NAAQS in any other state. This action is being taken under section 110 of the CAA.

**IV. Statutory and Executive Order Reviews**

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 CAA. Accordingly, these proposed actions merely approve state law as meeting federal requirements and do not impose additional requirements beyond those

agencies, and third party stakeholders such as citizen groups and industry representatives.

imposed by state law. For that reason, these proposed actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are 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 this action does not involve technical standards; and
- Do 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, these SIPs are 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. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 12, 2021. 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

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

Dated: July 30, 2021.

**Edward H. Chu,**

*Acting Regional Administrator, Region 7.*

For the reasons stated in the preamble, the EPA amends 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, the table in paragraph (e) is amended by adding an entry for “(46)” 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 non-attainment area	State submittal date	EPA approval date	Explanation
* * *	* * *	* * *	* * *	* * *
(46) Section 110(a)(2)(D)(i)(I)—significant contribution to nonattainment (prong 1), and interfering with maintenance of the NAAQs (prong 2) (Interstate Transport Infrastructure Requirements for the 2010 SO <sub>2</sub> NAAQS.	Statewide .....	4/7/2020	8/11/2021, [Federal Register citation].	[EPA–R07–OAR–2021–0365; FRL–8705–02–Region 7]. This action addresses the following CAA elements: 110(a)(2)(D)(i)(I)—prongs 1 and 2.

#### Subpart CC—Nebraska

- 3. In § 52.1420, the table in paragraph (e) is amended by adding an entry for

“(37)” in numerical order to read as follows:

##### § 52.1420 Identification of plan.

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(e) \* \* \*

## EPA-APPROVED NEBRASKA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
(37) Section 110(a)(2)(D)(i)(I)—significant contribution to nonattainment (prong 1), and interfering with maintenance of the NAAQs (prong 2) (Interstate Transport Infrastructure Requirements for the 2010 SO <sub>2</sub> NAAQS.	Statewide .....	10/27/2020	8/11/2021, [Federal Register citation].	[EPA-R07-OAR-2021-0365; FRL-8705-02-Region 7]. This action addresses the following CAA elements: 110(a)(2)(D)(i)(I)—prongs 1 and 2.

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52****[EPA-R05-OAR-2018-0694; FRL-8823-02-R5]****Air Plan Approval; Ohio; Infrastructure SIP Requirements for the 2015 Ozone NAAQS****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving elements of a State Implementation Plan (SIP) submission from Ohio regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2015 Ozone National Ambient Air Quality Standards (NAAQS). 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. EPA proposed to approve this action on March 9, 2021, and received no adverse comments.

**DATES:** This final rule is effective on September 10, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2018-0694. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (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 through [www.regulations.gov](http://www.regulations.gov) or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Rachel Rineheart, Environmental Engineer, at (312) 886-7017 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Rachel Rineheart, Environmental Engineer, Air Permits Section, Air Programs Branch (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-7017, [rineheart.rachel@epa.gov](mailto:rineheart.rachel@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

**I. Background Information**

On March 9, 2021, EPA proposed to approve elements of a SIP submission from Ohio regarding the infrastructure requirements of CAA section 110 for the 2015 ozone NAAQS. 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. An explanation of the CAA requirements, a detailed analysis of the revisions, and

EPA's reasons for proposing approval were provided in the notice of proposed rulemaking and will not be restated here.

The public comment period for this proposed rule ended on April 9, 2021. During the comment period, EPA received 3 comments that covered a variety of topics including: Support of the proposed action and questions regarding how EPA ensures that states are complying with the approved SIP; what other measures beyond the SIP states must follow; how EPA determines if emissions from one state impact air quality in another state; and how EPA informs the public of adverse air quality conditions. All of the comments received are included in the docket for this action.

We do not consider these comments to be germane or relevant to the specifics of this action and therefore not adverse to this action. The comments lack the required specificity to the proposed SIP revision and the relevant requirements of CAA section 110. Moreover, none of the comments address a specific regulation or provision in question, or recommend a different action on the SIP submission from what EPA proposed. Therefore, we are finalizing our action as proposed.

**II. Final Action**

EPA is approving most elements of a submission from Ohio certifying that its current SIP is sufficient to meet the infrastructure requirements in CAA sections 110(a)(1) and (2) with respect to the 2015 Ozone NAAQS. EPA's final actions for the state's satisfaction of infrastructure SIP requirements, by element of section 110(a)(2) are contained in the table below.

Element	2015 ozone NAAQS
(A)—Emission limits and other control measures .....	A
(B)—Ambient air quality monitoring/data system .....	A