

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 June 10, 2019. 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, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 29, 2019.

Mary S. Walker,

Acting 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 (S)—Kentucky

■ 2. In § 52.920, table 2 in paragraph (c) is amended under "Reg 2—Permit Requirements" by revising the entry for "2.05" to read as follows:

§ 52.920 Identification of plan.

| | | | | |
|-----|---|---|---|---|
| * | * | * | * | * |
| (c) | * | * | * | |
| * | * | * | * | * |

TABLE 2—EPA-APPROVED JEFFERSON COUNTY REGULATIONS FOR KENTUCKY

| Reg | Title/subject | EPA approval date | Federal Register notice | District effective date | Explanation |
|---------------------------|---------------|-------------------|-------------------------------------|-------------------------|--|
| * | * | * | * | * | * |
| Reg 2—Permit Requirements | | | | | |
| 2.05 | Permits | 4/10/2019 | [Insert Federal Register citation]. | 01/17/18 | This approval does not include Jefferson County's revisions to incorporate by reference the Ethanol Rule (May 1, 2007), of the Fugitives Emissions Rule (December 19, 2008). |
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2018-0723; FRL-9991-74-Region 8]

Approval and Promulgation of Air Quality Implementation Plans; Wyoming; Interstate Transport for the 2008 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a submittal from the State of Wyoming that

demonstrates that the Wyoming State Implementation Plan (SIP) meets certain interstate transport requirements of the Clean Air Act (Act or CAA) for the 2008 ozone National Ambient Air Quality Standards (NAAQS). Specifically, the submittal meets the requirement that Wyoming's SIP contain adequate provisions to prohibit emissions in amounts which will interfere with maintenance of the 2008 ozone NAAQS in any other state. The EPA is taking this action pursuant to section 110 of the Clean Air Act (CAA).

DATES: This rule is effective on May 10, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2018-0723. 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 through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Adam Clark, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-7104, clark.adam@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" means the EPA.

I. Background

On February 3, 2017 (82 FR 9142), the EPA disapproved Wyoming's February 6, 2014 2008 ozone infrastructure SIP

submittal with respect to the CAA section 110(a)(2)(D)(i)(I) requirements regarding emissions from Wyoming that would interfere with maintenance (“prong 2”) of the 2008 ozone NAAQS in any other state. Under CAA section 110(c)(1), this disapproval started a 2-year clock for the EPA to promulgate a federal implementation plan (FIP) unless Wyoming submitted, and the EPA approved, a SIP revision correcting the deficiency. On October 17, 2018, Wyoming submitted a SIP revision to address the EPA’s February 3, 2017 disapproval.

On February 12, 2019 (84 FR 3389), the EPA proposed to approve Wyoming’s October 17, 2018 submittal. An explanation of the CAA requirements, a detailed analysis of the submittal, and the 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 the proposed approval ended on March 14, 2019. We did not receive any comments on the proposal.

II. Final Action

For the reasons given in our February 12, 2019 notice, we are approving Wyoming’s October 17, 2018 submittal addressing CAA section 110(a)(2)(D)(i)(I), prong 2, for the 2008 ozone NAAQS. With this final approval, the EPA no longer has an obligation under CAA section 110(c)(1) to promulgate a FIP addressing the deficiency identified in the EPA’s February 3, 2017 prong 2 disapproval (82 FR 9142).

III. 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 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);

- 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, 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 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 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 June 10, 2019. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Greenhouse gases, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 2, 2019.

Debra 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. Section 52.2620 is amended by adding to the table in paragraph (e), in numerical order, an entry for “(33) XXXIII” to read as follows:

§ 52.2620 Identification of plan.

* * * * *

(e) * * *

| Rule No. | Rule title | State effective date | EPA effective date | Final rule citation/date | Comments |
|-------------------|---|-----------------------|--------------------|--|----------|
| (33) XXXIII | Interstate transport SIP for Section 110(a)(2)(D)(i)(I) prong 2 for the 2008 Ozone NAAQS. | August 30, 2018 | 5/10/2019 | [Insert Federal Register citation] 4/10/2019. | |

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2018-0023; FRL-9990-80-Region 10]

Air Plan Approval; Oregon; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating materials incorporated by reference (IBR) into the Oregon State Implementation Plan (SIP). The regulations affected by this update were previously submitted by the Oregon Department of Environmental Quality (ODEQ) and approved by the EPA. In this action the EPA is also notifying the public of corrections to typographical errors and rearranging the contents for clarity. In addition, the EPA is removing duplicative rules in the Code of Federal Regulations (CFR) for the State of Oregon to improve cost effectiveness and usability of the CFR. This update makes no substantive changes to the Oregon SIP and imposes no new requirements. This update affects the materials that are available for public inspection at the National Archives and Records Administration (NARA) and the EPA Regional Office.

DATES: This action is effective April 10, 2019.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 10, Office of Air and Waste (OAW-150), 1200 Sixth Avenue, Seattle, WA 98101; and the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>. To view the materials at the Region 10

Office, the EPA requests that you email the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Christi Duboiski, EPA Region 10, 1200 6th Ave, Suite 155, Seattle, WA 98101, (360) 753-9081, or duboiski.christi@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, wherever “we,” “us,” or “our” is used, it is intended to refer to EPA.

I. Background

The State Implementation Plan (SIP) is a living document a State revises as necessary to address its unique air pollution problems. Therefore, from time to time, the Environmental Protection Agency (EPA) must act on SIP revisions containing new and revised regulations, approving and incorporating them into the SIP. On May 22, 1997, the EPA revised the procedures for incorporating by reference federally-approved SIPs, as a result of consultation between the EPA and the Office of the Federal Register (OFR) (62 FR 27968). The description of the revised SIP document, the incorporation by reference (IBR) procedures and the “Identification of plan” format are discussed in further detail in the May 22, 1997, **Federal Register** document. On December 10, 2013, the EPA published a **Federal Register** document beginning the new IBR procedure for Oregon (78 FR 74012).

Since then, the EPA has approved and incorporated by reference several provisions of the Oregon Revised Statutes (ORS), Oregon Administrative Rules (OAR), Lane Regional Clean Air Protection Agency (LRAPA) rules, and City and County Ordinances into the Oregon SIP. The following **Federal Register** documents contain information on each approved action: 79 FR 29359, May 22, 2014; 79 FR 35693, June 24, 2014; 80 FR 2313, January 16, 2015; 80 FR 44864, July 28, 2015; 80 FR 45431, July 30, 2015; 80 FR 51470, August 25, 2015; 80 FR 64346, October 23, 2015; 80 FR 65655, October 27, 2015; 80 FR 79266, December 21, 2015; 81 FR 30181, May 16, 2016; 81 FR 36176, June 6, 2016; 81 FR 46612, July 18, 2016; 81 FR

47029, July 20, 2016; 81 FR 72714, October 21, 2016; 82 FR 47122, October 11, 2017; 83 FR 5537, February 8, 2018; 83 FR 22853, May 17, 2018; 83 FR 24034, May 24, 2018; 83 FR 47073, September 18, 2018; 83 FR 50274, October 5, 2018 and 83 FR 63579, December 11, 2018.

II. EPA Action

This action represents the EPA’s publication of the Oregon SIP update, appearing in 40 CFR part 52, subpart MM, as of March 1, 2019. The EPA is correcting minor typographical errors throughout, making formatting changes to the IBR tables in § 52.1970(c) and (d) and rearranging and republishing the contents of § 52.1970(e). This administrative action constitutes a “housekeeping” exercise to ensure all revisions to the State programs that have occurred are accurately reflected in 40 CFR part 52 and typographical errors are corrected. In this action, the EPA is doing the following:

A. Section 52.1970(b)

1. Revising text to announce an update to the IBR material with an approval date prior to March 1, 2019.
2. Revising text to update the addresses at which the public can inspect the IBR materials.

B. Section 52.1970(c), Table 2

1. Correcting several **Federal Register** citations to reflect the first page of the preamble, as opposed to the regulatory text page.
2. Correcting entry 209-0070 *Hearing Procedures* by moving it from § 52.1970(c) table 2 to § 52.1970(e) table 2. On March 22, 2017, the EPA proposed to approve OAR 340-209-0070, but not incorporate it by reference to avoid confusion or potential conflict with the EPA’s independent authorities (82 FR 14654). However, in the final **Federal Register** document, the EPA incorporated by reference OAR 340-209-0070 in error (82 FR 47122, March 11, 2017).
3. Correcting rule exceptions listed in the explanation column but inadvertently associated with incorrect entries. The exceptions for entry 244-0244 is corrected to be aligned with entry 244-0240, and the exceptions for