

This action is not a “major rule” as defined by 5 U.S.C. 804(2).

L. 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 September 19, 2011. 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).)

#### Statutory Authority

The statutory authority for this action is provided by sections 110 of the CAA, as amended (42 U.S.C. 7410).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

Dated: June 1, 2011.

Judith A. Enck,

Regional Administrator, Region 2.

[FR Doc. 2011-17742 Filed 7-19-11; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R07-OAR-2011-0215; FRL-9435-9]

#### Approval and Promulgation of Air Quality Implementation Plan; Missouri; Final Disapproval of Interstate Transport State Implementation Plan Revision for the 2006 24-Hour PM<sub>2.5</sub> NAAQS

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** Pursuant to our authority under the Clean Air Act (CAA or Act), the Environmental Protection Agency (EPA) is taking final action to disapprove the portion of the “Infrastructure” State Implementation Plan (SIP) (CAA section 110(a)(1) and (2)) submittal from the State of Missouri intended to address the CAA section relating to the “interstate transport” requirements for the 2006 24-hour fine particle (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS) that prohibit a state from significantly contributing to nonattainment or

interfering with maintenance of the NAAQS in any other state. This final action to disapprove the “interstate transport” portion of the Missouri SIP submittal received by EPA on December 28, 2009, only relates to those provisions and does not address the other portions of Missouri’s December 28, 2009, submission. The rationale for this action and additional detail on this disapproval were described in EPA’s proposed rulemaking published in the **Federal Register** on March 18, 2011. The effect of this action will be the promulgation of a Federal Implementation Plan (FIP) for Missouri no later than two years from the date of disapproval. EPA’s proposed Transport Rule, when final, is the FIP that EPA intends to implement for Missouri.

**DATES:** *Effective Date:* This rule is effective on August 19, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2011-0215. All documents in the docket are listed on the <http://www.regulations.gov> index. Although listed in the index, some information is not 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 <http://www.regulations.gov> or in hard copy at the U.S. Environmental Protection Agency, Region 7, in the Air Planning and Development Branch, of the Air and Waste Management Division, 901 North 5th Street, Kansas City, Kansas 66101. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance. The Regional Office official hours of business are Monday through Friday, 8 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ms. Elizabeth Kramer, Environmental Scientist, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101; *telephone number:* (913) 551-7186; *fax number:* (913) 551-7844; *e-mail address:* [kramer.elizabeth@epa.gov](mailto:kramer.elizabeth@epa.gov).

## Judicial Review

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 September 19, 2011. 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).)

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. These sections provide additional information on this final action:

- I. Background
- II. Final Action
- III. Administrative Requirements

#### I. Background

On March 18, 2011 (76 FR 14835), EPA proposed to disapprove a portion of the “Infrastructure” SIP (CAA 110(a)(1) and (2)) submittal from the State of Missouri relating to the interstate transport element of infrastructure (CAA section 110(a)(2)(D)(i)(I)). EPA received no comments on the proposed disapproval. For additional detail on EPA’s rationale this final action, see the proposed rulemaking.

Section 110(a)(2) of the CAA lists the thirteen required elements that “infrastructure” SIPs must address, as applicable, including section 110(a)(2)(D)(i), which pertains to interstate transport of certain emissions. These “good neighbor” provisions require each state to submit a SIP that prohibits emissions which adversely affect another state in the ways contemplated in the statute. The section 110(a)(2)(D)(i), portion of Missouri’s SIP must prevent sources in the State from emitting pollutants in amounts which will: (I) Contribute significantly to nonattainment of the NAAQS in other states and interfere with maintenance of the NAAQS in other states and (II) interfere with provisions to prevent significant deterioration of air quality in other states or interfere with efforts to protect visibility in other states.

On December 28, 2009, EPA received a SIP revision from the State of Missouri intended to address the requirements of section 110(a)(2) including the requirements of section 110(a)(2)(D)(i) for the 2006 24-hour PM<sub>2.5</sub> NAAQS. In this final rulemaking, EPA is

disapproving only the 110(a)(2)(D)(i)(I) portion of the submittal that pertains to prohibiting sources in Missouri from emitting pollutants that significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in other states. The elements on which we are taking action today are severable portions of the submittal. EPA intends to address the additional portions of the submittal in a subsequent action.

The requirements of section 110(a)(2)(D)(i)(I), as well as EPA's analysis of the State's submission, are explained in detail in the proposal. In summary, EPA proposed to disapprove the Missouri submittal because: (1) It described a number of rules Missouri had adopted to reduce PM<sub>2.5</sub> precursors (sulfur dioxide and nitrogen oxides), but did not include any analysis to show that these measures would prohibit the interstate impacts described in section 110(a)(2)(D)(i)(I); and (2) it relied on the Clean Air Interstate Rule provisions in the Missouri SIP, even though those provisions do not address impacts on the 2006 PM<sub>2.5</sub> standards. We also noted that Missouri's conclusion with respect to these interstate impact provisions was inconsistent with the preliminary modeling for EPA's proposed Transport Rule (*see* 75 FR 45210, August 2, 2010). The reader should refer to the March 18, 2011 proposed rulemaking (76 FR at 14837–8) for a detailed explanation of EPA's rationale for this determination. In addition, EPA has now completed the modeling for the final Transport Rule and, as indicated by the technical support documents (TSDs) for this action, Missouri in fact significantly contributes to downwind nonattainment in another state and interferes with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in another state. Please see the TSDs for the final modeling and contribution analysis as they relate to this action.

## II. Final Action

EPA is taking final action to disapprove a portion of the submission from the State of Missouri intended to demonstrate that Missouri has adequately addressed the elements of CAA section 110(a)(2)(D)(i)(I) that require Missouri's SIP to include adequate provisions to prohibit air pollutant emissions from sources within the State from significantly contributing to nonattainment in or interference with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in any other state. EPA has determined that the Missouri submission does not contain adequate provisions to prohibit air pollutant emissions from within the State that

significantly contribute to nonattainment in or interference with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in other downwind states. As noted in the Background above, the final modeling for EPA's Transport Rule indicates that Missouri in fact significantly contributes to downwind nonattainment in another state and interferes with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in another state.

Any remaining elements of the submittal, including language to address other CAA section 110(a)(2) elements, including section 110(a)(2)(D)(i)(II) regarding interference with measures required in the applicable SIP for another state designed to prevent significant deterioration of air quality and protect visibility, are not addressed in this action. EPA is disapproving only the provisions which relate to the section 110(a)(2)(D)(i)(I) portion of the submittal. EPA will act on those other provisions in a subsequent action.

Also, under section 179(a) of the CAA, final disapproval of a submittal that addresses a requirement of a Part D Plan (42 U.S.C.A. 7501–7515), or is required in response to a finding of substantial inadequacy as described in section 7410(k)(5) (SIP Call), starts a sanctions clock. The provisions in the submittal that we are disapproving were not submitted to meet either of those requirements. Therefore, no sanctions are triggered.

The full or partial disapproval of a SIP revision triggers the requirement under section 110(c) that EPA promulgate a FIP no later than 2 years from the date of the disapproval unless the state corrects the deficiency, and the Administrator approves the plan or plan revision before the Administrator promulgates such FIP.

EPA's final Transport Rule and related FIP, if finalized in the manner proposed, may address these interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the State of Missouri for the 2006 24-hour PM<sub>2.5</sub> NAAQS.

## III. Administrative Requirements

Under the 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 act on state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law.

### *Executive Order 12866, Regulatory Planning and Review*

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

### *Paperwork Reduction Act*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, because this SIP disapproval under section 110 of the CAA will not in-and-of itself create any new information collection burdens but simply disapproves certain State requirements for inclusion into the SIP. Burden is defined at 5 CFR 1320.3(b).

### *Regulatory Flexibility Act*

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. This rule does not impose any requirements or create impacts on small entities. This SIP disapproval under section 110 of the CAA will not in-and-of itself create any new requirements but simply disapproves certain State requirements for inclusion into the SIP. Accordingly, it affords no opportunity for EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. The fact that the CAA prescribes that various consequences (e.g., higher offset requirements) may or will flow from

this disapproval does not mean that EPA either can or must conduct a regulatory flexibility analysis for this action. Therefore, this action will not have a significant economic impact on a substantial number of small entities.

#### *Unfunded Mandates Reform Act*

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. EPA has determined that the disapproval action does not include a Federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This action disapproves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

#### *Executive Order 13132, Federalism*

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.”

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action merely disapproves certain state requirements for inclusion into the SIP and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Today’s final disapproval does not have federalism implications. Thus, Executive Order 13132 does not apply to this action.

#### *Executive Order 13175, Consultation and Coordination With Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9,

2000), because the SIP EPA is disapproving would not apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

#### *Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under Section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This SIP disapproval under section 110 of the CAA will not in-and-of itself create any new regulations but simply disapproves certain state requirements for inclusion into the SIP.

#### *Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution or Use*

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

#### *National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through the Office of Management and Budget, explanations when the Agency decides not to use available and applicable voluntary consensus standards. EPA believes that this action is not subject to requirements of section 12(d) of NTTAA because application of those requirements would be inconsistent with the CAA.

#### *Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, Feb. 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this action. In reviewing SIP submissions, EPA’s role is to approve or disapprove state choices, based on the criteria of the CAA. Accordingly, this action merely disapproves certain State requirements for inclusion into the SIP under section 110 of the CAA and will not in-and-of itself create any new requirements. Accordingly, it 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.

#### *Congressional Review*

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).

#### *Statutory Authority*

The statutory authority for this action is provided by section 110 of the CAA, as amended (42 U.S.C. 7410).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

Dated: June 28, 2011.

Karl Brooks,

Regional Administrator, Region 7.

[FR Doc. 2011-17740 Filed 7-19-11; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2010-1012-201130; FRL-9438-2]

### Approval and Promulgation of Air Quality Implementation Plan; Georgia; Disapproval of Interstate Transport Submission for the 2006 24-Hour PM<sub>2.5</sub> Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to disapprove the portion of Georgia's October 21, 2009, submission which was intended to meet the requirement to address interstate transport for the 2006 24-hour fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS). Additionally, EPA is responding to comments received on EPA's January 26, 2011, proposed disapproval of the aforementioned portion of Georgia's October 21, 2009, submission. On October 21, 2009, the State of Georgia, through the Georgia Environmental Protection Division (GA EPD), provided a letter to EPA certifying that the Georgia state implementation plan (SIP) meets the interstate transport requirements with regard to the 2006 24-hour PM<sub>2.5</sub> NAAQS. Specifically, the interstate transport requirements under the Clean Air Act (CAA or Act) prohibit a state's emissions from significantly contributing to nonattainment or interfering with the maintenance of the NAAQS in any other state. The effect of today's action will be the promulgation of a Federal Implementation Plan (FIP) for Georgia no later than two years from the date of disapproval. The proposed Transport Rule, when final, is the FIP that EPA intends to implement for Georgia.

**DATES:** *Effective Date:* This rule will be effective August 19, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2010-1012. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not 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 <http://www.regulations.gov> or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. 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 to 4:30 excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For information regarding the Georgia SIP, contact Mr. Zuri Farngalo, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Mr. Farngalo's telephone number is (404) 562-9152; *e-mail address:* [farngalo.zuri@epa.gov](mailto:farngalo.zuri@epa.gov). For information regarding the PM<sub>2.5</sub> interstate transport requirements under section 110(a)(2)(D)(i), contact Mr. Steven Scofield, Regulatory Development Section, at the same address above. Mr. Scofield's telephone number is (404) 562-9034; *e-mail address:* [scofield.steve@epa.gov](mailto:scofield.steve@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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- II. EPA's Responses to Comments
- III. Final Action
- IV. Statutory and Executive Order Reviews

#### I. Background

Upon promulgation of a new or revised NAAQS, sections 110(a)(1) and (2) of the CAA require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance for that NAAQS. On December 18, 2006, EPA revised the 24-hour average PM<sub>2.5</sub> primary and secondary NAAQS from 65 micrograms per cubic meter (µg/m<sup>3</sup>) to 35 µg/m<sup>3</sup>, thus states were required to provide submissions to address section 110(a)(1) and (2) of the CAA (infrastructure SIPs) for this revised NAAQS. Georgia provided its infrastructure submission for the 2006 PM<sub>2.5</sub> NAAQS on October 21, 2009. On January 26, 2011, EPA

proposed to disapprove the portion of Georgia's October 21, 2009, infrastructure submission related to interstate transport (i.e., 110(a)(2)(D)(i)(I)) for the 2006 PM<sub>2.5</sub> NAAQS. See 76 FR 4584. A summary of the background for this final action is provided below.

Section 110(a)(2) lists the elements that infrastructure SIPs must address, as applicable, including section 110(a)(2)(D)(i), which pertains to interstate transport of certain emissions. States were required to provide submissions to address the applicable 110(a)(2) infrastructure requirements, including section 110(a)(2)(D)(i), by September 21, 2009.<sup>1</sup>

On September 25, 2009, EPA issued a guidance entitled "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS)" (2006 PM<sub>2.5</sub> NAAQS Infrastructure Guidance). EPA developed the 2006 PM<sub>2.5</sub> NAAQS Infrastructure Guidance to make additional recommendations to states for making submissions to meet the requirements of section 110, including 110(a)(2)(D)(i) for the revised 2006 24-hour PM<sub>2.5</sub> NAAQS.

As identified in the 2006 PM<sub>2.5</sub> NAAQS Infrastructure Guidance, the "good neighbor" provisions in section 110(a)(2)(D)(i) require each state to submit a SIP that prohibits emissions that adversely affect another state in the ways contemplated in the CAA. Section 110(a)(2)(D)(i) contains four distinct requirements related to the impacts of interstate transport. Specifically, the SIP must prevent sources in the state from emitting pollutants in amounts which will: (1) Contribute significantly to nonattainment of the NAAQS in other states; (2) interfere with maintenance of the NAAQS in other states; (3) interfere with provisions to prevent significant deterioration of air quality in other states; or (4) interfere with efforts to protect visibility in other states.

In the 2006 PM<sub>2.5</sub> NAAQS Infrastructure Guidance, EPA explained that submissions from states pertaining to the "significant contribution" and "interfere with maintenance" requirements in section 110(a)(2)(D)(i)(I) must contain adequate provisions to prohibit air pollutant emissions from within the state that contribute significantly to nonattainment or

<sup>1</sup> The rule for the revised PM<sub>2.5</sub> NAAQS was signed by the Administrator and publically disseminated on September 21, 2006. Because EPA did not prescribe a shorter period for 110(a) SIP submittals, the submittals for the 2006 24-hour NAAQS were due on September 21, 2009, three years from the September 21, 2006, signature date.