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6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2014-0550; FRL 9915-02-Region 7]

Approval and Promulgation of Implementation Plans; State of Iowa; 2014 Iowa State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to grant full approval of Iowa's State Implementation Plan (SIP) revision for the 2006 24-hour $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS). Iowa completed the SIP revision in response to a SIP Call finalized by EPA on July 14, 2011, finding that the Iowa SIP was substantially inadequate to maintain the 2006 24-hour $PM_{2.5}$ NAAQS in Muscatine County, Iowa. Iowa submitted its revised SIP to EPA on February 18, 2014. EPA believes that the SIP revision submitted by the state satisfies the applicable requirements of the Clean Air Act (CAA) identified in EPA's SIP Call and the 2006 24-hour $PM_{2.5}$ NAAQS and will keep the Muscatine area in attainment of the 35 microgram/cubic meter (ug/m^3) $PM_{2.5}$ NAAQS.

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

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2014-0550, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.

2. Email: algoe-eakin.amy@epa.gov.

3. Mail, Hand Delivery or Courier: Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA-R07-OAR-2014-0550. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or email. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the

Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket. All documents in the electronic docket are listed in the www.regulations.gov index. 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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas. EPA requests that 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.

FOR FURTHER INFORMATION CONTACT: Amy Algoe-Eakin at (913) 551-7942, or email her at algoe-eakin.amy@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA.

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I. What is Being Addressed in this Document?

EPA is proposing to grant full approval of Iowa's SIP revision for the 2006 24-hour $PM_{2.5}$ NAAQS. Iowa submitted this SIP revision in response to EPA's Finding of Substantial Inadequacy of Implementation Plan; Call for Iowa State Implementation Plan Revision related to the 2006 $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) in Muscatine County, Iowa. 76 FR 41424 (July 14, 2011) (hereinafter referred to as the "SIP Call"). Iowa's SIP revision demonstrates continued attainment of the 2006 $PM_{2.5}$ NAAQS.

II. Have the Requirements for the 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. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What Action is EPA Taking?

EPA is proposing to grant full approval of Iowa's SIP revision in response to EPA's SIP Call to maintain the 2006 24-hour $PM_{2.5}$ NAAQS. We are processing this as a proposed action because we are soliciting comments. Final rulemaking will occur after consideration of any comments.

IV. Background

EPA determined based on 2008-2010 monitoring data from a monitor within the city limits of Muscatine, Iowa that the Iowa SIP was inadequate to maintain attainment with the 2006 24-hour $PM_{2.5}$ NAAQS. 76 FR 41424.[1] EPA based the SIP call on its review of the monitoring data as well as the information from the violating monitor. All portions of Muscatine County are, and continue to be designated as attainment.

[1] A complete history of EPA's rule making can be found at 76 FR 9706, and 76 FR 41424. A summary is also included in the Technical Support Document (TSD) in the public docket for this action.

EPA issued its SIP call under section 110(k)(5) of the CAA and required Iowa to submit a SIP revision within 18 months of the effective date of the SIP Call that included: (1) an emissions inventory of sources expected to contribute to the violating monitor; (2) a modeling demonstration showing the reductions needed to attain and maintain the $PM_{2.5}$ NAAQS; (3) enforceable control measures necessary to attain and maintain the $PM_{2.5}$ NAAQS; and (4) enforceable commitments to adopt and implement contingency measures if the area does not attain or violates the standard. The SIP Call required that Iowa's SIP revision provide for attainment and maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in Muscatine County as expeditiously as practicable.

Iowa submitted its SIP revision to EPA on February 18, 2014.

V. Technical Review of the Attainment Demonstration SIP

A. Facility Descriptions

In order to meet the requirements of the SIP Call, Iowa developed a control strategy for Muscatine County. Iowa determined that there were three facilities that were significant contributors to modeled exceedances in the vicinity of the Garfield School monitor: Grain Processing Corporation (GPC), Muscatine Power & Water (MPW) and Union Tank Car (UTC).

The largest source of $PM_{2.5}$ near the Garfield School monitor is GPC. The modeling demonstration submitted by Iowa shows that GPC has actual $PM_{2.5}$ emissions of 537.6 tons/year. MPW and UTC have 58.3 and 3.0 tons/year of $PM_{2.5}$ emissions, respectively.

GPC is located approximately 500 meters east/southeast of the Garfield School monitor. GPC processes grain into industrial, beverage, and fuel-grade ethanol, grain based food products, industrial products, and animal feeds. GPC has nearly 200 $PM_{2.5}$ emission points, including coal and gas-fired boilers, dryers, coolers and associated material handling and storage equipment.

Union Tank Car (UTC) supplies and reconditions rail tank cars for use through rental agreements. The primary sources of $PM_{2.5}$ from UTC are from the removal of paint from rail tank cars, repair of rail tank cars, and application of paint through a spray system on rail tank cars. UTC is not a major source of $PM_{2.5}$, but is located near the Garfield School monitor. Iowa determined that UTC contributed to predicted violations of the $PM_{2.5}$ NAAQS. Therefore, Iowa included UTC in the control strategy.

Muscatine Power & Water (MPW) is a municipal electric generating station located approximately 1.6 kilometers south and east of the Garfield School monitor. The primary sources of $PM_{2.5}$ at MPW include emissions from three coal-fired boilers,

Units 7, 8, and 9, and emissions from the associated handling and storage equipment.

B. Modeling and Emissions Inventory Data

In the final SIP Call, EPA required the state to submit a modeled attainment demonstration which is consistent with appendix W to 40 CFR part 51. EPA required the modeling to show what reductions will be needed to attain and maintain the $PM_{2.5}$ NAAQS in the area. The state adequately addressed this requirement in its SIP submittal.

The SIP revision includes a detailed explanation of the modeling conducted. Included in the state's plan is discussion of model selection and options including: the extent of the receptor grid, receptor grid spacing, terrain elevations, downwash, and meteorological data. The state also provides background as to the iterative analyses conducted as well as the detailed development of model inputs for emissions and meteorology.

During the development of the plan and in previous technical modeling exercises regarding the 2006 24-hour $PM_{2.5}$ designations, EPA provided technical expertise to the state regarding modeling activities. EPA Region 7 reviewed and provided comment on the state's modeling protocol during the development of the $PM_{2.5}$ Muscatine SIP. (The modeling protocol is including in the state's formal submission as attachment A.)

In evaluating the SIP revision for consistency with appendix W to 40 CFR part 51, EPA Region 7 believes the state submission to be consistent with EPA's modeling requirements. Because local point sources are considered to be the significant contributors to the monitor 24-hour $PM_{2.5}$ violations, the state's modeling was conducted using AERMOD version 12345. Again, the model selection, modeling inputs, such as background concentrations and significant impact levels, and results of modeled attainment tests were subject to consultation with EPA Region 7 prior to the formal completion of the control strategy selection.

In the SIP Call, EPA stated that the state must include in the revised SIP an emissions inventory consistent with 40 CFR § 51.114. This regulatory provision provides for identification of emissions data and projections and each plan must contain a detailed inventory of emissions from point and area sources.

Iowa has adequately addressed this requirement in the SIP revision. Iowa reviewed the average 2007 and 2008 facility-wide actual emissions from the facilities shown to contribute significantly to violations of the 24-hour $PM_{2.5}$ NAAQS. Building upon the technical analysis which occurred during the designations process for the 2006 24-hour $PM_{2.5}$ NAAQS and in reviewing inventory for the development of modeling, the state determined three sources significantly contributed to the

Garfield School monitored violations. Because of the form of the standard (24-hour average), local sources were determined to be critical in terms of contributions to ambient $PM_{2.5}$ concentrations. The state, as noted in their SIP, did not identify any other potential emissions sources in the area of the violating monitor, such as area and mobile sources, as contributing significantly to the NAAQS violations. Background concentrations were added to modeled results to account for the regional transport of fine particulate matter and any unidentified local sources such as mobile and area sources not explicitly included in the model.

C. Control Strategy

Iowa determined that three sources: GPC, MPW, and UTC, contributed to modeled exceedances of the 2006 $PM_{2.5}$ NAAQS. Iowa's SIP includes a control strategy addressing each of these sources. Iowa's control strategy for GPC is memorialized in Administrative Consent Order No. 2014-AQ-A1 (ACO), which is an administrative consent order between the Iowa Department of Natural Resources and GPC and is included as part of Iowa's SIP revision as SIP attachment B. The ACO includes a schedule for implementing the control strategy, as well as recordkeeping, reporting and testing requirements. The provisions of the ACO will be incorporated into permits, which will then be submitted to EPA for approval into the state SIP. The ACO includes

numerous and substantial changes at the GPC facility. The control measures include new particulate controls or improvements to existing particulate controls on a number of sources; shutdown of existing equipment; replacement of old equipment; installation of more efficient equipment; regular sweeping and watering of road surfaces; increase of stack heights; and operating restrictions on certain processes. As described in detail in attachment A to the ACO, GPC has already implemented the control strategy at many of its emission points. This includes operation restrictions, $PM_{2.5}$ emission limits, shutdown of emission units, and stack height increases. However, there are several large-scale projects that will require substantial planning and construction by GPC.

Due to the scale and complexity of the control strategy implementation at GPC, GPC has developed a phased implementation schedule that is already underway and concludes in December 2016. Many of the changes at the GPC facility are contingent upon completion of a significant project related to a new dryer house (Dryer House #5 or DH 5) that is also required under a 2006 Consent Order entered into between GPC and the State of Iowa to address PM_{10} emissions. The DH 5 project is included in Iowa's SIP revision to address $PM_{2.5}$ emissions.

The SIP Call occurred at the same time GPC was designing the DH 5 project to comply with the 2006 Consent Order. To

demonstrate compliance with the $PM_{2.5}$ SIP Call, GPC re-evaluated the DH 5 project and made adjustments to the design to accommodate the more stringent plant-wide changes required by the $PM_{2.5}$ SIP Call. As a result of the changes to the project to accommodate the $PM_{2.5}$ SIP Call control strategy, the design complexity, and construction logistics for the DH 5 project, GPC will complete the project on March 31, 2015.

The control strategy includes several large scale projects that are tied to the installation and completion of the DH 5 project. They are described in detail in the Technical Support Document for this action.

The control strategy for GPC also includes several large scale projects that are complex in all aspects, including design and construction, and will require an extended schedule to complete. These projects include improvements to the dryer and scrubber performance at Gluten Plant Units 1 and 2; and decommissioning of dryers and conversion of dryers to natural gas. These projects are all described in detail in the TSD for this action.

The complexity of the design, fabrication, and construction of the projects at GPC supports the phased implementation schedule. Further, approval of the phased implementation schedule does not have a negative effect on air quality. The 24-hour $PM_{2.5}$ design values have been steadily declining over the

last three design value periods. The most recent three year design value (2011-2013) at the Garfield School monitor is 28 ug/m^3. Design values at both the Franklin School and Greenwood Cemetery monitors have also declined. The 2010-2012 design value for these monitors is 32 ug/m^3. The on-going implementation of controls pursuant to the control strategy will ensure that future design values stay below the 24-hour $PM_{2.5}$ NAAQS and will eliminate the oscillation of the design values around the $PM_{2.5}$ NAAQS.

Full implementation of the control measures at GPC will reduce $PM_{2.5}$ emissions from GPC by an estimated 367.9 tons/year.

As part of the control strategy, Union Tank Car is installing new particulate controls on several emission points. It is also increasing stack heights at select locations and restricting operations of certain processes. Full implementation of control measures at UTC will reduce $PM_{2.5}$ emissions from UTC by an estimated 0.3 tons per year. The UTC control measures are made enforceable through state-issued air construction permits, which were submitted by Iowa as part of its SIP revision and will become part of the SIP once EPA has granted full approval. All of the control measures at UTC have been implemented.

As part of the control strategy, MPW will conduct regular watering of road surfaces; pave an unpaved road and water road surfaces; remove a lime silo and mixing tank, 3 diesel engines,

and wet fly ash truck loading; and implement operational restrictions. MPW will also reduce the capacity of its limestone hopper loading and handling systems; install a roofed enclosure with three sides for the limestone hopper; and reduce the size of the coal pile, limestone pile and synthetic gypsum pile. MPW is also modifying its dust collection system for its coal reclaim and the coal crush feeders by reconfiguring the equipment and increasing the stack height. The MPW control measures are made enforceable through state-issued air construction permits, which were submitted by Iowa as part of its SIP revision and will become part of the SIP once EPA has granted full approval. All of the control measures at MPW have been implemented. The full implementation of the control strategy at MPW is expected to reduce $PM_{2.5}$ emission from MPW by an estimated 0.7 tons per year.

In our final rule (76 FR 41424), EPA stated that we would establish a specific date for attainment at the same time we took final action on the state's implementation plan revision in response to this final SIP Call. 76 FR at 41426. At the time of the SIP Call, we expected the attainment date to be the first full calendar year following the implementation of controls. In this case, EPA expected the attainment date would be the first full calendar year following the required implementation of controls, i.e. 2014.

However, based upon the information in Iowa's SIP revision, our review of the supplemental information provided by GPC by email dated April 29, 2014[2], and the current air quality monitoring data for the Muscatine area, EPA is proposing to establish this attainment date as December 31, 2017. This proposed attainment date is consistent with EPA's expectations established in the SIP Call, as it is the first full calendar year following implementation of controls. Due to the complexity of the control strategy, particularly the design, fabrication, and construction of the projects at GPC, and based on the current monitoring value, demonstrating continued attainment of the 2006 $PM_{2.5}$ NAAQS, EPA believes that December 31, 2017 is the date by which long term compliance with the NAAQS can be achieved as expeditiously as practicable.

The proposed control strategy will also further the downward trend of $PM_{2.5}$ emissions for the Muscatine area and provide co-benefits in reductions of other pollutants. Additional analysis can be found in the TSD for this action.

D. Contingency Measures

In the SIP Call, EPA stated that it was reasonable to expect that the 98^{th} percentile value of 24-hour concentrations for the calendar year after the necessary controls were implemented should be at or below the 24-hour $PM_{2.5}$ standard (35

[2] This information is included in the TSD and docket for this action.

ug/m^3). 76 FR at 41426. EPA stated that contingency measures will be triggered if that value is above the 98th percentile value in the calendar year after the implementation of controls necessary for attainment or in any subsequent year. Id. EPA then stated that the SIP revision must contain an enforceable commitment to adopt and implement sufficient contingency measures, once triggered, in an expeditious and timely fashion that is comparable and analogous to the requirements for contingency measures in CAA section 175A(d). Id.

EPA determined that the reference to CAA section 175A(d) was warranted because EPA made the SIP call to ensure that the area attains and then continues to maintain the $PM_{2.5}$ standard. 76 FR at 41428. At the time of the SIP Call, Iowa did not comment on the proposed contingency measure trigger. Id.

In Iowa's SIP, Iowa included a phased approach to the contingency measure trigger. Iowa stated it will use a violation of the 2015-2017 (or any subsequent) $PM_{2.5}$ design value measured from the Garfield School monitor to determine whether contingency measures should be implemented (first tier trigger). The contingency measures would then be implemented no later than 24 months as stated in the SIP Call. If a contingency measure is triggered, Iowa would then use the 98th percentile value for any subsequent calendar year following the implementation of contingency measures to determine the need for additional

measures (second tier trigger).

If the 98th percentile for any subsequent calendar year following the implementation of contingency measure is above 35 ug/m^3 then additional contingency measures would be implemented as expeditiously as practicable, but no later than 24 months after the second tier of contingency measures is triggered. Like the contingency measures implemented as a result of the design value trigger (first tier trigger), the additional contingency measures implemented as a result of the 98th percentile trigger (second tier trigger) would continue indefinitely and become part of the permanent control strategy for the area.

Iowa stated in its submission that it proposed this two tier approach because Iowa believed the SIP Call trigger (98th percentile in the calendar year following implementation of controls) did not adequately consider the potential role of regional (non-local) events. Iowa reviewed the statewide historical 98th percentile $PM_{2.5}$ monitoring data for the past 10 years. Iowa's review showed that if the SIP Call trigger was used, many communities in eastern Iowa that are not adjacent to direct sources of $PM_{2.5}$ and that are not currently designated as non-attainment for the 24-hour $PM_{2.5}$ NAAQS, would have been designated non-attainment for the 24-hour $PM_{2.5}$ NAAQS due to regional $PM_{2.5}$ episodes. Iowa also found that the SIP Call trigger failed to account for the documented year-to-year

variability of meteorological conditions. The annual variability of meteorological conditions is accounted for in the form of the 24-hour $PM_{2.5}$ standard, which uses a three-year average of 98^{th} percentile values.

EPA commented on this approach during the public comment period on Iowa's proposed SIP revision. Iowa stated that the two tier trigger approach allows for the triggering of contingency measures on the same time schedule that would have been applicable with a trigger based only on the 98^{th} percentile value for the calendar year after complete implementation of the control strategy.

Section 175A(d) contingency measures are required as part of SIPs to assure that a state will promptly correct any violation of the standard which occurs after the redesignation of the area as an attainment area. The contingency measures shall include a requirement that the state will implement all measures with respect to the control for the air pollutant concerned which were contained in the SIP for the area before redesignation of the area to attainment. In the SIP Call, EPA stated that it did not intend to imply that section 175A(d) is literally applicable to the Muscatine area, but rather provided that IDNR follow 175A(d) as a guide for developing and implementing contingency measures. 76 FR at 41428. At the time

of the SIP Call, EPA believed it was reasonable to expect the 98th percentile would be the appropriate trigger for implementing contingency measures. 76 FR at 41426. After reviewing Iowa's SIP revision and the associated contingency measures, EPA believes that the SIP revision meets the requirements of the SIP Call.

Iowa has used Section 175A(d) as guidance in developing the contingency measures, as required by the SIP Call. The contingency measure trigger proposed by Iowa is also reasonable. The first contingency measure trigger using the design value to determine whether there is a violation is consistent with the 2006 $PM_{2.5}$ NAAQS. The second contingency measure trigger using the 98th percentile value is consistent with EPA's SIP Call. Iowa will immediately implement the contingency measures as described below, upon reaching the first trigger.

EPA has carefully reviewed the control strategy and the contingency measures proposed and agrees that the design value trigger for the contingency measures is reasonable, given the strength of the control strategy and the contingency measures proposed and the current design value data of 28 ug/m^3.

EPA is proposing to adopt Iowa's two tier contingency measure approach. The two tier approach is protective of air quality and provides for a comprehensive approach to contingency measures. Therefore, EPA proposes to approve Iowa's two tier

trigger for the contingency measures.

As with all aspects of this proposal, EPA is taking comment on the approval of the two tier contingency measure trigger.

In the event that the 2015-2107 24-hour $PM_{2.5}$ design value exceeds the 24-hour $PM_{2.5}$ NAAQS at the Garfield School monitor, Iowa will require the submission of an emissions control program from the appropriate sources in the area. Iowa will determine which sources are required to submit an emissions control program based on the circumstances that triggered the exceedance. Iowa developed some potential contingency measures that may provide additional reductions in the event of an exceedance. These include the following: evaluate and install additional control equipment, as needed; evaluate and implement changes in stack parameters and stack configurations to improve dispersion of emissions; evaluate and implement additional operation and production restrictions; evaluate and implement process changes to reduce $PM_{2.5}$ and $PM_{2.5}$ formation; review operations and maintenance procedures to determine whether improvements can be made; re-evaluate traffic flow patterns at facilities and vehicle miles traveled to determine whether idling time and congestion can be reduced; re-evaluate material produce unloading, handling, and loading procedures and patters to determine whether improvements can be made; re-evaluate facility best management practices associated with housekeeping

including cleaning internal and external areas to minimize dust when the facility is receiving, transferring or loading out materials and product; consider planting vegetation in specific areas to control dust flow patterns and fugitive emissions; and identify and implement other improvements that may be necessary based on potential sources of particulate emissions.

The contingency measures adoption and implementation schedule is as follows:

Contingency Measures Adoption and Implementation Schedule

Activity	Completion Date (T=trigger date)
1) Evaluate circumstances of trigger; ID sources	T + 1 month
2) Identify additional control measures	T + 2 months
3) Facility(s) submit emission control program	T + 4 months
4) Issue order or permits	T + 6 months
5) Facility(s) implement additional control measures	Within T + 24 months

The emissions control plan for any facility required to submit a plan would include the necessary supporting technical information, emissions calculations, construction permit applications, and air quality evaluation to make the additional control measure enforceable through the issuance of an order or construction permits. This approach requires each affected facility to create and implement an emissions control plan with targeted control measures appropriate to the circumstances of the situation that triggered the contingency measures.

E. Enforceability

As specified in section 172(c)(6) and section 110(a)(2)(A) of the CAA and 57 FR 13556, all measures and other elements in the SIP must be enforceable by the state and EPA. The enforceable documents included in Iowa's SIP revision that EPA is proposing to approve are the ACO[3] (Administrative Consent Order No. 2014-AQ-A1) and the construction permits for MPW and UTC. The ACO contains all the control measures with enforceable dates for implementation. The construction permits for MPW and UTC contain all the necessary operational requirements for implementation. Further, the control strategy at MPW and UTC is in the process of being fully implemented.

Upon EPA approval of the SIP revision, the ACO and the state permits will become state and Federally enforceable, and enforceable by citizens under section 304 of the CAA. The ACO specifically allows for the enforcement of the ACO if the terms and provisions are not met. EPA is not bound by the state's enforcement or penalty actions and would enforce violations of this document under section 113 of the CAA or other Federal authorities.

EPA proposed to approve Iowa's SIP as meeting sections 172(c)(6) and 110(a)(2)(A) of the CAA, and 57 FR 13556.

[3] As stated in Iowa's SIP submission letter of February 18, 2014, Iowa did not submit Section III, Paragraph 5, the last sentence, or Section VI to EPA for approval. Therefore, those provisions of the 2014 ACO are not part of Iowa's SIP and are not considered by EPA.

V. Proposed Action

EPA is proposing to grant full approval of Iowa's SIP revision to maintain the 2006 24-hour $PM_{2.5}$ NAAQS.

VII. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).This action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). Thus Executive Order 13132 does not apply to this action. This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA

has no authority to disapprove a state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Burden is defined at 5 CFR 1320.3(b).

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 rule 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 [insert date 60 days from the date of publication of this document in the **Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the final rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

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, Sulfur oxides, Volatile organic compounds.

Dated: August 1, 2014.

Karl Brooks,
Regional Administrator,
Region 7.

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