



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2014-0503; FRL-9929-44-Region 5]

**Approval of Air Quality Implementation Plans; Minnesota;
Infrastructure SIP Requirements for the 2008 Ozone, 2010 NO₂,
2010 SO₂, and 2012 PM_{2.5} NAAQS**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve some elements and disapprove other elements of state implementation plan (SIP) submissions from Minnesota regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2008 ozone, 2010 nitrogen dioxide (NO₂), 2010 sulfur dioxide (SO₂), and 2012 fine particulate matter (PM_{2.5}) 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 proposes to disapprove certain elements of Minnesota's submissions relating to Prevention of Significant Deterioration (PSD) requirements. Minnesota already administers

Federally promulgated regulations that address the proposed disapprovals described in today's rulemaking. Therefore, the state will not be obligated to submit any new or additional regulations as a result of a future final disapproval.

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-R05-OAR-2014-0503, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: aburano.douglas@epa.gov.
3. Fax: (312) 408-2279.
4. Mail: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office

official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R05-OAR-2014-0503. 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 e-mail. 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 e-mail 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. For additional instructions on submitting comments, go to Section I of the SUPPLEMENTARY INFORMATION section of this document.

Docket: All documents in the 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, 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. We recommend that you telephone Eric Svingen, Environmental Engineer, at (312) 353-4489 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency,

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SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What should I consider as I prepare my comments for EPA?
- II. What is the background of these SIP submissions?
- III. What guidance is EPA using to evaluate these SIP submissions?
- IV. What is the result of EPA's review of these SIP submissions?
- V. What action is EPA taking?
- VI. Statutory and Executive Order Reviews.

I. What should I consider as I prepare my comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
2. Follow directions - EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

II. What is the background of these SIP submissions?

A. What state submissions does this rulemaking address?

This rulemaking addresses June 12, 2014, submissions from the Minnesota Pollution Control Agency (MPCA) intended to address all applicable infrastructure requirements for the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS. This rulemaking also addresses a February 3, 2015, letter from MPCA intended to clarify issues relating to emission limits and other control measures (clarification letter).

B. Why did the state make these SIP submissions?

Under section 110(a)(1) and (2) of the CAA, states are required to submit infrastructure SIPs to ensure that their SIPs

provide for implementation, maintenance, and enforcement of the NAAQS, including the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS. These submissions must contain any revisions needed for meeting the applicable SIP requirements of section 110(a)(2), or certifications that their existing SIPs for the NAAQS already meet those requirements.

EPA highlighted this statutory requirement in an October 2, 2007, guidance document entitled "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and PM_{2.5}¹ National Ambient Air Quality Standards" (2007 Guidance) and has issued additional guidance documents, the most recent on September 13, 2013, entitled "Guidance on Infrastructure State Implementation Plan (SIP) Elements under CAA Sections 110(a)(1) and (2)" (2013 Guidance). The SIP submissions referenced in this rulemaking pertain to the applicable requirements of section 110(a)(1) and (2), and address the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

C. What is the scope of this rulemaking?

EPA is acting upon the SIP submissions from Minnesota that address the infrastructure requirements of CAA section 110(a)(1) and (2) for the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5}

¹ PM_{2.5} refers to particles with an aerodynamic diameter of less than or equal to 2.5 micrometers, oftentimes referred to as "fine" particles.

NAAQS. The requirement for states to make SIP submissions of this type arises out of CAA section 110(a)(1), which states that states must make SIP submissions "within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof)," and these SIP submissions are to provide for the "implementation, maintenance, and enforcement" of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that "[e]ach such plan" submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA section 110(a)(1) and (2) as "infrastructure SIP" submissions. Although the term "infrastructure SIP" does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as SIP submissions that address the nonattainment planning requirements of part D and the PSD requirements of part C of title I of the CAA, and "regional haze SIP" submissions required to address the

visibility protection requirements of CAA section 169A.

In this rulemaking, EPA will not take action on three substantive areas of section 110(a)(2): (i) existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction ("SSM") at sources, that may be contrary to the CAA and EPA's policies addressing such excess emissions; (ii) existing provisions related to "director's variance" or "director's discretion" that purport to permit revisions to SIP approved emissions limits with limited public notice or without requiring further approval by EPA, that may be contrary to the CAA; and, (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's "Final NSR Improvement Rule," 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) ("NSR Reform"). Instead, EPA has the authority to address each one of these substantive areas in separate rulemakings. A detailed history, interpretation, and rationale as they relate to infrastructure SIP requirements can be found in EPA's May 13, 2014, proposed rule entitled, "Infrastructure SIP Requirements for the 2008 Lead NAAQS" in the section, "What is the scope of this rulemaking?" (see 79 FR 27241 at 27242 - 27245, May 13, 2014).

III. What guidance is EPA using to evaluate these SIP submissions?

EPA's guidance for these infrastructure SIP submissions is embodied in the 2007 Guidance referenced above. Specifically, attachment A of the 2007 Guidance (Required Section 110 SIP Elements) identifies the statutory elements that states need to submit in order to satisfy the requirements for an infrastructure SIP submission. As discussed above, EPA issued additional guidance, the most recent being the 2013 Guidance that further clarifies aspects of infrastructure SIPs that are not NAAQS specific.

IV. What is the result of EPA's review of these SIP submissions?

Pursuant to section 110(a), states must provide reasonable notice and opportunity for public hearing for all infrastructure SIP submissions. MPCA provided notice of a public comment period on March 31, 2014, and closed the public comment period on May 2, 2014. One comment was received; both the comment and MPCA's response to this comment were included in MPCA's submittal to EPA.

Minnesota provided a detailed synopsis of how various components of its SIP meet each of the applicable requirements in section 110(a)(2) for the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS, as applicable. The following review evaluates the state's submissions.

A. Section 110(a)(2)(A) - Emission limits and other control measures.

This section requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance, and other related matters. However, EPA has long interpreted emission limits and control measures for attaining the standards as being due when nonattainment planning requirements are due.² In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

Minnesota Statute (Minn. Stat.) 116.07 gives MPCA the authority to "adopt, amend, and rescind rules and standards having the force of law relating to any purpose . . . for the prevention, abatement, or control of air pollution." Also from Minn. Stat. 116.07, MPCA has the authority to issue "continue in effect or deny permits . . . for the prevention of pollution, for the emission of air contaminants," and for other purposes.

The 2013 Guidance states that to satisfy section 110(a)(2)(A) requirements, "an air agency's submission should

² See, e.g., EPA's final rule on "National Ambient Air Quality Standards for Lead." 73 FR 66964 at 67034, November 12, 2008.

identify existing EPA-approved SIP provisions or new SIP provisions that the air agency has adopted and submitted for EPA approval that limit emissions of pollutants relevant to the subject NAAQS, including precursors of the relevant NAAQS pollutant where applicable." In its February 3, 2015, clarification letter, MPCA identified existing controls and emission limits in Minnesota Rules (Minn. R.) that support compliance with and attainment of the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS. These regulations include controls and emission limits for volatile organic compounds (VOC) and nitrogen oxides (NO_x), which are precursors to ozone. Emissions for these pollutants and precursors are primarily limited through part 70 permits.

Minn. R. 7009.0020 states that "[n]o person shall emit any pollutant in such an amount or in such a manner as to cause or contribute to a violation of any ambient air quality standard beyond such person's property line. . ." Minn. R. 7009.0080 sets the state ambient air quality standards.

On January 1, 2015, EPA began implementing the Cross-State Air Pollution Rule (CSAPR). Minnesota is subject to CSAPR's requirements regarding annual NO_x and SO₂ power plant emissions, which are intended to address transport of PM_{2.5} to downwind states. EPA and MPCA expect that CSAPR will result in reduced

NO_x and SO₂ emissions from Minnesota's power plants, which will assist Minnesota's efforts to attain and maintain the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

Though Minnesota has never had nonattainment areas for ozone, NO₂, or PM_{2.5}, Minnesota has maintenance areas for the 1971 SO₂ and 1987 PM₁₀³ NAAQS. Therefore, most of Minnesota's pollutant-specific rules relate to SO₂ and PM₁₀. Because PM_{2.5} is a subcategory of PM₁₀, controls relating to PM₁₀ can be expected to limit emissions of PM_{2.5}. Similarly, controls relating to PM can be expected to limit emissions of PM_{2.5}.

In its clarification letter, MPCA identified enforceable permits and administrative orders with SO₂ emission limits. In previous rulemakings, EPA has approved these permits and orders into Minnesota's SIP (see 59 FR 17703, April 14, 1994; 64 FR 5936, February 8, 1999; 66 FR 14087, March 9, 2001; 67 FR 8727, February 26, 2002; 72 FR 68508, December 5, 2007; 74 FR 18138, April 21, 2009; 74 FR 18634, April 24, 2009; 74 FR 18638, April 24, 2009; 74 FR 63066, December 2, 2009; 75 FR 45480, August 3, 2010; 75 FR 48864, August 12, 2010; 75 FR 81471, December 28, 2010; and 78 FR 28501, May 15, 2013). Also, an administrative order issued as part of Minnesota's Regional Haze SIP includes

³ PM₁₀ refers to particles with an aerodynamic diameter of less than or equal to 10 micrometers.

SO₂ limits. Additionally, state rules that have been incorporated into Minnesota's SIP (at Minn. R. 7011.0500 to 7011.0553, 7011.0600 to 7011.0625, 7011.1400 to 7011.1430, 7011.1600 to 7011.1605, and 7011.2300) contain SO₂ emission limits. Also, Minn. R. 7011.0900 to 7011.0909 include fuel sulfur content restrictions that can limit SO₂ emissions. These regulations support compliance with and attainment of the 2010 SO₂ NAAQS.

In its clarification letter, MPCA identified enforceable permits and administrative orders with PM emission limits. In previous rulemakings, EPA has approved these permits and orders into Minnesota's SIP (see 59 FR 7218, February 15, 1994; 60 FR 31088, June 13, 1995; 62 FR 39120, July 22, 1997; 65 FR 42861, July 12, 2000; 69 FR 51371, August 19, 2004; 72 FR 51713, September 11, 2007; 74 FR 23632, May 20, 2009; 74 FR 63066, December 2, 2009; 75 FR 11461, March 11, 2010; and 75 FR 78602 , December 16, 2010). Additionally, state rules that have been incorporated into Minnesota's SIP (at Minn. R. 7011.0150, 7011.0500 to 7011.0553, 7011.0600 to 7011.0625, 7011.0710 to 7011.0735, 7011.0850 to 7011.0859, 7011.0900 to 7011.0922, 7011.1000 to 7011.1015, 7011.1100 to 7011.1125, 7011.1300 to 7011.1325, and 7011.1400 to 7011.1430) contain PM emission

limits. These regulations support compliance with and attainment of the 2012 PM_{2.5} NAAQS.

VOC emissions are limited by the National Emission Standards for Hazardous Air Pollutants, which are incorporated by reference into Minnesota's state rules at Minn R. 7011.7000. Part 70 permits are Minnesota's primary method for limiting VOC emissions. NO_x emissions are limited by Minn. R. 7011.0500 to 7011.0553 and 7011.1700 to 7011.1705, as well as an administrative order issued as part of Minnesota's Regional Haze SIP. These regulations support compliance with and attainment of the 2008 ozone NAAQS. Because NO₂ is a subcategory of NO_x, controls relating to NO_x can be expected to limit emissions of NO₂. These regulations support compliance with and attainment of the 2010 NO₂ NAAQS.

In this rulemaking, EPA is not proposing to incorporate into Minnesota's SIP any new provisions in Minnesota's state rules that have not been previously approved by EPA. EPA is also not proposing to approve or disapprove any existing state provisions or rules related to start-up, shutdown or malfunction or director's discretion in the context of section 110(a)(2)(A). EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

B. Section 110(a)(2)(B) - Ambient air quality monitoring/data system.

This section requires SIPs to include provisions to provide for establishing and operating ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to EPA upon request. This review of the annual monitoring plan includes EPA's determination that the state: (i) monitors air quality at appropriate locations throughout the state using EPA-approved Federal Reference Methods or Federal Equivalent Method monitors; (ii) submits data to EPA's Air Quality System (AQS) in a timely manner; and, (iii) provides EPA Regional Offices with prior notification of any planned changes to monitoring sites or the network plan.

MPCA continues to operate an ambient pollutant monitoring network, and compiles and reports air quality data to EPA. EPA approved MPCA's 2015 Annual Air Monitoring Network Plan for ozone, NO₂, SO₂, and PM_{2.5} on October 31, 2014. MPCA also provides prior notification to EPA when changes to its monitoring network or plan are being considered. EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

C. Section 110(a)(2)(C) - Program for enforcement of control measures; PSD.

This section requires each state to provide a program for enforcement of control measures. Section 110(a)(2)(C) also includes various requirements relating to PSD.

1. Program for enforcement of control measures.

States are required to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to meet new source review (NSR) requirements under PSD and nonattainment new source review (NNSR) programs. Part C of the CAA (sections 160 through 169B) addresses PSD, while part D of the CAA (sections 171 through 193) addresses NNSR requirements.

Minn. Stat. 116.07 gives MPCA the authority to enforce any provisions of the chapter relating to air contamination. These provisions include: entering into orders, schedules of compliance, stipulation agreements, requiring owners or operators of emissions facilities to install and operate monitoring equipment, and conducting investigations. Minn. Stat. 116.072 authorizes MPCA to issue orders and assess administrative penalties to correct violations of the agency's rules, statutes, and permits, and Minn. Stat. 115.071 outlines the remedies that are available to address such violations.

Lastly, Minn. R. 7009.0030 to 7009.0040 provide for enforcement measures. EPA proposes that Minnesota has met the program for enforcement of control measures requirements of section 110(a)(2)(C) with respect to the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

2. PSD.

110(a)(2)(C) includes several PSD requirements relevant to the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS. These are evaluated as four components: identification of NO_x as a precursor to ozone provisions in the PSD program; identification of precursors to PM_{2.5} and the identification of PM_{2.5} and PM₁₀ condensables in the PSD program; PM_{2.5} increments in the PSD program; and greenhouse gas (GHG) permitting and the "Tailoring Rule."

States may develop and implement their own PSD programs, which are evaluated against EPA's requirements for each component. States may alternatively decline to develop their own program, but instead directly implement Federal PSD rules. Minnesota has chosen to implement the Federally promulgated PSD rules at 40 CFR 52.21, and EPA has delegated to Minnesota the authority to implement these regulations. The Federally promulgated rules satisfy all 110(a)(2)(C) requirements relating to PSD.

As described in the 2013 Guidance, when evaluating whether a state has met infrastructure SIP obligations, EPA cannot give "credit" for a Federally delegated program. Because Minnesota's submission did not include state rules meeting PSD requirements, EPA therefore must propose a disapproval for this section. However, Minnesota has no further obligations to EPA because the state administers the Federally promulgated PSD regulations. EPA proposes a disapproval of the PSD requirements of section 110(a)(2)(C) with respect to the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

D. Section 110(a)(2)(D) - Interstate transport; pollution abatement.

Section 110(a)(2)(D)(i)(I) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of the NAAQS in another state. Section 110(a)(2)(D)(i)(II) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality or to protect visibility in another state.

1. Interstate transport - significant contribution.

On February 17, 2012, EPA promulgated designations for the

2010 NO₂ NAAQS, stating for the entire country that, "The EPA is designating areas as "unclassifiable/attainment" to mean that available information does not indicate that the air quality in these areas exceeds the 2010 NO₂ NAAQS" (see 77 FR 9532). For comparison purposes, EPA examined the design values⁴ based on data collected between 2011 and 2013 from NO₂ monitors in Minnesota and surrounding states. Within Minnesota, the highest design value was 44 ppb at a monitor in Dakota County. In surrounding states, the highest design value was 49 ppb at a monitor in Milwaukee, WI. These design values are both lower than the standard, which is 100 ppb for the 2010 NO₂ NAAQS. Additionally, as discussed in EPA's evaluation of 110(a)(2)(A) requirements, Minn. R. 7011 contains controls and emission limits for NO_x. Furthermore, CSAPR requires reductions of NO_x emissions in order to reduce interstate transport. MPCA works with EPA in implementing the CSAPR program. EPA believes that, in conjunction with the continued implementation of the state's ability to limit NO_x emissions, low monitored values of NO₂ will continue in and around Minnesota. In other words, NO₂ emissions from Minnesota are not expected to cause or contribute to a

⁴ The level of the 2010 NO₂ NAAQS is 100 parts per billion (ppb) and the form is the 3-year average of the annual 98th percentile of the daily 1-hour maximum. For the most recent design values, see <http://www.epa.gov/airtrends/values.html>.

violation of the 2010 NO₂ NAAQS in another state.

In this rulemaking, EPA is not evaluating section 110(a)(2)(D)(i)(I) requirements relating to significant contribution to transport for the 2008 ozone, 2010 SO₂, and 2012 PM_{2.5} NAAQS. Instead, EPA will evaluate these requirements in a separate rulemaking. EPA proposes that Minnesota has met the section 110(a)(2)(D)(i)(I) requirements relating to significant contribution to transport for the 2010 NO₂ NAAQS.

2. Interstate transport - interfere with maintenance.

As described above, EPA has classified all areas of the country as "unclassifiable/attainment" for the 2010 NO₂ NAAQS, NO₂ design values in and around Minnesota are lower than the standard, MPCA is able to control NO₂ emissions, and CSAPR requires reductions in NO_x emissions. In other words, NO₂ emissions from Minnesota are not expected to interfere with the maintenance of the 2010 NO₂ NAAQS in another state.

In this rulemaking, EPA is not evaluating section 110(a)(2)(D)(i)(I) requirements relating to interference with maintenance for the 2008 ozone, 2010 SO₂, and 2012 PM_{2.5} NAAQS. Instead, EPA will evaluate these requirements in a separate rulemaking. EPA proposes that Minnesota has met the section 110(a)(2)(D)(i)(I) requirements relating to interference with maintenance for the 2010 NO₂ NAAQS.

3. Interstate transport - prevention of significant deterioration.

Section 110(a)(2)(D)(i)(II) requires SIPs to include provisions prohibiting interference with PSD. EPA acknowledges that Minnesota has not adopted or submitted regulations for PSD, which results in a proposed disapproval with respect to this set of infrastructure SIP requirements. However, Minnesota has no further obligations to EPA because the state administers the Federally promulgated PSD regulations at 40 CFR 52.21. EPA proposes a disapproval of the PSD requirements of section 110(a)(2)(D)(i)(II) with respect to the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

4. Interstate transport - protect visibility.

With regard to the applicable requirements for visibility protection of section 110(a)(2)(D)(i)(II), states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). The 2013 Guidance states that these requirements can be satisfied by an approved SIP addressing reasonably attributable visibility impairment, if required, or an approved SIP addressing regional haze.

In this rulemaking, EPA is not evaluating section 110(a)(2)(D)(i)(II) requirements relating to visibility for the

2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS. Instead, EPA will evaluate these requirements in a separate rulemaking.

5. Interstate and international pollution abatement.

Section 110(a)(2)(D)(ii) requires each SIP to contain adequate provisions requiring compliance with the applicable requirements of section 126 and section 115 of the CAA (relating to interstate and international pollution abatement, respectively).

The submissions from Minnesota affirm that the state has no pending obligations under section 115.

Section 126(a) requires new or modified sources to notify neighboring states of potential impacts from the source. The statute does not specify the method by which the source should provide the notification. States with SIP-approved PSD programs must have a provision requiring such notification by new or modified sources. A lack of such a requirement in state rules would be grounds for disapproval of this element.

EPA acknowledges that Minnesota has not adopted or submitted regulations for PSD, which results in a proposed disapproval with respect to this set of infrastructure SIP requirements. However, Minnesota has no further obligations to EPA because the state administers the Federally promulgated PSD regulations at 40 CFR 52.21. EPA proposes a disapproval of the

PSD requirements of section 110(a)(2)(D)(ii) with respect to the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

E. Section 110(a)(2)(E) - Adequate authority and resources.

This section requires each state to provide for adequate personnel, funding, and legal authority under state law to carry out its SIP, and related issues. Section 110(a)(2)(E)(ii) also requires each state to comply with the requirements respecting state boards under section 128.

1. Adequate authority and resources.

Minnesota provided information on the state's authorized spending by program, program priorities, and the state budget. MPCA's Environmental Performance Partnership Agreement (EnPPA) with EPA provides the MPCA's assurances of resources to carry out certain air programs. EPA also notes that Minn. Stat. 116.07 provides the legal authority under state law to carry out the SIP. EPA proposes that Minnesota has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E) with respect to the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

2. State board requirements.

Section 110(a)(2)(E) also requires each SIP to contain provisions that comply with the state board requirements of section 128 of the CAA. That provision contains two explicit

requirements: (i) that any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits and enforcement orders under this chapter, and (ii) that any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

In its June 12, 2014, submittal, MPCA included rules from the Civil Service Rule at 2-8.3(a)(1) for incorporation into the SIP, pursuant to section 128 of the CAA.

In this rulemaking, EPA is not evaluating section 110(a)(2)(E) requirements relating to state board requirements for the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS. Instead, EPA will evaluate these requirements in a separate rulemaking.

F. Section 110(a)(2)(F) - Stationary source monitoring system.

States must establish a system to monitor emissions from stationary sources and submit periodic emissions reports. Each plan shall also require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to

monitor emissions from such sources. The state plan shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and correlation of such reports by each state agency with any emission limitations or standards established pursuant to this chapter. Lastly, the reports shall be available at reasonable times for public inspection.

Under Minnesota air quality rules, any NAAQS is an applicable requirement for stationary sources. Minnesota's monitoring rules have been previously approved by EPA and are contained in Minnesota's SIP at Minn. R. 7011. Minn. Stat. 116.07 gives MPCA the authority to require owners or operators of emission facilities to install and operate monitoring equipment, while Minnesota's SIP at Minn. R. 7007.0800 sets forth the minimum monitoring requirements that must be included in stationary source permits. Lastly, Minnesota's SIP at Minn. R. 7017 of contains monitoring and testing requirements, including rules for continuous monitoring. EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

G. Section 110(a)(2)(G) - Emergency power.

This section requires that a plan provide for authority

that is analogous to what is provided in section 303 of the CAA, and adequate contingency plans to implement such authority. The 2013 Guidance states that infrastructure SIP submissions should specify authority, rested in an appropriate official, to restrain any source from causing or contributing to emissions which present an imminent and substantial endangerment to public health or welfare, or the environment.

Minn. Stat. 116.11 provides to MPCA emergency powers, which are further discussed in Minn. R. 7000.5000. Specifically, these regulations allow the agency to "direct the immediate discontinuance or abatement of the pollution without notice and without a hearing or at the request of the agency, the attorney general may bring an action in the name of the state in the appropriate district court for a temporary restraining order to immediately abate or prevent the pollution." EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(G) with respect to the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

H. Section 110(a)(2)(H) - Future SIP revisions.

This section requires states to have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or to an EPA finding that the SIP is substantially inadequate.

Minn. Stat. 116.07 grants the agency the authority to “[a]dopt, amend, and rescind rules and standards having the force of law relating to any purpose . . . for the prevention, abatement, or control of air pollution.” EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

I. Section 110(a)(2)(I) - Nonattainment area plan or plan revisions under part D.

The CAA requires that each plan or plan revision for an area designated as a nonattainment area meet the applicable requirements of part D of the CAA. Part D relates to nonattainment areas.

As outlined in the 2013 guidance, EPA has determined that section 110(a)(2)(I) is not applicable to the infrastructure SIP process. Section 110(a)(2)(I) is not being addressed and does not need to be addressed in the context of an infrastructure SIP submission.

J. Section 110(a)(2)(J) - Consultation with government officials; public notification; PSD; visibility protection.

The evaluation of the submissions from Minnesota with respect to the requirements of section 110(a)(2)(J) are described below.

1. Consultation with government officials.

States must provide a process for consultation with local governments and Federal Land Managers (FLMs) carrying out NAAQS implementation requirements.

Historically, MPCA actively participated in the Central Regional Air Planning Association as well as the Central States Air Resource Agencies. Additionally, Minnesota is now an active member of the Lake Michigan Air Directors Consortium, which provides technical assessments and a forum for discussion regarding air quality issues to member states. Minnesota has also demonstrated that it frequently consults and discusses issues with pertinent Tribes. Therefore, EPA proposes that Minnesota has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

2. Public notification.

Section 110(a)(2)(J) also requires states to notify the public if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances.

Minnesota dedicates portions of the MPCA website to enhancing public awareness of measures that can be taken to prevent exceedances. For example, information on these pages

includes information about specific air pollutants,⁵ as well as the biennial reports that MPCA prepares for the state legislature.⁶ EPA proposes that Minnesota has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

3. PSD.

States must meet applicable requirements of section 110(a)(2)(C) related to PSD. Minnesota's PSD program in the context of infrastructure SIPs has already been discussed in the paragraphs addressing section 110(a)(2)(C) and (a)(2)(D)(i)(II). EPA acknowledges that Minnesota has not adopted or submitted regulations for PSD, which results in a proposed disapproval with respect to this set of infrastructure SIP requirements. However, Minnesota has no further obligations to EPA because the state administers the Federally promulgated PSD regulations at 40 CFR 52.21. EPA proposes a disapproval of the PSD requirements of section 110(a)(2)(J) with respect to the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

4. Visibility protection.

5 See <http://www.pca.state.mn.us/index.php/air/air-quality-and-pollutants/air-pollutants/index.html>

6 See <http://www.pca.state.mn.us/index.php/about-mpca/legislative-resources/legislative-reports/air-quality-in-minnesota-reports-to-the-legislature.html>

With regard to the applicable requirements for visibility protection, states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, the visibility and regional haze program requirements under part C do not change. Thus, we find that there is no new visibility obligation "triggered" under section 110(a)(2)(J) when a new NAAQS becomes effective.

EPA has determined that the visibility requirements of section 110(a)(2)(J) are not applicable to the infrastructure SIP process. The visibility requirements of section 110(a)(2)(J) are not being addressed and do not need to be addressed in the context of an infrastructure SIP submission.

K. Section 110(a)(2)(K) - Air quality modeling/data.

SIPs must provide for performing air quality modeling for predicting effects on air quality of emissions from any NAAQS pollutant and submission of such data to EPA upon request.

MPCA reviews the potential impact of major and some minor new sources. Under Minn. R. 7007.0500, MPCA may require applicable major sources in Minnesota to perform modeling to show that emissions do not cause or contribute to a violation of any NAAQS. Furthermore, MPCA maintains the capability to perform its own modeling. Because Minnesota administers the

Federally promulgated PSD regulations, pre-construction permitting modeling is conducted in compliance with EPA's regulations. EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

L. Section 110(a)(2)(L) - Permitting fees.

This section requires SIPs to mandate each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing, and enforcing a permit.

MPCA implements and operates the title V permit program, which EPA approved on December 4, 2001 (66 FR 62967). Minn. R. 7002.0005 through 7002.0085 contain the provisions, requirements, and structures associated with the costs for reviewing, approving, implementing, and enforcing various types of permits. EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(L) with respect to the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

M. Section 110(a)(2)(M) - Consultation/participation by affected local entities.

States must consult with and allow participation from local political subdivisions affected by the SIP.

Minnesota regularly consults with local political subdivisions affected by the SIP, where applicable. EPA observes that Minn. Stat. 116.05 authorizes cooperation and agreement between MPCA and other State and local governments. Additionally, the Minnesota Administrative Procedures Act (Minn. Stat. 14) provides general notice and comment procedures that are followed during SIP development. Lastly, MPCA regularly issues public notices on proposed actions. EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

V. What action is EPA taking?

EPA is proposing to approve most elements of submissions from Minnesota certifying that its current SIP is sufficient to meet the required infrastructure elements under section 110(a)(1) and (2) for the 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS. We are also proposing to disapprove some elements of the state's submission as they relate to its PSD program. As described above, Minnesota already administers Federally promulgated PSD regulations through delegation, and therefore no practical effect is associated with today's proposed disapproval or future final disapproval of those elements.

EPA's proposed actions for the state's satisfaction of infrastructure SIP requirements, by element of section 110(a)(2) and NAAQS, are contained in the table below.

Element	2008 Ozone	2010 NO ₂	2010 SO ₂	2012 PM _{2.5}
(A) - Emission limits and other control measures.	A	A	A	A
(B) - Ambient air quality monitoring/data system.	A	A	A	A
(C)1 - Program for enforcement of control measures.	A	A	A	A
(C)2 - PSD.	D	D	D	D
(D)1 - I Prong 1: Interstate transport - significant contribution.	NA	A	NA	NA
(D)2 - I Prong 2: Interstate transport - interfere with maintenance.	NA	A	NA	NA
(D)3 - II Prong 3: Interstate transport - prevention of significant deterioration.	D	D	D	D
(D)4 - II Prong 4: Interstate transport - protect visibility.	NA	NA	NA	NA
(D)5 - Interstate and international pollution abatement.	D	D	D	D
(E)1 - Adequate resources.	A	A	A	A
(E)2 - State board requirements.	NA	NA	NA	NA
(F) - Stationary source monitoring system.	A	A	A	A
(G) - Emergency power.	A	A	A	A
(H) - Future SIP revisions.	A	A	A	A
(I) - Nonattainment planning requirements of part D.	*	*	*	*
(J)1 - Consultation with government officials.	A	A	A	A
(J)2 - Public notification.	A	A	A	A
(J)3 - PSD.	D	D	D	D
(J)4 - Visibility protection.	*	*	*	*
(K) - Air quality modeling/data.	A	A	A	A
(L) - Permitting fees.	A	A	A	A
(M) - Consultation and participation by affected local entities.	A	A	A	A

In the above table, the key is as follows:

A	Approve
D	Disapprove
NA	No Action / Separate Rulemaking

*	Not germane to infrastructure SIPs
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VI. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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);
- 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, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 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 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 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).

List of Subjects in 40 CFR Part 52

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

Dated: June 11, 2015.

Susan Hedman,
Regional Administrator, Region 5.

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