



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2013-0185; FRL-9935-21-Region 4]

Approval and Promulgation of Implementation Plans; Alabama; Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve in part, and disapprove in part, the November 4, 2011, State Implementation Plan (SIP) submission, provided by the Alabama Department of Environmental Management (ADEM) for inclusion into the Alabama SIP. This final action pertains to the Clean Air Act (CAA or the Act) infrastructure requirements for the 2008 Lead national ambient air quality standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an “infrastructure” SIP. ADEM certified that the Alabama SIP contains provisions that ensure the 2008 Lead NAAQS is implemented, enforced, and maintained in Alabama. With the exception of provisions pertaining to prevention of significant deterioration (PSD) permitting, which EPA is taking no action through this notice, and the provisions respecting state boards, for which EPA is taking final action to disapprove, EPA is taking final action to approve Alabama’s

infrastructure SIP submission provided to EPA on November 4, 2011, as satisfying the required infrastructure elements for the 2008 Lead NAAQS.

DATES: This rule will be effective [insert 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2013-0185. All documents in the docket are listed on the 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 www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation 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 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Zuri Farngalo, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta,

Georgia 30303-8960. Mr. Farngalo can be reached by phone at (404) 562-9152 and via electronic mail at farngalo.zuri@epa.gov.

SUPPLEMENTARY INFORMATION:

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 new NAAQS. Section 110(a) of the CAA generally requires states to make a SIP submission to meet applicable requirements in order to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. For additional information on the infrastructure SIP requirements, see the proposed rulemaking published on July 20, 2015 (80 FR 42765).

On July 20, 2015, EPA proposed to approve in part, and disapprove in part, Alabama's November 4, 2011, 2008 Lead NAAQS infrastructure SIP submission. EPA did not receive any comments, adverse or otherwise, on the July 20, 2015, proposed rule. EPA is not taking any action today pertaining to the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i), and (J) for the 2008 Lead NAAQS. EPA took final action on these elements in a separate action on March 18, 2015 (80 FR 14019). With respect to Alabama's infrastructure SIP submissions related to section 110(a)(2)(E)(ii) respecting the section 128 state board requirements, EPA is taking final action to disapprove this element of Alabama's submissions.

II. Final Action

With the exception of the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of (D)(i) and (J), and the state board requirements of section 110(a)(2)(E)(ii), EPA is taking final action to approve that ADEM's infrastructure SIP submission, submitted November 4, 2011, for the 2008 Lead NAAQS meets the above described infrastructure SIP requirements. EPA is taking final action to disapprove Alabama's infrastructure submission for section 110(a)(2)(E)(ii) because the State's implementation plan does not contain provisions to comply with section 128 of the Act.

III. Statutory and Executive Order Reviews

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 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 Clean Air Act; 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 as specified by Executive

Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 24, 2015.

Heather McTeer Toney,

Regional Administrator,

Region 4.

40 CFR part 52 is amended as follows:

PART 52-APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart B—Alabama

2. Section 52.50(e), is amended by adding entry “110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards” at the end of the table to read as follows:

§ 52.50 Identification of plan.

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(e) * * *

EPA-APPROVED ALABAMA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
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110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards	Alabama	11/4/2011	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]	With the exception of provisions pertaining to PSD permitting requirements in sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3), 110(a)(2)(J); and section 110(a)(2)(E)(ii).
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3. Section 52.53 is amended by adding paragraph (b) to read as follows:

§ 52.53 Approval status.

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(b) *Disapproval.* Submittal from the State of Alabama, through the Alabama Department of Environmental Management (ADEM) on November 4, 2011, to address the Clean Air Act (CAA) section 110(a)(2)(E)(ii) for the 2008 Lead National Ambient Air Quality Standards concerning state board requirements. EPA is disapproving section 110(a)(2)(E)(ii) of ADEM's submittal because the Alabama SIP lacks provisions respecting state boards per section 128 of the CAA for the 2008 Lead National Ambient Air Quality Standards.

[FR Doc. 2015-25673 Filed: 10/8/2015 08:45 am; Publication Date: 10/9/2015]