



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

#### [EPA-R08-OAR-2016-0366, FRL-9953-78-Region 8]

### **Approval and Promulgation of State Implementation Plan Revisions to Primary Air Quality Standards, Minor Source Baseline Date, Incorporation by Reference, and 2008 Ozone NAAQS Infrastructure Requirements for CAA Section 110(a)(2)(C) and (D)(i)(II); Wyoming**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Wyoming in two submittals on May 28, 2015 and one submittal on November 6, 2015. The final amendments update the version of the Code of Federal Regulations (CFR) incorporated by reference into the Wyoming Air Quality Standards and Regulations (WAQSR) for Chapter 2, Ambient Standards, Sections 12; Chapter 3, General Emission Standards, Section 9; and Chapter 6, Prevention of Significant Deterioration, Section 4. The EPA also approves the revision in one of the May 28, 2015 submittals that updates a citation to a Federal Register article (i.e., Federal Register notice) under the definition of “tpy CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e),” and lists a new minor source baseline date for fine particulate. The EPA also approves the updates to the primary air quality standards for particulate matter (PM<sub>2.5</sub>) to reflect federal updates that went into effect in January 2013. The updated primary PM<sub>2.5</sub> standard is 12 micrograms per cubic meter (µg/m<sup>3</sup>) annual arithmetic mean concentration, which is lowered from its previous level of 15 µg/m<sup>3</sup>. The EPA is also approving portions of the State’s

February 6, 2014 2008 ozone National Ambient Air Quality Standards (NAAQS) infrastructure certification regarding prevention of significant deterioration (PSD). The EPA is not taking action in this final rule on the Chapter 6, Permitting Requirements, Section 14 portion of a May 24, 2012 submittal or one of the May 28, 2015 submittals because it has been superseded by a November 6, 2015 submittal that the EPA approved in a separate action. The EPA is not taking action on a May 24, 2012 submittal or a March 8, 2013 submittal because they have been superseded by one of the May 28, 2015 submittals.

**DATES:** This rule is effective on [**Insert date 30 days after date of publication in the Federal Register**].

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2016-0366. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Jody Ostendorf, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-7814, [ostendorf.jody@epa.gov](mailto:ostendorf.jody@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In our proposed rule (PR) (81 FR 53365, Aug. 12, 2016), the EPA proposed to approve SIP revisions submitted by the State of Wyoming on May 28, 2015 and November 6, 2015. The amendments proposed to update the version of the CFR incorporated by reference into the rules of the State of Wyoming for Chapter 2, Ambient Standards for Particulate Matter, Section 12; and Chapter 3, General Emission Standards, Section 9. The EPA also proposed to approve updates to a citation to a Federal Register article (i.e., Federal Register notice) under the definition of “tpy CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e),” and a new minor source baseline date for fine particulate for Sweetwater County of December 12, 2012 into WAQSR Chapter 6, Section 4. The EPA proposed to approve an update to the primary air quality standard for PM<sub>2.5</sub> that reflects federal updates that went into effect in January 2013 into WAQSR Chapter 2, Section 2 subsections (b), (b)(i), (b)(i)(A), (b)(i)(B) and (b)(ii), and which renumbered some portions of Section 2 subsection (b) to (b)(iii), other portions of Section 2 subsection (b) to (c), and Section 2 subsection (c) to (d). The EPA also proposed to approve an update to the version of the American Society for Testing and Materials incorporated by reference into WAQSR for Chapter 3, Section 9.

Additionally, in our PR, the EPA proposed to approve infrastructure elements (C) and (D)(i)(II) prong 3 for the 2008 ozone NAAQS from the State’s February 6, 2014 certification. Infrastructure requirements for SIPs are set forth in Section 110(a)(1) and (2) of the CAA. Section 110(a)(2) lists the specific infrastructure elements that a SIP must contain or satisfy.

## **II. Response to Comments**

No comments were received during the public comment period.

## **III. Final Action**

For the reasons expressed in the proposed rule, the EPA is taking final action to approve SIP revisions submitted by the State of Wyoming on May 28, 2015 and November 6, 2015 discussed in Section I. The EPA is also approving infrastructure elements (C) and (D)(i)(II) prong 3 for the 2008 ozone NAAQS from the State's February 6, 2014 certification.

#### **IV. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the WAQSR pertaining to General Emission Standards, Prevention of Significant Deterioration, and Ambient Standards, as discussed in Section I. Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.<sup>1</sup> The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 8 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

#### **V. Statutory and Executive Orders Review**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state

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<sup>1</sup> 62 Fed. Reg. 27968 (May 22, 1997).

choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after 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 CAA Section 307(b)(2)).

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

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

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

Dated: September 22, 2016.

Shaun L. McGrath,  
Regional Administrator,  
Region 8.

40 CFR part 52 is amended to read as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart ZZ - Wyoming**

2. Section 52.2620 is amended:

a. In paragraph (c) under “Chapter 02. Ambient Standards.” by revising the entry for “Section 02”, adding an entry “Section 02 (b), (c), and (d)”, and revising the entry for “Section 12”;

b. In paragraph (c) under “Chapter 03. General Emission Standards.” by revising the entry for “Section 09”; and

c. In paragraph (c) under “Chapter 06. Permitting Requirements.” by revising the entry for “Section 04.”.

d. In paragraph (e) by adding an entry for “(26) XXVI, Infrastructure SIP for Section 110(a)(2)(C) and (D)(i)(II) prong 3- 2008 Ozone NAAQS” at the end of the table.

The revisions and addition read as follows:

**§ 52.2620 Identification of plan.**

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<b>Rule No.</b>	<b>Rule title</b>	<b>State effective date</b>	<b>EPA effective date</b>	<b>Final rule citation/ date</b>	<b>Comments</b>
* * * * *					
<b>Chapter 02. Ambient Standards.</b>					
Section 02	Ambient standards for particulate matter	9/7/2010	10/27/2014	79 FR 50840, 8/26/14	All, except Section 02(b) and

					(c).
Section 02 (b), (c), and (d)	Ambient standards for particulate matter	10/13/2015	[Insert <b>Federal Register</b> effective date].	[Insert <b>Federal Register</b> citation]. [Insert date of publication in the <b>Federal</b> ].	
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Section 12	Incorporation by reference	10/13/2015	[Insert <b>Federal Register</b> effective date].	[Insert <b>Federal Register</b> citation]. [Insert date of publication in the <b>Federal Register</b> ].	
<b>Chapter 03. General Emission Standards.</b>					
* * * * *					
Section 09	Incorporation by reference	11/18/2014	[Insert <b>Federal Register</b> effective date].	[Insert <b>Federal Register</b> citation]. [Insert date of publication in the <b>Federal Register</b> ].	
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<b>Chapter 06. Permitting Requirements.</b>					
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Section 04	Prevention of significant deterioration	3/28/2012	1/6/2014	78 FR 73445, 12/06/13	Except definition of “Greenhouse gases (GHGs)” (i)(A).
Section 04	Prevention of	11/18/2014	[Insert	[Insert	Only

	significant deterioration		<b>Federal Register</b> effective date].	<b>Federal Register</b> citation]. [Insert date of publication in the <b>Federal Register</b> ].	definitions of “Greenhouse gases (GHGs)” (i)(A) and “Minor source baseline date” (iv)(D).
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<b>Rule No.</b>	<b>Rule title</b>	<b>State effective date</b>	<b>EPA Effective date</b>	<b>Final rule citation/date</b>	<b>Comments</b>
* * * * *					
(26)XXVI	Infrastructure SIP for Section 110(a)(2)(C) and (D)(i)(II) prong 3 for 2008 Ozone NAAQS	02/06/2014	[Insert <b>Federal Register</b> effective date].	[Insert <b>Federal Register</b> citation]. [Insert date of publication in the <b>Federal Register</b> ].	Only includes 111(a)(2)(C) and (D)(i)(II) prong 3 for 2008 Ozone NAAQS