



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R02-OAR-2018-0237; FRL-9981-83-Region 2]

### **Approval of Air Quality Implementation Plans; New Jersey; Infrastructure Requirements for the 2012 PM<sub>2.5</sub> NAAQS; Interstate Transport Provisions**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving elements of the State Implementation Plan (SIP) submission from New Jersey regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2012 annual fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS or standard). 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. This action pertains specifically to infrastructure requirements concerning interstate transport provisions.

**DATES:** This final 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 Number EPA-R02-OAR-2018-0237. 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., Confidential Business Information (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 electronically through <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Fradkin, Environmental Protection Agency, 290 Broadway, New York, New York 10007-1866, at (212) 637-3702, or by email at [fradkin.kenneth@epa.gov](mailto:fradkin.kenneth@epa.gov).

**SUPPLEMENTARY INFORMATION:** The Supplementary Information section is arranged as follows:

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- II. What comments were received in response to the EPA's proposed action?
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### **I. What is the background for this action?**

Under sections 110(a)(1) and (2) of the Clean Air Act (CAA), each state is required to submit a State Implementation Plan (SIP) that provides for the implementation, maintenance, and enforcement of a revised primary or secondary National Ambient Air Quality Standards (NAAQS or standard). CAA sections 110(a)(1) and (2) require each state to make a new SIP submission within three years after the EPA promulgates a new or revised NAAQS for approval into the existing federally-approved SIP to assure that the SIP meets the applicable requirements for such new and revised NAAQS.

On May 21, 2018 (83 FR 23402), EPA published a Notice of Proposed Rulemaking (NPR) in

the Federal Register for the State of New Jersey. The NPR proposed to approve elements of the State of New Jersey's Infrastructure SIP submission, dated October 17, 2014, which were submitted to address CAA section 110(a) infrastructure requirements for the following NAAQS: 2008 ozone, 2008 lead, 2010 nitrogen dioxide (NO<sub>2</sub>), 2010 sulfur dioxide (SO<sub>2</sub>), 2011 carbon monoxide (CO), 2006 particulate matter of 10 microns or less (PM<sub>10</sub>), and 2012 particulate matter of 2.5 microns or less (PM<sub>2.5</sub>). Specifically, EPA proposed in the May 21, 2018 action to approve the portion of the submission addressing the interstate transport provisions for the 2012 PM<sub>2.5</sub> NAAQS under CAA section 110(a)(2)(D)(i)(I), otherwise known as the "good neighbor" provision.

Other detailed information relevant to this action on New Jersey's infrastructure SIP submission, including infrastructure requirements concerning interstate transport provisions, and the rationale for EPA's proposed action are explained in the NPR and the associated Technical Support Document (TSD) in the docket and are not restated here.

## **II. What comments were received in response to the EPA's proposed action?**

In response to the EPA's May 21, 2018 proposed rulemaking to approve the portion of the New Jersey's infrastructure SIP submission, dated October 17, 2014, addressing the interstate transport provisions for the 2012 PM<sub>2.5</sub> NAAQS, EPA received two comments from the public during the 30-day public comment period. After reviewing the comments, EPA has determined that the comments are outside the scope of our proposed action or fail to identify any material issue necessitating a response. None of the comments raise issues germane to the EPA's proposed action. For this reason, the EPA will not provide a specific response to the comments.

The comments may be viewed under Docket ID Number EPA-R02-OAR-2018-0237 on the <http://www.regulations.gov> website.

### **III. What action is EPA taking?**

EPA is approving the portion of New Jersey's October 17, 2014 infrastructure SIP submission addressing the interstate transport provisions for the 2012 PM<sub>2.5</sub> NAAQS under CAA section 110(a)(2)(D)(i)(I).

EPA will address the requirements of CAA sections 110(a)(2)(D)(i)(I) for the 2008 lead, 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, 2011 CO, and the 2006 PM<sub>10</sub> NAAQS in a separate action at a later date. As noted in the NPR, New Jersey withdrew the portion of its October 17, 2014 SIP submission addressing 110(a)(2)(D)(i)(I) with respect to the 2008 8-hour ozone NAAQS.

EPA addressed interstate transport provisions concerning the Prevention of Significant Deterioration (PSD) regulations and visibility protection (i.e., section 110(a)(2)(D)(i)(II) for 2012 PM<sub>2.5</sub>, 2008 ozone, 2008 lead, 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, 2011 CO, and the 2006 PM<sub>10</sub> NAAQS) on September 19, 2016.<sup>1</sup>

### **IV. Statutory and Executive Order Reviews**

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, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely

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<sup>1</sup> 81 FR 64070 (September 19, 2016).

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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 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. 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 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 section 307(b)(2)).

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: July 25, 2018. Peter D. Lopez,  
Regional Administrator,  
Region 2.

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 FF—New Jersey**

2. In §52.1570, the table in paragraph (e) is amended by adding the entry “NJ Infrastructure SIP

for the 2012 PM<sub>2.5</sub> NAAQS; Interstate Transport Provisions” at the end of the table to read as follows:

**§52.1570 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

**EPA-APPROVED NEW JERSEY NONREGULATORY AND QUASI-REGULATORY PROVISIONS**

SIP element	Applicable geographic or nonattainment area	New Jersey submittal date	EPA approval date	Explanation
* * * * *				
NJ Infrastructure SIP for the 2012 PM <sub>2.5</sub> NAAQS; Interstate Transport Provisions	State-wide	October 17, 2014	<b>[insert date of publication in the Federal Register], [insert Federal Register citation]</b>	This action addresses the following CAA elements: 110(a)(2)(D)(i)(I) prongs 1 and 2

3. In §52.1586, paragraph (b)(1) is amended by adding a sentence at the end of the paragraph to read as follows:

**§52.1586 Section 110(a)(2) infrastructure requirements.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \* Submittal from New Jersey dated October 17, 2014 to address the CAA infrastructure requirements of section 110(a)(2) for the 2012 PM<sub>2.5</sub> is approved for (D)(i)(I).

\* \* \* \* \*

[FR Doc. 2018-17361 Filed: 8/13/2018 8:45 am; Publication Date: 8/14/2018]