WV ACE Partial State Plan

Appendix E

Public Participation:

Public Notice

Correspondence:

EPA Transmittal Letter

EPA Parallel Process Request

Kentucky Letter

Maryland Letter

Pennsylvania Letter

Ohio Letter

Virginia Letter

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Proposed West Virginia Section 111(d) State Plan
Control of Greenhouse Gas Emissions from
Existing Coal-Fired Electric Utility Generating Units

Notice of Public Hearing and Public Comment Period

The West Virginia Department of Environmental Protection (DEP), Division of Air Quality (DAQ) is developing a Clean Air Act (CAA) section 111(d) partial State Plan for the Control of Greenhouse Gas Emissions from Existing Coal-Fired Electric Utility Generating Units (EGUs) for submittal to the United States Environmental Protection Agency (U.S. EPA). This partial State Plan was developed in response to the U.S. EPA promulgation of 40 C.F.R. Part 60, Subpart UUUUa, *Emission Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units*; the implementing regulations under 40 C.F.R. Part 60, Subpart Ba, *Adoption and Submittal of State Plans for Designated Facilities*; and the voluntary air quality permit application submitted to the DAQ by Longview Power LLC on June 1, 2020. The U.S. EPA published the Affordable Clean Energy Rule (ACE) consisting of emission guidelines for greenhouse gas (GHG) emissions from existing EGUs under section 111(d) of the CAA at 84 Fed. Reg. 32520 on July 8, 2019.

Section 111(d) of the CAA requires all states to submit a plan to the U.S. EPA which establishes standards of performance for any existing source for any air pollutant to which a standard of performance would apply if the existing source were a new source and provides for the implementation and enforcement of such standards of performance. Such plans are commonly referred to as State Plans.

This partial State Plan applies to Longview Power LLC that owns and operates one existing coal fired EGU located in Maidsville, WV. This proposed State Plan will establish the standard of performance for Longview Power LLC and will provide for the implementation and enforcement of such standard of performance.

DAQ will hold a public hearing on the proposed ACE partial State Plan at 6:00 p.m. on Tuesday, December 1, 2020. The public hearing will be held virtually to prevent the spread of COVID-19 in accordance with the WVDEP COVID-19 Policy. Instructions for participating and for providing oral comments at the virtual public hearing are provided below.

The public comment period begins October 30, 2020 and ends at the conclusion of the public hearing on December 1, 2020. Written comments may be submitted at any time during the public comment period as instructed below. Both oral and written comments will be made part of the State Plan record. Comments received after the conclusion of the public comment period will not be accepted.

The proposed partial WV ACE State Plan is available at:

- The DAQ website at https://dep.wv.gov/daq/publicnoticeandcomment/Pages/default.aspx.
- If you do not have internet capability, please contact DAQ for alternatives at the phone numbers provided below.

Written Comments

- E-mail written comments to Laura.M.Jennings@wv.gov with "WV ACE State Plan Comments" in the subject line, or
- Mail hard copy comments to the attention of Laura Jennings at the WV Department of Environmental Protection, Division of Air Quality, 601 57th Street SE, Charleston, WV 25304.

Public Hearing Participation

The public hearing is being held to satisfy the requirements for submitting a CAA §111(d) State Plan. The purpose of the public hearing is to accept comments concerning the proposed WV ACE partial State Plan. Comments will be responded to in writing at a later date.

Members of the public can participate online or listen via telephone. **Participant pre-registration is required by 5:00 p.m. on Tuesday, December 1, 2020.** To register, please complete the participant registration form at https://apps.dep.wv.gov/daq-register/ace. A confirmation e-mail will be sent with information on how to join the public hearing. If you do not have internet access and want to register, please contact Sandie Adkins or Stephanie Hammonds at (304) 926-0475 by 5:00 p.m. on Monday, November 30, 2020. Registration is required to fulfill the state's obligation under federal air quality regulations to include a list of participants.

If you wish to speak at the virtual public hearing, you must pre-register by 5:00 p.m. on Monday, November 30, 2020. Please limit testimony to one witness for each organization. Verbal testimony is limited to 5 minutes for each witness. Video demonstrations and screen sharing by witnesses will not be permitted. To register to speak, please indicate "yes" you want to provide oral comments on the record when you register with the previously provided link. A confirmation e-mail will be sent with information on how to join the public hearing. If you do not have internet access and want to register to speak, please contact Sandie Adkins or Stephanie Hammonds at (304) 926-0475 by 5:00 p.m. on Monday, November 30, 2020.

Witnesses are requested to submit a written copy of their verbal testimony by email to Laura.M.Jennings@wv.gov.

Event title: Public hearing for proposed WV ACE Partial State Plan
Date and time: Tuesday, December 1, 2020 at 6:00 p.m.
Location: Virtual. PRE-REGISTRATION IS REQUIRED as described in this notice.
Your registration confirmation will have the log-in and call-in number details.

Contact Information

For more information on the proposed WV ACE State Plan call 304-926-0475.

west virginia department of environmental protection

Division of Air Quality
601 57th Street, SE
Charleston, WV 25304

Austin Caperton, Cabinet Secretary
dep.wv.gov

October 29, 2020

Ms. Cristina Fernandez, Director
Mr. Cosmo Servidio, Administrator
Air Protection Division
U.S. EPA, Region 3
1650 Arch Street (3AP00)
Philadelphia, PA 19103-2029

Via email: Fernandez.Critina@epa.gov
R3_RA@epa.gov

Re: Proposed *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs)*

Dear Director Fernandez and Administrator Servidio:

The West Virginia Department of Environmental Protection (DEP), Division of Air Quality (DAQ) respectfully requests your review of the enclosed proposed West Virginia partial State Plan to implement the Affordable Clean Energy (ACE) rule: *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs).*

Section 111(d)(1) of the CAA requires all states to submit to the U.S. Environmental Protection Agency (EPA) a plan which establishes standards of performance for any existing source for any air pollutant to which a standard of performance would apply if such existing source were a new source and provides for the implementation and enforcement of such standards of performance. This proposed State Plan will establish the standards of performance for Longview Power LLC, an existing source located in West Virginia, and will provide for the implementation and enforcement of such standard of performance. Once finalized, the *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs)* will be submitted to the U.S. EPA for approval. The WV DEP commits to submit the full State Plan to the U.S. EPA as required under the *Repeal of the Clean Power Plan; Emission Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units; Revisions to Emission Guidelines Implementing Regulations* at 84 Fed. Reg. 32520 (July 8, 2019).

A copy of the proposed partial State Plan, supporting documentation and public notice are enclosed for your review, and may be viewed electronically on the Division of Air Quality website under the public

notice and comment section: www.dep.wv.gov/daq/. The public comment period commences October 30, 2020 and concludes with a public hearing at 6:00 p.m. on Tuesday, December 1, 2020, held virtually due to COVID-19 as described in the enclosed public notice. Send written comments to be included in the formal record to Laura M. Jennings, Division of Air Quality, at the address above or via e-mail to laura.m.jennings@wv.gov with "WV ACE State Plan Comments" in the subject line.

If you or your staff have any questions regarding this matter, please contact Laura Jennings at (304) 414-1266.

Sincerely,

Laura M. Crowder

Digitally signed by: Laura M. Crowder
DN: CN = Laura M. Crowder email = Laura.M.Crowder@wv.gov C = US O = West Virginia Department of Environmental Protection OU = Division of Air Quality
Date: 2020.10.29 10:43:34 -04'00'

Laura M. Crowder
Director

LMC/lmj
Enclosures

cc: Edward Andrews, DAQ
Mike Gordon, USEPA/3AP10
Laura Jennings, DAQ

west virginia department of environmental protection

Division of Air Quality
601 57th Street, SE
Charleston, WV 25304-2345
Phone: 304 926 0475 $ Fax: 304 926 0479

Austin Caperton, Cabinet Secretary
www.dep.wv.gov

October 29, 2020

Mr. Cosmo Servidio
Regional Administrator
U.S. Environmental Protection Agency, Region 3
1650 Arch Street
Philadelphia, PA 19103-2029

Via email: R3_RA@epa.gov

Regarding: Proposed *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs)* Request for Parallel Processing

Dear Administrator Servidio:

EPA last year published the Affordable Clean Energy (ACE) rule consisting of emission guidelines for greenhouse gas (GHG) emissions from existing electric utility generating units (EGUs). *See* 84 FED. REG. 32,520 (July 8, 2019). EPA also finalized new implementing regulations that apply to the ACE rule and any other future emission guidelines promulgated under Clean Air Act (CAA) § 111(d). EPA promulgated the ACE rule as 40 C.F.R. Part 60, Subpart UUUUa, *Emission Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units* and the implementing regulations as 40 C.F.R. Part 60, Subpart Ba, *Adoption and Submittal of State Plans for Designated Facilities.*

Any state with one or more designated EGUs that commenced construction on or before January 8, 2014 is subject to ACE and is required to submit a "State Plan" to EPA that implements the emission guidelines of 40 C.F.R. Part 60, Subpart UUUUa. While granting broad discretion, the federal emission guidelines inform states on the development, submittal, and implementation of

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State Plans. West Virginia has one or more designated facilities and has developed the above referenced Proposed Partial State Plan for implementation of ACE at Longview Power LLC (LVP). West Virginia provided a transmittal letter dated October 29, 2020 to Director Fernandez and Administrator Servidio from Director Crowder of the Division of Air Quality. The transmittal letter is being submitted with the proposed State Plan to EPA through EPA's Central Data Exchange SPeCS system.

In order to implement a process that is both efficient and reflects the extensive technical consultation between our agencies to date on LVP's permit application and our corresponding ACE Partial State Plan, DEP respectfully requests that EPA parallel process the proposed State Plan. Parallel processing is appropriate in cases such as this in which DEP and EPA worked together in development of the State Plan and the permit incorporated into the State Plan. I very much appreciate the cooperation and input and the time EPA regional and headquarters staff have devoted to working with DEP program staff in developing this Partial State Plan.

In a parallel process, a state is to submit a copy of the proposed regulation or other revisions to EPA before conducting its public hearing. EPA is then to review the proposed state action and prepares a notice of proposed rulemaking to approve the plan. EPA's notice of proposed rulemaking is published in the FEDERAL REGISTER during the same time frame that the state is holding its public hearing. The state and EPA then provide for public comment periods on both the state action and EPA action using concurrent/overlapping comment periods at the state and federal level. *See*, EPA, SIP Processing Manual § 6.A.2.c. (Attached as **Appendix 1**); *see also* EPA, Options and Efficiency Tools for EPA Action on State Implementation Plan (SIP) Submittals (Oct. 31, 2011)(Attached as **Appendix 2**).

Parallel processing is a common means of EPA approval of similar state implementation plans ("SIPs") under Section 110 of the Clean Air Act. As noted in the ACE rule, EPA in approving State Plans "'shall establish a *procedure similar to that provided by CAA section 110* of this title under which each State shall submit to the [EPA] a plan ….' The Agency's interpretation of this cross-reference is that it focuses on the *procedure* under which states shall submit plans to the EPA." 42 FED. REG. at 32,557 (emphasis in original) (quoting 42 U.S.C. § 7411(d)(1)). There are numerous examples of EPA and state agencies that have used and continue to use parallel processing. Provided is a short list of examples showing how states from across the country, governed by both political parties have made parallel processing requests that have led to efficient state plan processing by multiple EPA regions in multiple federal administrations:

CALIFORNIA

Air Plan Approval; California; San Joaquin Valley Unified Air Pollution Control District; Reasonably Available Control Technology Demonstration. 83 Fed. Reg. 41,006 (Aug. 17, 2018) (Attached as **Appendix 3**);

CONNECTICUT

Approval and Promulgation of implementation Plans; Connecticut; Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule Revision. 76 Fed. Reg. 26,933 (May 10, 2011) (Attached as **Appendix 4**).

NEW MEXICO

Approval and Promulgation of Implementation Plans; New Mexico; Revisions to the New Source Review (NSR) State Implementation Plan (SIP) for Albuquerque-Bernalillo County' Prevention of Significant Deterioration (PSD) Permitting. 80 FED. REG. 52,401 (Aug. 31, 2015) (Attached as **Appendix 5**);

OHIO (& WEST VIRGINIA)

Approval of Air Quality Implementation Plans; Ohio and West Virginia; Attainment Plans for the Steubenville Ohio-West Virginia 2010 Sulfur Dioxide Nonattainment Area. 84 FED. REG. 56,385 (Oct. 22, 2019)(Attached as **Appendix 6**); *see also*, Letter from Laurie A. Stevenson, Director, Ohio EPA to Cathy Stepp, Regional Administrator US. EPA Region 5, requesting parallel processing of Ohio's attainment demonstration and revisions to the Ohio Administrative Code (Mar. 25, 2019) (Attached as **Appendix 7**); and

TEXAS

Approval and Promulgation of Implementation Plans; Texas; Revisions to Emissions Banking and Trading Programs for Area and Mobile Sources. 82 FED. REG. 57,677 (Dec. 7, 2017) (Attached as **Appendix 8**),

On October 9, 2020, DEP provided notice to the public of its preliminary determination to issue permit R13-3495 to LVP. A public meeting was held October 27, 2020 and written comments on the permit are due on November 9, 2020. Public notice regarding this Partial State Plan (which incorporates permit R13-3495 as the mechanism for federal enforceability) will commence on October 30, 2020 with written comments due on December 1 and a public hearing scheduled for December 1.

Again, DEP respectfully requests that EPA immediately institute parallel processing in light of the efficiency gains of that process and the extensive technical consultation between our agencies to date on LVP's application and our corresponding ACE State Plan. Based on the extensive progress made during the consultations between our agencies, I trust that EPA has a comfort level with the State Plan such that it can immediately commence the public notice and comments steps required of it so that approval of the State Plan may be expedited under the longstanding parallel processing procedures.

I appreciate the cooperation and input EPA staff have devoted thus far to enable DEP to be in a position to submit this State Plan. We are available to continue working with your staff to ensure a smooth parallel processing of this State Plan and its ultimate approval by EPA and DEP in the very near future.

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If you have any questions or need additional information, please contact Laura Crowder of my staff at (304) 414 - 1253.

Sincerely,

Austin Caperton
Cabinet Secretary
West Virginia Department of Environmental Quality

Enclosures

cc: Laura Crowder, WVDEP DAQ
Cristina Fernandez, EPA Region 3 (via email: Fernandez.Cristina@epa.gov)

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Appendix 1: EPA SIP Processing Manual

Chapter 6
EPA Decision Options

Parallel Process Actions

Parallel processing refers to a concurrent state and federal proposed rulemaking action. Under this procedure, the Regional Office works closely with the state agency while the state is developing new or revised regulations/requirements. In this process, the state submits a copy of the proposed regulation or other revisions to EPA before conducting its public hearing. EPA reviews this proposed state action, and prepares a notice of proposed rulemaking (approval or disapproval). EPA's notice of proposed rulemaking is published in the Federal Register during the same time frame that the State is holding its public hearing. The State and EPA then provide for concurrent public comment periods on both the state action and Federal action.

After the state submits the formal SIP revision request, EPA prepares a final rulemaking notice. If the state's formal SIP sumittal contain changes which occur after EPA's notice of proposed rulemaking, such changes must be described in EPA's final rulemaking action. If the state's changes are significant, then EPA must decide whether it needs to re-propose the State's action.

Advantages- This process saves total processing time

Disadvantages- This process may increase processing time in situations where State must revise proposed action in response to public hearing testimony. In this case, EPA will have to repropose action on the State rule.

Appendix 2: Options and Efficiency Tools for EPA Action on State Implementation Plan (SIP) Submittals (Oct. 31, 2011)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 31 2011

OFFICE OF
AIR AND RADIATION

SUBJECT: Options and Efficiency Tools for EPA Action on State Implementation Plan (SIP) Submittals

FROM: Janet McCabe, Deputy Assistant Administrator
Office of Air & Radiation

Rebecca Weber, Director
Air & Waste Management Division, Region 7

TO: Air Division Directors, Regions 1-10 & ECOS/NACAA

The purpose of this memorandum is to transmit the document entitled "Options and Efficiency Tools for EPA Action on State Implementation Plan (SIP) Submittals." This document was prepared as part of the Region 7 SIP Kaizen event to explore possible efficiencies available for SIP and air quality planning through enhancements of the current processes. The Kaizen participants included representation from EPA Region 7, Region 6, Region 4, and Headquarters, as well as the Iowa Department of Natural Resources, the Kansas Department of Health and Environment, the Missouri Department of Natural Resources, the Nebraska Department of Environmental Quality, and the Mid-America Regional Council.

It became evident to participants of the Kaizen event as the group mapped the SIP process that, in some cases, there were multiple options for EPA action on SIP submissions. The Kaizen participants thought it was important to review existing *Federal Register* action options and explore any new options and then better understand how these could be used to move SIPs forward more efficiently. The participating states thought it would be helpful to all states if EPA outlined these options for action, and explained the pros and cons of these options. As a result, a workgroup was convened and the document entitled "Options and Efficiency Tools for EPA Action on State Implementation Plan (SIP) Submittals," was developed.

The attached document was vetted through the SIP Kaizen participants, all EPA Regions, and the ECOS/NACAA SIP Reform Workgroup for review and comment. Nothing in this document is intended to require changes to the Clean Air Act, or to supersede existing guidance for SIP processing. Rather, the intent of the document is to highlight viable avenues for EPA action along with the pros and cons of the option, and to identify some additional tools for increased efficiency for the SIP process. In addition, we hope this document encourages discussion among regions and states to ensure they are utilizing the most efficient option available to them. State and local air agencies should consider the attached document for informational purposes and should consult with the applicable EPA regional office to discuss the most appropriate efficiency option for taking action on a particular SIP submission.

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cc: Regional Air Division Directors
Regional Air Program Managers
Regional Counsels for Air
OAR Office Directors in OAQPS, OTAQ, and OAP
OGC Air Office
Region 7 SIP Kaizen Team

Options and Efficiency Tools for EPA Action on

State Implementation Plan (SIP) Submittals

Region 7 SIP Kaizen Workgroup

A goal of the Region 7 SIP Kaizen Workgroup was to develop tools and resources that lead to fully approvable SIP submittals by the state. However, participants recognized that full approval was not always appropriate due to legal, technical, or policy considerations and other options may be available in specific situations to move the process forward. This document highlights 1) the viable avenues for EPA *Federal Register* action on SIPs along with the pros and cons, and 2) identifies additional tools for increased efficiency in the SIP process.

The avenues for action are:

- Full Approval
- Partial Approval/Disapproval
- Limited Approval/Limited Disapproval
- Conditional Approval
- Disapproval

The potential tools for efficiency are:

- Technical Support Document (TSD) Efficiencies
- Early Development of Checklist
- Early development of *Federal Register* template (well before SIP submittal required)
- Early Collaboration
- Parallel Processing
- Letter Approval
- Direct Final Rulemaking
- Proposing Alternatives

Avenues of Action

Full Approval

This option is the preferred option and will be used when the submittal meets all applicable requirements of the Clean Air Act (CAA or Act) statute and regulations[1].

Pros:

- Allows completion of the SIP process and puts federally-enforceable state requirements in place.
- Conserves EPA and state resources to be used for other priority SIPs because, in contrast with other actions listed below, follow-up action would not be required. Provides regulatory certainty.

Cons:

- None.

References: Section 110(k)(3) of the CAA, 42 U.S.C. § 7410(k)(3); General Preamble for implementation of title I of the CAA Amendments April 16, 1992 (57 FR 13498).

Partial Approval/Disapproval

This option may be used when some portions of the submittal meet all applicable requirements of the CAA, and other portions do not. The portions must be separable (i.e., independent from one another) because EPA's disapproval action cannot change the stringency of the portion of the submittal it approves.[2] For example, EPA cannot approve a revision to an emission limit and disapprove the underlying test method. However, where a state submits several rules addressing reasonable available control technology (RACT), EPA can approve some and disapprove others as long as the disapproved rules are not interrelated with the approved rules. Approval/Disapproval of the separable portions should occur concurrently.

Pros:

[1] To the extent that the state provides an organized submission that clearly demonstrates that it meets the applicable requirements of CAA § 110, EPA will be able to process these submissions more quickly. While EPA will still process demonstrations that are not as clear and organized, it will likely take more time for EPA to determine that the demonstration meets the applicable requirements and prepare the submission for approval.

[2] Bethlehem Steel Corporation v. Gorsuch, 742 F.2d 1028 (7th Cir. 1984)

- Allows completion of the SIP process for the portions which are approvable.
- Lessens the impact of inability to timely resolve issues relating to portions of the submittal.
- Provides regulatory certainty for at least part of the submittal (the portions approved are federally enforceable).

Cons:

- Partial disapproval starts the federal implementation plan (FIP) clock (and sanctions clock for nonattainment SIPs) for the disapproved portion.
- "Separable" requirement limits the use of this option.

References: General Preamble for implementation of title I of the CAA Amendments April 16, 1992 (57 FR 13498)

Limited Approval/Disapproval

Limited approval may be an option where some provisions of the submittal meet the requirements of the CAA and other, non-separable, provisions do not. If, overall, the submittal strengthens the SIP, limited approval may be used. Unlike a partial approval, this action approves the entire rule, but with a limitation. In conjunction with the limited approval, the limited disapproval is also for the entire rule, but only relates to whether the submittal meets all of the requirements of the Act. The disapproval does not affect the inclusion of the rule in the SIP. If the statutory deadline for acting on the SIP submittal has not yet passed, it may be possible, in specific factual situations, to promulgate the limited approval and temporarily withhold action on the limited disapproval. For example, it might be possible to approve an underlying control strategy SIP while the state is correcting defects in the attainment demonstration. If the deficiencies are corrected, this might result in a full approval as the final action by EPA.

Pros:

- Makes the state submittal federally enforceable, thus enhancing the SIP's ability to achieve emissions reductions.
- Allows progress toward goal of SIP approval.
- Can be used in more situations than partial approval/disapproval.
- Can be used where the state is unable to make a specific commitment to fix, by a date certain, the deficiency causing the disapproval (i.e., does not meet the "conditional approval" criteria described below).

Cons:

- Limited approval does not discharge EPA's duty to act on SIP, so limited disapproval is a necessary component.

- Limited disapproval starts FIP clock (and sanctions clock for nonattainment SIPs) for promulgation of FIP or approval by EPA of SIP which corrects the deficiency leading to the limited disapproval.

References: General Preamble, cited above under Partial Approval

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Conditional Approval

This option can be used in limited circumstances where the submittal contains one or more deficiencies, and the state has made a commitment to adopt specific enforceable measures to address the deficiency, by a date certain within one year approval of the SIP submission. This option cannot be used where the submission consists solely of a commitment to submit a SIP in the future, i.e. a "committal SIP", nor can it be used where the SIP has so many deficiencies that the entire SIP is defective. The amount of detail in the commitment (e.g., description of the specific measures to be adopted and time line for adoption of the measures) generally depends on the complexity of the necessary corrective measures. The conditional approval reverts to a disapproval if the state does not meet the commitment.

Pros:

- Makes the state submittal federally enforceable, thus strengthening the SIP.
- Conditional approval discharges EPA duty to act on submittal and does not immediately start a FIP clock (or sanction clock for nonattainment submittals).
- Moves the approval process forward and sets a specific schedule (date certain) for producing a fully approvable SIP submittal.

Cons:

- Cannot be used where the state is unable to commit to corrective measures by a date certain (or when corrective measures will take more than one year to develop).
- May provide incentives to delay resolution of issues which could lead to full approval of the submittal.
- If the issues are not resolved within one year, the approval reverts to an automatic disapproval, including starting FIP and sanctions clocks.
- Since a conditional approval is not a full approval, it cannot be used to replace a portion of a SIP that is fully approved.

References: General Preamble; *Natural Resources Defense Council, Inc. v. EPA*, 22 F.3d 1125, 1133-34 (D.C.Cir.1994)

Disapproval

This option can be used in situations where the state provides a submission that does not meet statutory and regulatory requirements; and the state is unable to make changes to provide a submission that does meet applicable requirements.

Pros:

- Leads to decisions on issues rather than avoidance and delay.
- Provides clarity on what the state or EPA must do to correct the deficiency.
- A state may then be able to make the necessary changes to correct the deficiency.

Cons:

- Generally not preferred by our state partners[3].
- EPA may have to use resources, including potentially 105 funding, to implement FIPs.
- Depending on the type of SIP that is disapproved, states may face sanctions as a result.

References: Section 110(k)(3) of the CAA, 42 U.S.C. § 7410(k)(3); General Preamble for implementation of title I of the CAA Amendments April 16, 1992 (57 FR 13498).

Tools for Efficiency

Collaboration on Technical Support Information

States are already tasked with the responsibility of developing the technical support information to support their actions and EPA also has to develop this supporting information. The more that EPA can rely on the state's documentation, the more efficient the process will be. To this goal, collaboration between EPA and the state during the development of the state's technical support information is an important tool to avoid duplication. If the state and EPA work together early in the process to coordinate the technical basis for the SIP revision, this will avoid duplication of effort and therefore avoid back-end delays. It may also be advantageous for the early development of a technical support document template for boundary recommendations so that states could be informed regarding how EPA will consider the factors for designations, and thus could foster early agreement between the states and EPA on boundaries for potential nonattainment areas. An example of where this may be advantageous is for the upcoming designations for ozone and sulfur dioxide.

Pros:

- Will provide consistency between information that is being used at the state and federal level to implement air quality programs and make air quality planning decisions.

[3] Based on experience and discussions with states, states would prefer some form of approval.

- Although EPA is still obligated to explain how the state's submittal demonstrates the technical requirements of the rule, resources may be saved by referencing the state's technical documentation and docket rather than re-writing significant portions of the state's information.
- May maximize the efficiencies at both the federal and state level and leverage staff and technical resources in a more effective way.
- Avoid back-end delays.

Cons:

- It can be challenging for states and EPA to agree on the analysis necessary to meet statutory and regulatory requirements, thus there may be times where collaboration on technical analyses, and use of the states technical work, may not be feasible.

Use of National SIP Submittal Checklists

This option involves the use of a national checklist for critical elements of a SIP revision well in advance of the anticipated date of a submission from states. The goal behind the checklist is that, to the extent possible, it would include the minimum requirements for states to include in their submissions to address requirements. States would be provided these checklists in advance and EPA Regions would use the checklists to review state submissions. Some examples of submissions for which early checklists could be developed include infrastructure submissions; attainment demonstrations; maintenance plans; reasonable further progress (RFP) plans; and RACT submissions.

Pros:

- Consistency, because regions would be able to use the checklist as a guide to identify what basic elements are needed for an approvable SIP. Although there is great effort to include requirements in implementation guidance, the level of detail in general guidance is not always adequate.
- More efficient EPA processing of submissions because submissions will more likely meet all the necessary requirements if all elements of the checklist are addressed.
- Could be used as a tool for the states and a tool to guide new staff on what is absolutely critical for a submission.

Cons:

- The checklist may not cover all situations and the checklist would have to be detailed so that it captures everything that is statutorily required. Checklist could become outdated if there are changes to regulations, guidance or policy based on legal challenges.
- Obtaining resource commitments from Regions and HQ may be challenging.
- It may be difficult to obtain consensus across the Regions and EPA Headquarters for specific checklist language.

References: Not applicable, although checklists have been developed for previous submissions such as the $PM_{2.5}$ attainment demonstrations and regional haze.

Early development of Federal Register template (well before SIP submittal)

This option involves the development of *Federal Register* action templates (e.g., approval; disapproval; partial approval and conditional approval) and associated TSDs, if necessary, in advance of the anticipated date of a submission from states for major EPA actions for which we know that rulemaking or other action in the *Federal Register* will be required. Some examples include infrastructure submissions; attainment demonstrations; maintenance plans; RFP plans; RACT submissions and others.

Pros:

- More efficient EPA processing of submissions because Regions would be in a position to take action on submissions upon receipt, and EPA Regions and Headquarters could focus reviews and efforts on substantive legal, technical and policy considerations related to submitted SIPs versus focusing on logistics of getting buy-in on development of the *Federal Register* and TSDs post SIP submission.
- Consistency in regional actions because all regions will have a role in developing the template versus one region or another taking action potentially without input from interested regions.

Cons:

- Obtaining resource commitments from Regions and Headquarters may be challenging.
- It may be difficult to obtain consensus across the Regions and EPA Headquarters for specific template language.

References: http://intranet.epa.gov/adplibrary/adp-milestones/fedreg.htm#handbook; http://www.epa.gov/ttncaaa1/t1/memoranda/evm_ievm_g.pdf; http://www.epa.gov/ne/topics/air/sips/Revised2_SIP_TIMELINE.pdf; http://yosemite.epa.gov/r10/airpage.nsf/webpage/Region+10+SIP+Process+Improvement+Project+(SIP-PIP)

Early Collaboration

Early collaboration between the state and EPA allow for the early review, discussion and resolution of problematic/approval issues in a draft SIP submittal package. This is the primary focus of the new R7 SIP Kaizen process. Beginning discussions and sharing complete or near-complete draft SIP submittals as early as possible in the process provides the state and EPA the opportunity to identify expectations and problematic issues up front. This allows for these issues to be resolved early in the process, when changes are more easily made to any draft rules or legal agreements, and time is maximized for any additional needed technical analysis. This also allows for EPA to provide a more complete set of comments, so the state and EPA may address any possible issues with the SIP submittal as early as possible.

Pros:

- Addresses problematic/approvability issues, and sets expectations up front.
- Full set of comments provided on a full draft SIP submittal package earlier in process.
- Allows for early collaboration when draft regulatory requirements are more easily changed to address comments.
- Allows for maximum time for additional technical analysis, if needed.
- For attainment demonstration, maintenance plans and reasonable further progress plans, the state and EPA may work together early in the process to develop a submittal including the motor vehicle emissions budgets (MVEBs), which may facilitate availability of the MVEBs for transportation conformity use upon receipt of the state's final submission and an adequacy finding or approval by EPA.

Cons:

- Lack of resources may make it difficult for states to justify early work on SIP submittals given competing priorities.
- Early collaboration, setting of expectations and resolution of issues may be difficult if implementation rule and guidance are delayed.

Parallel Processing

Administrative parallel processing refers to a concurrent state and federal proposed rulemaking action. Under this procedure, EPA works closely with the state while the state is developing new or revised regulations/requirements. In this process, the state submits a copy of the proposed regulation or other SIP revisions to EPA before conducting its public hearing. EPA reviews this proposed state action, and prepares a notice of proposed rulemaking. EPA's notice of proposed rulemaking is published in the *Federal Register* during the same time frame that the state is holding its public hearing. The state and EPA then provide for independent public comment periods on both the state action and federal action. After the state submits the formal SIP revision request, EPA prepares a final rulemaking notice. If the state's final rule contains changes which were not described in EPA's notice of proposed rulemaking, and if the state's changes are substantive, EPA must re-propose the state's action.

Pros:

- If there are no substantive changes made to the SIP submittal following EPA's notice of proposed rulemaking, this process saves total processing time.

Cons:

- In complex or controversial actions, it is more likely the state will need to revise its proposed action in response to public comments/hearing. In those cases, EPA would need to re-propose action on the state rule adding additional time and resources to the process. This may also confuse the record.

Letter Approvals

This option can be used to approve SIP revisions that are only administrative in nature and do not change the substance of the rule in any way. Administrative has been defined in very strict terms, e.g. correction of typos, erroneous section references. If a state is making administrative SIP revisions for which this option would be appropriate, at the time the state public notices the revisions it may request a letter approval from EPA.

Pros:

- Provides a quick way to approve administrative SIP revisions.

Cons:

- Very limited use and cannot be used for the submissions that are backlogged or have a potential of being backlogged due to approvability issues.

References: The McCabe SIP Consistency Memo signed April 6, 2011 provides additional detail in Attachment D on the use of letter notices.

Direct Final Rulemaking

If a SIP revision is considered noncontroversial, and EPA does not expect adverse or critical comments, the initial EPA action can be published as a concurrent proposed and final rule. The final rule would consist of a detailed notice published in the Rules and Regulations section of the *Federal Register*, while the proposed rule would consist of a short informational notice published simultaneously in the Proposed Rules section of the *Federal Register*. The purpose of the proposal notice is to inform the public of the direct final rulemaking action, and indicate that if adverse written comments are received during the public comment period, then a notice to withdraw the final action will be published in the *Federal Register*. If such comments are received, then 1) the direct final document serves as the detailed basis for the proposal, and the adverse comments will be addressed in the final notice; and 2) EPA must publish the withdrawal notice before the effective date of the final Agency action. If no adverse comments are received, then no further Agency activity is necessary, and the action would become effective automatically as of the date established in the direct final rulemaking action, generally 45 to 60 days.

Pros:

- For routine, noncontroversial SIP changes, this process saves total processing time.

Cons:

- If EPA receives adverse comments, EPA must prepare and publish in the *Federal Register* a notice withdrawing the final rule before the effective date of the action (45-60 days after the direct final rulemaking). EPA must then respond to comments and promulgate a final rule. If EPA receives adverse comments and does not prepare and publish the notice of withdrawal prior to the effective date (45-60 days after the direct final rulemaking action), EPA additionally must propose to withdraw the original rulemaking.

- Stakeholders may perceive that EPA is "cutting corners" on public participation.

Proposing alternatives

This proposed option could be used in circumstances where EPA has some discretion regarding approval or disapproval, and would benefit from additional public input. A number of SIP submissions are on "hold" due to policy or unclear guidance considerations that have yet to be decided although contemplated for a number of months and in some cases years. The Agency believes that there are limited circumstances where this option could be used (i.e., only appropriate where requirements, or EPA guidance is not clear) and does not anticipate use of this to allow clear requirements to be waived.

Pros:

- Without making a firm commitment to one alternative or another, EPA could develop *Federal Register* actions and take comment to help inform a decision on a policy or guidance issue through rulemaking action.
- EPA would be able to process a SIP submission potentially without long delays to consider a policy or guidance issue, and would give EPA the benefit of public comment for a policy or guidance issue.
- May minimize litigation on EPA final actions because the public would have already weighed in and in the event of litigation, EPA might be in a better position to defend the action.

Cons:

- May create additional workload for responding to comments on the alternatives.
- Closer attention would have to be paid among regions and by EPA Headquarters because these actions could set precedent.
- While EPA has done alternative notices in the past, the basis for each option (approval or disapproval) must be individually laid out and can take additional staff resources. These notices have the potential to raise more legal/policy concerns than a traditional notice of approval or disapproval, as well as attract more comments, to which EPA must respond, causing delays.

Appendix

Example for Options and Efficiency Tools for EPA Action on

State Implementation Plan (SIP) Submittals[1]

The following are examples of some of the actions where the options and efficiency tools have been used in the past. The purpose of this listing is illustrative and does not relate to the technical or legal analyses of the individual action. The substantive issues discussed in the notices may or may not be applicable to a particular action, which would be case and fact specific.

Partial Approval/Disapproval

- Approval and Promulgation of Implementation Plans; South Carolina; Prevention of Significant Deterioration and Nonattainment New Source Review Rules. Partial approval, disapproval and conditional approval of changes to South Carolina's Prevention of Significant Deterioration Program. See 73 FR 31368, June 2, 2008.
- Approval and Promulgation of Implementation Plans; State of Missouri; partial approval and partial disapproval of revisions to the Restriction of Emission of Sulfur Compounds rule in the Missouri SIP. See 71 FR 12623, March 13, 2006.
- Clean Air Act Approval and Promulgation of State Implementation Plan; Wyoming; Revisions to Air Pollution Regulations; Direct final action partially approving and partially disapproving revisions. See 67 FR 5485, February 6, 2002.

Limited Approval/Limited Disapproval

- Approval and Promulgation of Air Quality Implementation Plans; State of California; Interstate Transport of Pollution; Interference with Prevention of Significant Deterioration Requirement. See 76 FR 48002, August 8, 2011.
- Revisions to the California State Implementation Plan, Sacramento Metropolitan Air Quality Management District. Limited approval and limited disapproval of permitting rules. See 76 FR 43183, July 20, 2011.
- Approval and Promulgation of Air Quality Implementation Plans; Montana; Billings/Laurel Sulfur Dioxide State Implementation Plan. See 68 FR 27908, May 22, 2003.

Conditional Approval

- Approval and Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 1997 8-Hour Ozone National Ambient Air Quality Standard; Utah.

[1] There is a large volume of examples of where EPA has either taken approval or direct final action to approve a SIP revision so those types of examples are not listed in this document. For a comprehensive listing of examples of these types of actions and the types of actions provided in this Appendix, please visit the SIP Processing Manual, currently accessible at http://mapsweb.rtpnc.epa.gov/sipman/.

Approving and conditionally approving submission from Utah for 1997 8-hour ozone infrastructure requirements. See 76 FR 43898, July 22, 2011.

- Approval and Promulgation of Air Quality Implementation Plans; Ohio; Final Approval and Promulgation of State Implementation Plans; Carbon Monoxide and Volatile Organic Compounds. Disapproval of VOC regulations and conditional approval of Ohio's SIP revision. See 75 FR 50711, August 17, 2010.
- Approval and Promulgation of Air Quality Implementation Plans; Michigan; PSD Regulations. Conditionally approving into Michigan's state Implementation Plan specified revisions to add prevention of significant deterioration (PSD) construction permit program to meet New Source Review requirements. See 73 FR53366, September 16, 2008.

Disapproval

- Approval and Promulgation of Implementation Plans; Texas; Revisions to the New Source Review State Implementation Plan (SIP); Nonattainment NSR (NNSR) for the 1-Hour and the 1997 8-Hour Ozone Standard, NSR reform, and a Standard Permit. Disapproval of Submittals to Revise the Texas Major and Minor NSR SIP. See 75 FR 56423, September 15, 2010.
- Approval and Promulgation of Air Quality Implementation Plans; Ohio; Final Approval and Promulgation of State Implementation Plans; Carbon Monoxide and Volatile Organic Compounds; disapproving an Ohio regulation revision pertaining to volatile organic compound (VOC) limits for high performance architectural coatings contained in Ohio Administrative Code (OAC) 3745–21–09(U)(1)(h). See 75 FR 50711, August 17, 2010.
- Disapproval of California State Implementation Plan Revisions, Monterey Bay Unified Air Pollution Control District; disapproval for op opacity standards related to multiple pollutants, including particulate matter (PM) emissions, from a wide variety of sources. See 75 FR 37727, June 30, 2010.

Parallel Processing

- Approval and Promulgation of Implementation Plans; South Carolina: Prevention of Significant Deterioration and Nonattainment New Source Review; Fine Particulate Matter and Nitrogen Oxides as a Precursor to Ozone. See 76 FR 36875, June 23, 2011.
- Approval and Promulgation of Implementation Plans; Connecticut: Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule Revision. See 76 FR 26933, May 10, 2011.
- Approval and Promulgation of Implementation Plans; Alaska: Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule Revision. See 76 FR 7116, February 9, 2011.

Letter Approval

- Approval of Transportation Control Measure Substitution for Conversion of High Occupancy Vehicle (HOV) lanes to High Occupancy Toll (HOT) lanes; Georgia; Letter from EPA Region 4 to State of Georgia. November 5, 2009.[2]

Proposing Alternatives[3]

- Approval and Promulgation of Implementation Plans: Alabama: Proposed Approval of Revisions to the Visible Emissions Rule and Alternative Proposed Disapproval of Revisions to the Visible Emissions Rule. See 74 FR 50930, October 3, 2009.
- Clean Air Act Finding of Attainment and Alternative Finding of Nonattainment and Reclassification to Serious; California-Imperial Valley Planning Area; Particulate Matter of 10 microns or less (PM–10). See 66 FR 42187, August 10, 2001.
- Approval and Promulgation of Implementation Plans; Illinois and Missouri; Ozone; Proposing to Approve the St. Louis 1-Hour Ozone Attainment Demonstration and Alternatively Proposing to Disapprove the St. Louis 1-Hour Ozone Attainment Demonstration. See 65 FR 20404, April 17, 2000.

[2] This letter is provided as an example that the Letter Approval approach has been used. This example is not addressing TCM substitutions specifically. Not all TCM substitutions can be addressed through letter notice.

[3] For this example, only the proposed action is included to illustrate the situation of proposing alternatives. The final actions for these examples do not include alternatives but rather takes a final action on one of the alternatives that was proposed.

Appendix 3: California: Air Plan Approval; California; San Joaquin Valley Unified Air Pollution Control District; Reasonably Available Control Technology Demonstration. 83 Fed. Reg. 41,006 (Aug. 17, 2018)

apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (b) (concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 1.0%), (f), (g)(1) (irritation), (photosensitization), (g)(2)(i), (ii), (iii), (v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

[FR Doc. 2018–17348 Filed 8–16–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2018–0272; FRL–9981–09–Region 9]

Air Plan Approval; California; San Joaquin Valley Unified Air Pollution Control District; Reasonably Available Control Technology Demonstration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD or ''District'') portion of the California State Implementation Plan (SIP). These revisions concern the District's 2014 demonstration regarding Reasonably Available Control Technology (RACT) requirements for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS). We are also taking final action to approve into the California SIP the following documents that help support the District's RACT demonstration: SJVUAPCD's supplement to its 2014 RACT SIP demonstration, which contains SJVUAPCD's negative declarations where the District concludes it has no sources subject to certain Control Techniques Guidelines (CTG) documents and relevant permit conditions to implement RACT level requirements for J.R. Simplot's Nitric Acid plant in Helm, California (CA); and SJVUAPCD's 2016 Ozone Plan for the 2008 8-Hour Ozone Standard—Chapter 3.4 and Appendix C only. We are approving local SIP revisions to demonstrate that RACT is implemented as required under the Clean Air Act (CAA or the ''the Act'').

DATES: This rule will be effective on September 17, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2018–0272. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* 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 through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Stanley Tong, EPA Region IX, (415) 947–4122, *tong.stanley@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

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I. Proposed Action

On May 17, 2018 (83 FR 22908), the EPA proposed to approve SJVUACPD's ''2014 Reasonably Available Control Technology (RACT) Demonstration for the 8-Hour Ozone State Implementation Plan (SIP)'' (*2014 RACT SIP*), submitted to the EPA by the California Air Resources Board (CARB) on July 18, 2014,[1] for approval as a revision to the California SIP.

In addition to the *2014 RACT SIP,* our May 17, 2018 proposed rule was also based on our evaluation of the public draft version of SJVUAPCD's ''Supplement to the 2014 Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) for the 2008 8-hour Ozone Standard'' (*Supplement to the 2014 RACT SIP*) that was transmitted by CARB on May 4, 2018, along with a request for parallel processing.[2] The District's *Supplement to the 2014 RACT SIP* contained relevant RACT permit conditions in a permit to operate for J.R. Simplot's Nitric Acid plant in Helm, CA, and negative declarations where the District concluded it had no sources subject to the following CTG source categories: Surface coating of insulation of magnetic wire; manufacture of synthesized pharmaceutical products; manufacture of pneumatic rubber tires; leaks from synthetic organic chemical polymer and resin manufacturing equipment; volatile organic compound (VOC) emissions from manufacture of high-density polyethylene, polypropylene and polyester resins; VOC emissions from air oxidation processes in synthetic organic chemical manufacturing industry (SOCMI); VOC emissions from reactor processes and distillation operations in SOCMI; and surface coating operations at shipbuilding and ship repair facilities.[3] We indicated that we would not take final action on the *Supplement to the 2014 RACT SIP* until CARB submitted the final adopted version to the EPA as a SIP revision. On June 21, 2018, the SJVUAPCD held a public hearing and adopted the *Supplement to the 2014 RACT SIP.*[4] On June 29, 2018, CARB

[1] The SJVUAPCD adopted its *2014 RACT SIP* on June 19, 2014.

[2] CARB's May 4, 2018 transmittal letter contained a public draft version of the *Supplement to the 2014 RACT SIP* along with a request that the EPA provide parallel processing of the documents concurrently with the state's public process. See footnote 1 in our May 17, 2018 proposed rule.

[3] *See Supplement to the 2014 RACT SIP,* Appendix B.

[4] On June 21, 2018, the SJVUAPCD Governing Board adopted ''Revision to the State Implementation Plan (SIP) to Address Federal Clean Air Act Requirements for Reasonably Available Control Technology (RACT)''. Appendix A: ''J.R. Simplot Permit Conditions'' and Appendix B: ''Negative Declarations'', as contained in the adopted document, are substantially similar to the versions contained in the District's parallel processing request which the EPA proposed to

submitted the *Supplement to the 2014 RACT SIP* to the EPA for approval as a revision to the California SIP.[5] The final adopted version of the *Supplement to the 2014 RACT SIP* includes non-substantive changes from the public draft version that was the basis for our May 17, 2018 proposed rule. These changes include streamlining J.R. Simplot's introductory section listing the plant's major equipment to just state ''Nitric Acid Plant''; restoring a permit condition that EPA Reference Method 7 will be used to determine compliance with oxides of nitrogen (NO_X) limits; and removing reference citations to a local rule and federal regulations that were inadvertently left in the permit. The NO_X emission limits remain unchanged from the version of the permit included in our May 17, 2018 proposed rule. In addition, when comparing the public draft version included in our May 17, 2018 proposed rule and the final version adopted by the District on June 21, 2018, we noted minor editorial changes in the text preceding the list of negative declarations. The primary substance of the District's negative declarations, that is, recertification of three prior negative declarations, and the adoption of five new negative declarations, remain unchanged. We therefore consider these editorial changes to also be non-substantive. On July 11, 2018, we found the *Supplement to the 2014 RACT SIP,* including the relevant operating permit conditions to implement NO_X RACT for J.R. Simplot's Nitric Acid Plant in Helm, CA, and several negative declarations, met the completeness criteria in 40 CFR part 51, appendix V.

We are also approving portions of SJVUAPCD's ''2016 Ozone Plan for the 2008 8-Hour Ozone Standard'' (*2016 Ozone Plan*), which help to supplement the District's *2014 RACT SIP.* The plan was adopted by the District on June 16, 2016, and submitted by CARB to the EPA on August 24, 2016, as a revision to the California SIP. Specifically, as discussed in our May 17, 2018 proposed rule, Chapter 3.4 of the *2016 Ozone Plan* states that ''the District updated the RACT evaluation and included VOC sources in the evaluation in Appendix C.'' Appendix C of the *2016 Ozone Plan,* which is titled, ''Stationary and Area Source Control Strategy Evaluations,'' includes evaluations of individual rules for RACT. We are only approving Chapter 3.4 and Appendix C of the *2016 Ozone Plan* in order to demonstrate VOC RACT for all applicable sources for the 2008 NAAQS.

As discussed in our proposed rule, the District's *2014 RACT SIP* contains its analysis of NO_X RACT for the 2008 NAAQS. For more background information and a more extensive discussion of the *2014 RACT SIP,* the *Supplement to the 2014 RACT SIP,* Chapter 3.4 and Appendix C of the *2016 Ozone Plan,* and our evaluation of them for compliance with CAA RACT requirements, please see our proposed rule and related technical support document.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received one anonymous comment that was outside the scope of this rulemaking. The comment was not germane to our evaluation of the submitted SJVUAPCD documents to demonstrate that the District's stationary sources are subject to RACT requirements.

III. EPA Action

No comments were submitted that change our assessment of the submitted documents as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving the following documents into the California SIP: SJVUAPCD's *2014 RACT SIP*; the *Supplement to the 2014 RACT SIP* including relevant permit conditions for J.R. Simplot's Nitric Acid Plant in Helm, CA and negative declarations for the CTG source categories: Surface coating of insulation of magnetic wire; manufacture of synthesized pharmaceutical products; manufacture of pneumatic rubber tires; leaks from synthetic organic chemical polymer and resin manufacturing equipment; VOC emissions from manufacture of high-density polyethylene, polypropylene and polyester resins; VOC emissions from air oxidation processes in SOCMI; VOC emissions from reactor processes and distillation operations in SOCMI; and surface coating operations at shipbuilding and ship repair facilities; and the *2016 Ozone Plan*—only Chapter 3.4 and Appendix C.

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 certain permit conditions for the J.R. Simplot Nitric Acid Plan in Helm, CA and described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. 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, the EPA's role is to approve state 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);
- 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 (Pub. L. 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);

approve on May 17, 2018. We will reference the District's June 21, 2018 adopted document as ''*Supplement to the 2014 RACT SIP*'' to maintain consistency with how this action was referenced in our May 17, 2018 proposed rulemaking.

[5] As explained in our May 17, 2018 proposed rulemaking, the EPA is following its regulatory procedures for parallel processing. See 40 CFR part 51, appendix V. These procedures allow the EPA to approve a state's submittal, following parallel state and federal comment periods, provided the final provision adopted at the state level has no significant changes from the proposal.

• 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 October 16, 2018. 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 12, 2018.

Michael Stoker,

Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations 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 F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(449)(ii)(D), (c)(496)(ii)(B), and (c)(507) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(449) * * *

(ii) * * *

(D) San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD).

(*1*) SJVUAPCD ''2014 Reasonably Available Control Technology (RACT) Demonstration for the 8-Hour Ozone State Implementation Plan (SIP),'' dated June 19, 2014, as adopted by the SJVUAPCD on June 19, 2014.

* * * * *

(496) * * *

(ii) * * *

(B) San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD).

(*1*) SJVUAPCD ''2016 Ozone Plan for 2008 8-Hour Ozone Standard,'' dated June 16, 2016, Chapter 3.4 and Appendix C only, as adopted by the SJVUAPCD on June 16, 2016.

* * * * *

(507) New regulations for the following APCD were submitted on June 29, 2018 by the Governor's designee.

(i) *Incorporation by reference.* (A) San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD).

(*1*) Permit #C–705–3–19, J.R. Simplot Company, Nitric Acid Plant, Helm, CA, adopted by the SJVUAPCD, Resolution No.18–06–14, June 21, 2018.

(ii) *Additional materials.* (A) San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD).

(*1*) SJVUAPCD ''Appendix B Negative Declarations For Proposed Revision to the State Implementation Plan (SIP) to Address Federal Clean Air Act Requirements for Reasonably Available Control Technology (RACT) June 21, 2018,'' containing negative declarations, as adopted by the SJVUAPCD on June 21, 2018.

■ 3. Section 52.222 is amended by adding paragraph (a)(8)(iii) to read as follows:

§ 52.222 Negative declarations.

(a) * * *

(8) * * *

(iii) The following negative declarations for the 2008 NAAQS were adopted by the San Joaquin Valley Unified Air Pollution Control District on June 21, 2018, and submitted to the EPA on June 29, 2018.

NEGATIVE DECLARATIONS FOR THE 2008 OZONE NAAQS

CTG document No.	Title
EPA–450/2–77–033	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume IV: Surface Coating of Insulation of Magnet Wire.
EPA–450/2–78–029	Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products.
EPA–450/2–78–030	Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires.
EPA–450/3–83–006	Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment.
EPA–450/3–83–008	Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins.
EPA–450/3–84–015	Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry.
EPA–450/4–91–031	Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry.

NEGATIVE DECLARATIONS FOR THE 2008 OZONE NAAQS—Continued

CTG document No.	Title
EPA–453/R–94–032	Alternative Control Technology Document—Surface Coating Operations at Shipbuilding and Ship Repair Facilities
61 FR 44050 8/27/96	Control Techniques Guidelines for Shipbuilding and Ship Repair Operations (Surface Coating).

* * * * *

[FR Doc. 2018–17714 Filed 8–16–18; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 6101 and 6102

[CBCA Case 2018–61–1; Docket No. 2018–0006; Sequence No. 1]

RIN 3090–AK02

Civilian Board of Contract Appeals; Rules of Procedure for Contract Disputes Act Cases

AGENCY: Civilian Board of Contract Appeals; General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The Civilian Board of Contract Appeals (Board) amends its rules of procedure for cases arising under the Contract Disputes Act, and for disputes between insurance companies and the Department of Agriculture's Risk Management Agency in which decisions of the Federal Crop Insurance Corporation are brought before the Board under the Federal Crop Insurance Act. The Board's current rules were issued in 2008 and were last amended in 2011. After considering the one responsive comment received, the Board now promulgates its final rules of procedure.

DATES: September 17, 2018.

FOR FURTHER INFORMATION CONTACT: Mr. J. Gregory Parks, Chief Counsel, Civilian Board of Contract Appeals, 1800 M Street NW, Suite 600, Washington, DC 20036; at 202–606–8787; or email at *greg.parks@cbca.gov,* for clarification of content. For information pertaining to the status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite BCA Case 2018–61–1.

SUPPLEMENTARY INFORMATION:

A. Background

The Board was established within GSA by section 847 of the National Defense Authorization Act for Fiscal Year 2006, Public Law 109–163. Board members are administrative judges appointed by the Administrator of General Services under 41 U.S.C. 7105(b)(2). Among its other functions, the Board hears and decides contract disputes between Government contractors and most civilian Executive agencies under the Contract Disputes Act, 41 U.S.C. 7101–7109, and its implementing regulations, and disputes pursuant to the Federal Crop Insurance Act, 7 U.S.C. 1501 *et seq.,* between insurance companies and the Department of Agriculture's Risk Management Agency (RMA) involving actions of the Federal Crop Insurance Corporation (FCIC).

The Board's rules of procedure for Contract Disputes Act cases and Federal Crop Insurance Act cases were adopted in May 2008 (73 FR 26947) and were last amended in August 2011 (76 FR 50926). The Board published in the **Federal Register** at 83 FR 13211, March 28, 2018, proposed, amended rules of procedure along with a notice inviting comments on those rules. This notice announced the intention to promulgate final rules, following the Board's review and consideration of all comments.

The period for comments closed on May 29, 2018. The Board has considered all comments received, revising the proposed rules, in part, as explained in part B below, and now promulgates its final rules of procedure. These rules simplify and modernize access to the Board by establishing a preference for electronic filing, increase conformity between the Board's rules and the Federal Rules of Civil Procedure, streamline the wording of the Board's rules, and clarify current rules and practices. In addition, the time for filing is amended from 4:30 p.m. to midnight Eastern Time, and the stated monetary limitations for electing the accelerated and small claims procedures are deleted and replaced with references to the requirements stated in the Contract Disputes Act.

B. Comments and Changes

The Board received comments from two commenters. Commenters included one attorney from a Federal agency and one anonymous source. Comments from the anonymous source concerned matters wholly unrelated to the proposed rule, and the concerns noted by the attorney were already addressed in the proposed rule. The Board carefully considered the comments but has not revised its proposed rule based on issues the commenters raised. The final rule incorporates minor, non-substantive corrections to the proposed rule. The corrections are addressed below.

Part 6101

Sections 6101.1, 6101.3, 6101.4, 6101.12, and 6101.23 are amended to correct spelling, grammatical, or spacing errors; include a cross-reference; and clarify a phrase.

C. Regulatory Flexibility Act

GSA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 602 *et seq.,* and the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, because the final rule does not impose any additional costs on small or large businesses.

D. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* does not apply because this final rule does not impose any information collection requirements that require the approval of the Office of Management and Budget.

E. Congressional Review Act

The final rule is exempt from Congressional review under Public Law 104–121 because it relates solely to agency organization, procedure, and practice and does not substantially affect the rights or obligations of non-agency parties.

F. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of

Appendix 4: Connecticut: Approval and Promulgation of implementation Plans; Connecticut; Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule Revision. 76 Fed. Reg. 26,933 (May 10, 2011)

requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 165.T07–0143 to read as follows:

§ 165.T07–0143 Safety Zone; Second Annual Space Coast Super Boat Grand Prix, Atlantic Ocean, Cocoa Beach, FL.

(a) *Regulated area.* The following regulated area is a safety zone: all waters of the Atlantic Ocean located east of Cocoa Beach, FL and encompassed within an imaginary line connecting the following points: Starting at Point 1 in position 28°22′16″ N, 80°36′04″ W; thence west to Point 2 in position 28°22′15″ N, 80°35′39″ W; thence south to Point 3 in position 28°19′47″ N, 80°35′55″ W; thence east to Point 4 in position 28°19′47″ N, 80°36′22″ W; thence north back to origin. All coordinates are North American Datum 1983.

(b) *Definition.* The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Jacksonville in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Jacksonville or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Jacksonville by telephone at 904–564–7511, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Jacksonville or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Jacksonville or his designated representative.

(3) The Coast Guard will provide notice of the regulated area through advanced notice via Local Notice to Mariners, Broadcast Notice to Mariners, and by on-scene designated representatives.

(d) *Effective date and enforcement period.* This rule is effective from 10 a.m. on May 21, 2011 through 5:30 p.m. on May 22, 2011. The regulated area will be enforced from 10 a.m. until 4 p.m. on May 21, 2011, and 9 a.m. until 5:30 p.m. on May 22, 2011.

Dated: April 29, 2011.

C.A. Blomme,

Captain, U.S. Coast Guard, Captain of the Port Jacksonville.

[FR Doc. 2011–11341 Filed 5–9–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2010–0996, A–1–FRL9286–4]

Approval and Promulgation of Implementation Plans; Connecticut: Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a revision to the State Implementation Plan (SIP), submitted by Connecticut Department of Environmental Protection (DEP) to EPA on December 9, 2010, for parallel processing. DEP submitted the final version of this SIP revision on February 9, 2011. The SIP revision, which incorporates updates to DEP's air quality regulations, includes two significant changes impacting the regulation of greenhouse gases (GHG) under Connecticut's New Source Review (NSR) Prevention of Significant Deterioration (PSD) program. First, the revision provides Connecticut with authority to issue PSD permits governing GHG. Second, the SIP revision establishes appropriate emission thresholds for determining which new stationary sources and modification projects become subject to Connecticut's PSD permitting requirements for their GHG emissions. The first change is necessary because Connecticut is required to apply its PSD program to GHG-emitting sources, and unless it does so (or unless EPA promulgates a federal implementation plan (FIP) to do so), such sources will be unable to receive preconstruction permits and therefore may not be able to construct or modify. The second change is necessary, because without it, PSD requirements would apply at the 100 or 250 ton per year (tpy) levels otherwise provided under the Clean Air Act (CAA or Act), which would overwhelm Connecticut's permitting resources. EPA is approving Connecticut's February 9, 2011, SIP revision because the Agency has made the determination that this SIP revision is in accordance with the CAA and EPA regulations, including regulations pertaining to PSD permitting for GHG. Additionally, EPA is responding to adverse comments received on EPA's January 6, 2011, proposed approval of Connecticut's December 9, 2010, SIP revision.

DATES: *Effective Date:* This rule will be effective May 10, 2011.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2010–0996. 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, 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 *http://www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Air Programs Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for further information. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding the Connecticut SIP, contact Donald Dahl, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square—Suite 100, (mail code OEP05–2), Boston, MA 02109–3912. Mr. Dahl's telephone number is (617) 918–1657; *e-mail address: dahl.donald@epa.gov.*

SUPPLEMENTARY INFORMATION:

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VI. Final Action
VII. Statutory and Executive Order Reviews

I. What is the background for this final action?

EPA has recently undertaken a series of actions pertaining to the regulation of GHG that, although for the most part distinct from one another, establish the overall framework for today's final action for the Connecticut SIP. The first four of these actions include, as they are commonly called, the "Endangerment Finding" and "Cause or Contribute Finding," which EPA issued in a single final action,[1] the "Johnson Memo Reconsideration,"[2] the "Light-Duty Vehicle Rule,"[3] and the "Tailoring Rule."[4] Taken together, these actions established regulatory requirements for GHG emitted from new motor vehicles and new motor vehicle engines; determined that such regulations, when they took effect on January 2, 2011, will subject GHG emitted from stationary sources to PSD requirements; and limited the applicability of PSD requirements to GHG sources on a phased-in basis. In a separate action, EPA called on the State of Connecticut and 12 other states with SIPs that do not provide authority to issue PSD permits governing GHG to revise their SIPs to provide such authority (the "GHG PSD SIP Call").[5] EPA established a deadline of March 1, 2011, for Connecticut to submit its GHG PSD SIP. Finally, in the most recent action, EPA proposed to implement a FIP authorizing PSD permitting for GHG for those states that are unable to revise their SIPs to provide that authority by the applicable deadline (the "GHG PSD FIP").[6] By a notice signed December 23, 2010, EPA finalized the FIP for seven states: Arizona, Arkansas, Florida, Idaho, Kansas, Oregon, and Wyoming.

On December 9, 2010, in response to the Tailoring Rule and earlier GHG-related EPA rules, and in anticipation of the GHG PSD SIP Call rulemaking, DEP submitted a draft revision to EPA for approval into the Connecticut SIP to: (1) Provide the State with the authority to regulate GHG under its PSD program; and (2) establish appropriate emission thresholds for determining which new or modified stationary sources become subject to Connecticut's PSD permitting requirements for GHG emissions. Subsequently, on January 6, 2011, EPA published a proposed rulemaking to approve Connecticut's December 9, 2010, draft SIP revision under parallel processing. 76 FR 752. Specifically, Connecticut's December 9, 2010 draft SIP revision includes changes to Sections 22a–174–1 and 22a–174–3a of the Regulations of Connecticut State Agencies.[7] The changes include adopting definitions of greenhouse gases and carbon dioxide equivalent and applying the Tailoring Rule's thresholds for GHG permitting applicability. Detailed background information and EPA's rationale for the proposed approval are provided in EPA's January 6, 2011, **Federal Register** notice.

EPA's January 6, 2011, proposed approval was contingent upon the State of Connecticut providing a final SIP revision that was substantively the same as the revision proposed for approval by EPA in the January 6, 2011, proposed rulemaking. 76 FR 752. Connecticut provided its final SIP revision on February 9, 2011. While there are minor differences between the draft and final regulations, mainly to the format of internal references, EPA has determined that these differences do not warrant re-proposal of this action. The changes are mostly edits to the format for internal references within the regulation, e.g. changing "Table 3a(k)(1)" to "Table 3a(k)(1) of this subsection," plus one minor edit designed to clarify the original intent of the formula for calculating "carbon dioxide equivalent emissions." See Memorandum from the Connecticut Commissioners' Office to the Connecticut Legislative Regulation Review Committee at 2 (Jan. 25, 2011).

II. Analysis of Connecticut's SIP Revision

Section 110(k)(3) of the CAA provides that EPA shall approve a SIP revision as a whole if it meets all of the applicable requirements of the CAA. Connecticut received a SIP call because its PSD program does not apply to GHG. As a result, Connecticut is required to submit a SIP revision that applies PSD to GHG and do so either at the Tailoring Rule thresholds or at lower thresholds. Connecticut is required to demonstrate that it has adequate resources for implementation if the state establishes lower thresholds.

Connecticut has submitted a SIP revision that provides this authority. Connecticut's SIP revision adopts new definitions for "carbon dioxide equivalent emissions" and "greenhouse gases" into section 22a–174–1. These new definitions were necessary because the state's definition of air pollutant excluded carbon dioxide except for certain state rules. Connecticut's PSD regulation, found in section 22a–174–3a, is not one of the excepted rules.

To fully implement EPA's Tailoring Rule, Connecticut amended several subsections in section 22a–174–3a. Section 22a–174–3a contains the state's permitting requirements for minor new source review, PSD, and nonattainment new source review. Subsections amended were subsection (1) which adds GHG emission thresholds to the general applicability section, subsection (d)(3)(H) which requires the applicant to incorporate best available control technology (BACT) for GHG emissions, subsection (j) which establishes the thresholds for GHG emissions for applying BACT, and subsection (k) which establishes GHG emission thresholds for PSD permitting. Connecticut has adopted the thresholds contained in EPA's Tailoring Rule for all of the thresholds established in the individual subsections. Connecticut did not choose to establish a lower threshold than required by the Tailoring Rule.

EPA has determined these changes to Connecticut's regulations meet the requirements of the SIP call. Thus these changes are consistent with the CAA and its implementing regulations regarding PSD permit requirements for GHG emissions. The thresholds for permitting GHG emissions established in this submittal are the same as EPA's Tailoring Rule, and therefore comply with the requirements of the SIP call.

[1] "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act." 74 FR 66496 (December 15, 2009).

[2] "Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs." 75 FR 17004 (April 2, 2010).

[3] "Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule." 75 FR 25324 (May 7, 2010).

[4] Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule." 75 FR 31514 (June 3, 2010).

[5] "Action to Ensure Authority to Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call: Final Rule." 75 FR 77698 (December 13, 2010).

[6] "Action to Ensure Authority to Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan: Proposed Rule." 75 FR 53883 (September 2, 2010).

[7] Connecticut's submittal also revises Section 22a–174–33; however, this section relates to the state's title V operating permit program and it is not the state's intention to incorporate any provision of this program into the SIP. As such, EPA is not taking final action to approve Connecticut's changes to Section 22a–174–33 in this rulemaking.

III. What is EPA's response to comments received on this action?

EPA received two sets of comments on the January 6, 2011, proposed rulemaking to approve revisions to Connecticut's SIP. One set of comments, provided by the Sierra Club, was in favor of EPA's January 6, 2011 proposed action. The other set of comments, provided by the Air Permitting Forum, raised concerns with final action on EPA's January 6, 2011 proposed action. A full set of the comments provided by both the Sierra Club and Air Permitting Forum (hereinafter referred to as "the Commenter") is provided in the docket for today's final action. A summary of the adverse comments and EPA's responses are provided below.

Generally, the adverse comments fall into five categories. First, the Commenter asserts that EPA's SIP Call was unauthorized and imposed too short a deadline for Connecticut to act to revise its SIP. Second, the Commenter asserts that PSD requirements cannot be triggered by GHG. Third, the Commenter expresses concerns regarding EPA's previously announced intention to narrow its prior approval of some SIPs to ensure that sources with GHG emissions that are less than the Tailoring Rule's thresholds will not be obligated under federal law to obtain PSD permits prior to a SIP revision incorporating those thresholds. The Commenter explains that the planned SIP approval narrowing action is inapplicable to this action and, if applicable, is illegal. Fourth, the Commenter states that EPA has failed to meet applicable statutory and executive order review requirements. Lastly, the Commenter states: "EPA should explicitly state in any final rule that the continued enforceability of these provisions in the Connecticut SIP is limited to the extent to which the federal requirements remain enforceable." EPA's response to these five categories of comments is provided below.

Comment 1: The first comment asserts that EPA's SIP Call was unauthorized and imposed too short a deadline for Connecticut to act to revise its SIP. This is because, according to the Commenter, the recent *Cinergy* decision allows sources in the State to rely on the provisions of the currently approved PSD SIP to obtain permits for construction or modification. *United States* v. *Cinergy Corp.,* 623 F.3d 455 (7th Cir. 2010).

Response 1: EPA established the requirement that Connecticut submit a corrective SIP revision to provide for the authority to issue PSD permits for GHG emissions in the GHG PSD SIP call rulemaking. As part of that rulemaking, EPA allowed states to choose not to object to a short timeframe for amending their SIPs, and the deadline established for submitting Connecticut's PSD SIP revision is the date requested by the State. EPA has not reopened either of these issues in the current rulemaking. The only issues relevant to this rulemaking concern whether Connecticut's SIP submission meets the requirements of the SIP call and therefore should be approved. Issues concerning the validity of the SIP call and the deadlines it established, including the comments raised by the commenter, may have been relevant for the SIP call rulemaking but are not relevant for this rulemaking. Accordingly, these comments are not relevant for this rulemaking.

In any event, EPA disagrees with the comment and the Commenter's interpretation of the *Cinergy* decision. EPA specifically discussed the *Cinergy* decision in the SIP call itself, 75 FR 77705–06 n.16. As we stated in the SIP call, EPA has long interpreted the PSD applicability provisions in the CAA to be self-executing,[8] that is, they apply by their terms so that a source that emits any air pollutant subject to regulation becomes subject to PSD—and, therefore, cannot construct or modify without obtaining a PSD permit—and these provisions apply by their terms in this manner regardless of whether the state has an approved SIP PSD program. What's more, until an applicable implementation plan is in place—either an approved SIP or a FIP—no permitting authority is authorized to issue a permit to the source. In the recent *Cinergy* decision, the 7th Circuit confronted a case that, at the district court level, involved both nonattainment NSR and PSD claims, with the appeal involving substantive nonattainment NSR issues and evidentiary PSD issues. However, in its opinion, the 7th Circuit described the substantive nonattainment NSR issue as if it applied to both nonattainment NSR and PSD. On that issue, the Court held that sources could continue to abide by permitting requirements in an existing SIP until amended, even if that SIP does not comport with the law. Again, notwithstanding the Court's broader description of the case, that holding applied only to the nonattainment NSR claims because, again, only those claims were before it on that issue. *United States* v. *Cinergy Corp.,* 623 F.3d 455 (7th Cir. 2010). In stark contrast to the nonattainment provisions actually at issue in Cinergy—which are not self-executing and must therefore be enforced through a SIP—PSD is self-executing; it is the statute (CAA section 165), not just the SIP, that prohibits a source from constructing a project without a permit issued in accordance with the Clean Air Act. Because the PSD provisions were simply not before the *Cinergy* Court in the appeal on this issue, the commenter's reading of that portion of the opinion to apply to PSD is in error. As the commenter noted, in a petition for rehearing that was primarily devoted to other issues, EPA asked the Court to revise its opinion to make clear that its holding on the relevant issue was limited to the nonattainment provisions in play on that issue. The Court denied the petition for rehearing and, accordingly, did not revise its opinion. However, the Court did not explain its reasons for denying the petition for rehearing, and therefore did not address why it would not revise its opinion. We note that Cinergy, in its response to EPA's petition for reconsideration, did not contest that the relevant issue concerned only the nonattainment provisions, and not the PSD provisions. Accordingly, we do not read the Court's denial of the petition for rehearing as any kind of affirmation that in the Court's view, its decision on the relevant issue extends beyond the nonattainment provisions in play on that issue. Further, we believe that the fact that all of the parties to the case recognized that only the nonattainment provisions were in play on the relevant issue could explain the Court's denial of EPA's request to revise the opinion.

Comment 2: The Commenter asserts that PSD requirements cannot be triggered by GHG. In its letter, the Commenter states: "[n]o area in the State of Connecticut has been designated attainment or unclassifiable for greenhouse gases (GHGs), as there is no national ambient air quality standard (NAAQS) for GHGs. Therefore, GHGs cannot trigger PSD permitting requirements." The Commenter notes that it made this argument in detail in comments submitted to EPA on the Tailoring Rule and other related GHG rulemakings.[9] Finally, the Commenter states that "EPA should immediately provide notice that it is now interpreting the Act not to require that GHGs trigger PSD and allow

[8] EPA is likewise also not reopening this issue in this rulemaking.

[9] The Commenter recited that it had attached those previously submitted comments to its comments on the proposed rulemaking related to this action, although it appears they were neither attached nor forwarded to the docket for this action. Nevertheless, EPA is aware of the Commenter's prior comments and, as explained below, does not find them persuasive.

Connecticut to rescind that portion of its rules and implement the program consistent with the proper interpretation such that GHGs do not trigger PSD permitting * * *"

Response 2: EPA established the requirement that PSD applies to all pollutants newly subject to regulation, including non-NAAQS pollutants, in earlier national rulemakings concerning the PSD program, and EPA has not re-opened that issue in this rulemaking. Accordingly, these comments are not relevant to this rulemaking and are time-barred as to the earlier national rulemakings. In addition, EPA has explained in detail, in recent rulemakings concerning GHG PSD requirements, its reasons for disagreeing with these comments.

In an August 7, 1980, rulemaking at 45 FR 52676, 45 FR 52710–52712, and 45 FR 52735, EPA stated that a "major stationary source" was one that emitted "any air pollutant subject to regulation under the Act" at or above the specified numerical thresholds, and defined a "major modification," in general, as a physical or operational change that increased emissions of "any pollutant subject to regulation under the Act" by more than an amount that EPA variously termed as *de minimis* or significant. In addition, in EPA's NSR Reform rule at 67 FR 80186 and 67 FR 80240 (December 31, 2002), EPA added to the PSD regulations the new definition of "regulated NSR pollutant" (currently codified at 40 CFR 52.21(b)(50) and 40 CFR 51.166(a)(49)), noted that EPA added this term based on a request from a commenter to "clarify which pollutants are covered under the PSD program," and explained that in addition to criteria pollutants for which a NAAQS has been established, "[t]he PSD program applies automatically to newly regulated NSR pollutants, which would include final promulgation of an NSPS [new source performance standard] applicable to a previously unregulated pollutant." *Id.* at 67 FR 80240 and 67 FR 80264. Among other things, the definition of "regulated NSR pollutant" includes "[a]ny pollutant that otherwise is subject to regulation under the Act." *See* 40 CFR 52.21(b)(50)(d)(iv); *see also* 40 CFR 51.166(a)(49)(iv).

In any event, EPA disagrees with the Commenter's underlying premise that PSD requirements are not triggered for GHG when GHG became subject to regulation as of January 2, 2011. As just noted, this has been well-established and discussed in connection with prior EPA actions, including, most recently, the Johnson Memo Reconsideration and the Tailoring Rule. In addition, EPA's November 18, 2010, proposed rulemaking notice provides the general basis for the Agency's rationale that GHG, while not a NAAQS pollutant, can trigger PSD permitting requirements. The November 18, 2010, notice also refers the reader to the preamble to the Tailoring Rule for further information on this rationale. In that rulemaking, EPA addressed at length the comment that PSD can be triggered only by pollutants subject to the NAAQS and concluded that such an interpretation of the Act would contravene Congress's unambiguous intent. *See* 75 FR 31560–31562. Further discussion of EPA's rationale for concluding that PSD requirements are triggered by non-NAAQS pollutants such as GHG appears in the Tailoring Rule Response to Comments document ("Prevention of Significant Deterioration and Title V GHG Tailoring Rule: EPA's Response to Public Comments"), pp. 34–41; and in EPA's response to motions for a stay filed in the litigation concerning those rules ("EPA's Response to Motions for Stay," *Coalition for Responsible Regulation* v. *EPA,* DC Cir. No. 09–1322 (and consolidated cases)), at pp. 47–59, and are incorporated by reference here. These documents have been placed in the docket for today's action.

Comment 3: The Commenter expresses concerns regarding the legality of narrowing prior SIP approvals if states cannot interpret their regulations to include the Tailoring Rule thresholds within the phrase "subject to regulation."

Response 3: While EPA does not agree with the Commenter's assertion that the narrowing approach discussed in EPA's Tailoring Rule is illegal, the validity of the narrowing approach is irrelevant to the action that EPA is today taking for Connecticut's February 9, 2011, SIP revision. EPA did not propose to narrow its approval of Connecticut's SIP as part of this action, and in today's final action, EPA is acting to approve a SIP revision submitted by Connecticut and is not otherwise narrowing its approval of prior submitted and approved provisions in the Connecticut SIP. Accordingly, the legality of the narrowing approach is not at issue in this rulemaking.

Comment 4: The Commenter states that EPA has failed to meet applicable statutory and executive order review requirements. Specifically, the Commenter refers to the statutory requirements and executive orders for the Paperwork Reduction Act, the Regulatory Flexibility Act (RFA), the Unfunded Mandates Reform Act, and Executive Orders 12866 (OMB review of significant regulatory actions), 13175 (tribal implications), 13211 (economically significant regulatory action), and 13132 (Federalism). Additionally, the Commenter mentions that EPA has never analyzed the costs and benefits associated with triggering PSD for stationary sources in Connecticut, much less nationwide.

Response 4: EPA disagrees with the Commenter's statement that EPA has failed to meet applicable statutory and executive order review requirements. As stated in EPA's proposed approval of Connecticut's December 9, 2010 proposed SIP revision, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. Accordingly, EPA approval, in and of itself, does not impose any new information collection burden, as defined in 5 CFR 1320.3(b) and (c), that would require additional review under the Paperwork Reduction Act. In addition, this SIP approval will not have a significant economic impact on a substantial number of small entities, beyond that which would be required by the state law requirements, so a regulatory flexibility analysis is not required under the RFA. Accordingly, this rule is appropriately certified under section 605(b) of the RFA. Moreover, as this action 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 mandates or significantly or uniquely affect small governments, such that it would be subject to the Unfunded Mandates Reform Act. In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. Finally, this action does not have federalism implications that would make Executive Order 13132 applicable, because it 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.

Today's rule is a routine approval of a SIP revision, approving state law, and does not impose any requirements beyond those imposed by state law. To the extent these comments are directed more generally to the application of the statutory and executive order reviews to the required regulation of GHG under PSD programs, these comments are irrelevant to the approval of state law in

today's action. However, EPA provided an extensive response to similar comments in promulgating the Tailoring Rule. EPA refers the Commenter to the sections in the Tailoring Rule entitled "*VII. Comments on Statutory and Executive Order Reviews,*" 75 FR 31601–31603, and "*VI. What are the economic impacts of the final rule?,*" 75 FR 31595–31601. EPA also notes that today's action does not in and of itself trigger the regulation of GHG. To the contrary, GHG are already being regulated nationally, and sources in Connecticut that are subject to the PSD program are required to obtain a permit from a PSD program that addresses GHG emissions consistent with the Act's requirements. Today's action simply approves existing state laws that provide such a PSD program.

Comment 5: The Commenter states that "EPA should explicitly state in any final rule that the continued enforceability of these provisions in the Connecticut SIP is limited to the extent to which the federal requirements remain enforceable." Further, the Commenter remarks on the ongoing litigation in the U.S. Court of Appeals for the DC Circuit. Specifically, regarding EPA's determination that PSD can be triggered by GHG or is applicable to GHG, the Commenter mentions that "if the DC Circuit and/or Supreme Court determine that EPA's approach to regulating GHGs under the PSD program is invalid, the Connecticut rules should be approved in a manner that they would automatically sunset."

Response 5: EPA believes that it is most appropriate to take actions that are consistent with the federal regulations that are in place at the time the action is being taken. To the extent that any changes to federal regulations related to today's action result from pending legal challenges or other actions, EPA will process appropriate SIP revisions in accordance with the procedures provided in the Act and EPA's regulations. EPA notes that in an order dated December 10, 2010, the United States Court of Appeals for the DC Circuit denied motions to stay EPA's regulatory actions related to GHG. *Coalition for Responsible Regulation, Inc.* v. *EPA,* Nos. 09–1322, 10–1073, 10–1092 (and consolidated cases), Slip Op. at 3 (D.C. Cir. December 10, 2010) (order denying stay motions).

IV. What is the effect of this final action?

Final approval of Connecticut's February 9, 2011 SIP revision will make Connecticut's SIP adequate with respect to PSD requirements for GHG-emitting sources, thereby negating the need for a GHG PSD FIP. Furthermore, final approval of Connecticut's SIP revision will put in place the GHG emission thresholds for PSD applicability set forth in EPA's Tailoring Rule (75 FR 31514, June 3, 2010), ensuring that smaller GHG sources emitting less than these thresholds will not be subject to permitting requirements. Pursuant to section 110 of the CAA, EPA is approving changes made in Connecticut's February 9, 2011, proposed SIP revision into the State's SIP.

The changes to Connecticut's SIP-approved PSD program that EPA is approving today are to Connecticut's rules which have been formatted to conform to Connecticut's rule drafting standards for Sections 22a–174–1 and 3a, but in substantive content the rules that address the Tailoring Rule provisions are the same as the federal rules. As part of its review of the Connecticut submittal, EPA performed a line-by-line review of Connecticut's proposed SIP changes and has determined that the provisions that EPA is approving today are consistent with the Tailoring Rule. Furthermore, EPA has determined that the February 9, 2011, revision to Connecticut's SIP is consistent with section 110 of the CAA. *See, e.g.,* Tailoring Rule, at 75 FR 31561.

V. When is this action effective?

The effective date of today's final action is the date that this notice is published in the **Federal Register**. In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for this action to become effective on the date of publication. The effective date upon publication of this notice for this action is authorized under 5 U.S.C. 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule provides sources emitting GHG at or above the higher emissions thresholds with a permitting authority from which it can seek the permits which, prior to this rule, federal law already required them to seek, and relieves the sources within the State from considering the lower emissions thresholds for GHG permitting purposes. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for this action to become effective immediately upon publication.

VI. Final Action

EPA is taking final action to approve the State of Connecticut's February 9, 2011 SIP revision, which includes updates to Connecticut's air quality regulations, sections 22a–174–1 and 22a–174–3a relating to PSD requirements for GHG-emitting sources. Significantly, Connecticut's February 9, 2011, SIP revision: (1) Provides the State with the authority to regulate GHG under its PSD program, and (2) establishes appropriate emissions thresholds for determining PSD applicability with respect to new or modified GHG-emitting sources in accordance with EPA's Tailoring Rule. EPA has made the determination that the February 9, 2011 SIP revision is approvable because it is in accordance with the CAA and EPA regulations, including regulations pertaining to PSD permitting for GHG.

VII. 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 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 July 11, 2011. 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, Greenhouse gases, Incorporation by reference, Intergovernmental relations, and Reporting and recordkeeping requirements.

Dated: March 15, 2011.

For H. Curtis Spalding,

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart H—Connecticut

■ 2. Section 52.370 is amended by adding paragraph (c)(99) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(99) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on February 9, 2011.

(i) Incorporation by reference. (A) The additions of subsections (21) and (49) to Section 22a–174–1, effective January 28, 2011.

(B) The revisions to Sections 22a–174–3a(a)(1)(H) through (J), Sections 22a–174–3a(d)(3)(H), Sections 22a–174–3a(j)(1)(E) through (I), Sections 22a–174–3a(k)(1) through (k)(2), and Sections 22a–174–3a(k)(4), effective January 28, 2011.

[FR Doc. 2011–11218 Filed 5–9–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–8179]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.;* unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal

Appendix 5: New Mexico: Approval and Promulgation of Implementation Plans; New Mexico; Revisions to the New Source Review (NSR) State Implementation Plan (SIP) for Albuquerque-Bernalillo County' Prevention of Significant Deterioration (PSD) Permitting. 80 FED. REG. 52,401 (Aug. 31, 2015)

Appendix 6: Ohio - West Virginia: Approval of Air Quality Implementation Plans; Ohio and West Virginia; Attainment Plans for the Steubenville Ohio-West Virginia 2010 Sulfur Dioxide Nonattainment Area. 84 FED. REG. 56,385 (Oct. 22, 2019)

POSTAL SERVICE

39 CFR Part 265

Procedures for Disclosure of Records Under the Freedom of Information Act

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: In August 2019, the Postal Service proposed to amend its Freedom of Information Act (''FOIA'') regulations regarding fee waivers. These changes would improve clarity and more closely align the regulations with both the relevant guidance from the Department of Justice's Office of Information Policy and the relevant statute. The Postal Service did not receive any comments.

DATES: This rule is effective as of November 21, 2019.

FOR FURTHER INFORMATION CONTACT: Joshua J. Hofer, Attorney, Federal Compliance, *joshua.hofer@usps.gov,* 202–268–6704.

SUPPLEMENTARY INFORMATION: In August 2019, the Postal Service proposed to amend 39 CFR part 265 (84 FR 44565). The purpose of the changes is to improve clarity and to more closely align the regulations with both the relevant guidance from the Department of Justice's Office of Information Policy and the relevant statute, 5 U.S.C. 552(a)(4)(A)(iii). The portion of the regulations being amended concerns fee waivers. Generally speaking, fees for a FOIA request will be waived ''if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.'' 5 U.S.C. 552(a)(4)(A)(iii). The guidance from the Department of Justice elucidates a six-factor test from this rule—two of which of which relate to the commercial interest of the requester. The amendment to 39 CFR 265.9(j)(3)(i) clarifies that the first commercial interest factor is to determine whether a commercial interest exists. The amendment to 39 CFR 265.9(j)(3)(ii) incorporates the balancing test from the statute as the second part of the commercial interest factor, along with adding a presumption concerning news media requesters. No comments were received in response to the proposed changes.

List of Subjects in 39 CFR Part 265

Administrative practice and procedure, Courts, Freedom of information, Government employees.

For the reasons stated in the preamble, the Postal Service amends 39 CFR chapter I as follows:

PART 265—[AMENDED]

■ 1. The authority citation for part 265 continues to read as follows:

Authority: 5 U.S.C. 552; 5 U.S.C. App. 3; 39 U.S.C. 401, 403, 410, 1001, 2601; Pub. L. 114–185.

■ 2. Amend § 265.9 by revising paragraphs (j)(3)(i) and (ii) to read as follows:

§ 265.9 Fees.

* * * * *

(j) * * *

(3) * * *

(i) Whether there is a commercial interest, as defined in paragraph (b)(1) of this section, that would be furthered by the requested disclosure. If so, then the requester will be given an opportunity to provide explanatory information regarding this consideration.

(ii) Whether any identified commercial interest of the requester in disclosure outweighs the public interest, as defined in paragraph (j)(1)(i) of this section, in disclosure. If so, then the disclosure is primarily in the commercial interest of the requester. The component ordinarily shall presume that if a news media requester has satisfied the public interest standard, the public interest is the primary interest served by the requested disclosure. Disclosure to data brokers or others who merely compile and market government information for direct economic return shall not be presumed to primarily serve the public interest.

* * * * *

Joshua Hofer,

Attorney, Federal Compliance.

[FR Doc. 2019–22971 Filed 10–21–19; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2019–0044; EPA–R05–OAR–2015–0699; FRL–10001–26–Region 5]

Approval of Air Quality Implementation Plans; Ohio and West Virginia; Attainment Plans for the Steubenville, Ohio-West Virginia 2010 Sulfur Dioxide Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving, under the Clean Air Act (CAA), two State Implementation Plan (SIP) revision submittals, submitted by Ohio and West Virginia, respectively. The Ohio and West Virginia submittals include each State's attainment demonstration for the Steubenville Ohio-West Virginia sulfur dioxide (SO_2) nonattainment area (hereinafter ''Steubenville Area'' or ''Area''). Each SIP contains an attainment demonstration, enforceable emission limits, control measures and other elements required under the CAA to address the nonattainment area requirements for the Steubenville Area. EPA concludes that the Ohio and West Virginia attainment plan submittals demonstrate that the provisions in the respective SIPs provide for attainment of the 2010 primary SO_2 national ambient air quality standard (NAAQS) in the entire Steubenville Area and meet the requirements of the CAA. EPA is also approving into the West Virginia SIP new emissions limits, operational restrictions, and associated compliance requirements for Mountain State Carbon, and approving into the Ohio SIP the limits on emissions from Mingo Junction Energy Center, JSW Steel, and the Cardinal Power Plant.

DATES: This final rule is effective on November 21, 2019.

ADDRESSES: EPA has established dockets for this action under Docket ID Nos. EPA–R03–OAR–2019–0044 and EPA–R05–OAR–2015–0699. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* 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 through *www.regulations.gov,* or please contact the applicable Region III or Region V person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Marilyn Powers at EPA Region III, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, (215) 814–2308, *powers.marilyn@epa.gov.* John Summerhays at EPA Region V, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency,

Region V, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6067, *summerhays.john@epa.gov.*

SUPPLEMENTARY INFORMATION: The following outline is provided to aid in locating information in this preamble.

Table of Contents

I. Summary of EPA's Notice of Proposed Rulemaking
II. Comments and EPA's Responses
III. EPA's Final Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. Summary of EPA's Notice of Proposed Rulemaking

Following the promulgation in 2010 of a 1-hour primary SO_2 NAAQS, EPA designated a two-State Steubenville, Ohio-West Virginia area (among other areas) as nonattainment for this NAAQS. Ohio and West Virginia submitted SIP revision requests to address the attainment planning requirements that then applied for this area. Ohio's requested SIP revision was submitted to EPA through the Ohio Environmental Protection Agency (OEPA) on April 1, 2015 with supplemental submissions on October 13, 2015, March 25, 2019, and June 25, 2019. West Virginia's requested SIP revision was submitted to EPA through the West Virginia Department of Environmental Protection (WVDEP) on April 25, 2016, with a supplemental submission from WVDEP on November 27, 2017 and a clarification letter on May 1, 2019.

On June 24, 2019, at 84 FR 29456, EPA published a notice of proposed rulemaking (NPRM) on Ohio's and West Virginia's plans for assuring that the Steubenville Area attains the 2010 SO_2 NAAQS. Because the Area includes portions in both Ohio and West Virginia, each State was required to submit plans that in combination provided for attainment throughout the two-State area. EPA published a combined NPRM on the two States' submittals addressing whether these submittals satisfied applicable requirements throughout the Area. Ohio's submittal included proposed rules with a proposed emission limit for the Cardinal Power Plant. EPA's NPRM proposed to approve the two States' submittals contingent upon Ohio adopting and submitting these rules in final form.

The NPRM provided extensive discussion of EPA's rationale for proposing to approve the two States' submittals as meeting these requirements. The NPRM described the requirements that nonattainment plans are designed to meet. Notably, Ohio's plan included a 30-day average SO_2 emission limit for the Cardinal Power Plant (Cardinal), and the West Virginia plan included 24-hour average SO_2 emission limits for the Mountain State Carbon facility. The NPRM included an extensive discussion of EPA's guidance on the use of such longer term average emission limits, including a full discussion of EPA's rationale for concluding that properly set longer term average SO_2 emission limits (in particular, longer term emission limits that are comparably stringent to the 1-hour limits that would otherwise be established) can be effective in providing for attainment. The NPRM then described EPA's review of the modeling that the States submitted to demonstrate that the limits they adopted would provide for attainment of the 2010 SO_2 NAAQS and described EPA's review of whether the submittals met other applicable requirements such as the requirements for an emissions inventory and for reasonably available control measures.

On this basis, EPA proposed to conclude that, in combination with the other limits in Ohio's and West Virginia's plans, these longer term average SO_2 emission limits assure attainment in the Steubenville Area. More generally, EPA proposed to approve Ohio's and West Virginia's SIP submittals as addressing the nonattainment planning requirements, provided Ohio adopted and submitted in final form its proposed rules limiting emissions from the Cardinal power plant.

II. Comments and EPA's Responses

EPA received two comment letters on the NPRM, from owners of two of the facilities affected by these plans. JSW Steel provided brief comments supporting EPA's proposed action. Mountain State Carbon also expressed support for EPA's proposed action but identified various alleged factual errors in the NPRM that it sought to correct for the record. The following paragraph describes Mountain State Carbon's requested corrections and EPA's responses.

Mountain State Carbon identified several emission rates listed in the NPRM as inconsistent with the emissions reflected in Ohio's and West Virginia's plans. These claims are summarized in Table 1. For convenience, EPA's response is also listed in the table. In each case, EPA agrees with Mountain State Carbon's requested correction.

TABLE 1—EMISSION RATES IDENTIFIED AS BEING IN ERROR

[Abbreviations shown below]

Source	Unit(s)	NPRM value	Recommended value	Does EPA agree with MSC?
MJEC	4 units	20.34 lb/hr each	0.5 lb/hr each (total of 2 lb/hr)	Yes.
MSC	Battery #8 pushing, outage operation.	15.72 lb/hr	9.8 lb/hr	Yes.
MSC	Battery #1 combustion	241.5lb#/hr	76.8 lb/hr	Yes.
MSC	At issue *	Limit (1.32 g/s or 10.48 lb/hr) applies to power boilers.	Emission limit (correct value) applies to Battery 1/2/3 pushing baghouse.	Yes.

* The commenter states that the NPRM (the footnote to Table 4) assigns a limit incorrectly, that the limit of 1.32 g/s (10.32 lb/hr) applies not to the power boilers but instead to the Battery 1/2/3 pushing baghouse. EPA agrees.

Abbreviations: MJEC—Mingo Junction Energy Center; MSC—Mountain State Carbon; NPRM Value—Value cited in NPRM; Recommended Value—Value that MSC cites as the correct value; lb/hr—pounds per hour; g/s—grams per second.

EPA is correcting the record accordingly. Mountain State Carbon states that it does not believe that its comments are material to the proposed approval of the SIP, and that it supports EPA's action. Moreover, Mountain State Carbon explains that the corrected values are provided in West Virginia's submission. EPA agrees, and concludes that making these corrections, which more accurately characterizes the emission rates in Ohio's and West Virginia's modeled attainment plans, and which in the aggregate reflect lower allowable emission rates than EPA had

presented in the NPRM, does not necessitate reconsidering the validity of the attainment demonstration.

III. EPA's Final Action

EPA is approving two SIP revision submittals, one submitted by the State of Ohio on April 1, 2015, which Ohio supplemented on October 13, 2015, March 25, 2019, and June 25, 2019, and the other submitted by the State of West Virginia on April 25, 2016, which West Virginia supplemented on November 27, 2017, with a clarification letter submitted on May 1, 2019. The proposed approval was contingent on Ohio adopting and submitting in final form the limit for Cardinal that it submitted in proposed form on March 25, 2019. Ohio has adopted the limit it had proposed, effective July 5, 2019, and submitted this limit to EPA on June 25, 2019.[1]

Ohio's and West Virginia's submittals represent their plans for attaining the 2010 SO_2 NAAQS and how they are meeting other nonattainment area planning requirements. EPA is approving the attainment demonstrations, emissions limitations and control measures, the base year emissions inventory, nonattainment new source review program, reasonable further progress, and reasonably available control technology/reasonably available control measures, and contingency measures submitted by Ohio and West Virginia for the Steubenville Area. In the West Virginia SIP, EPA is approving the consent order between West Virginia and Mountain State Carbon identified as CO–SIP–C–2017–9, effective September 29, 2017, containing emission limits and other measures for Mountain State Carbon, including operational restrictions and sulfur content limits during the periods in which the desulfurization unit for Mountain State Carbon is shut down for maintenance purposes, and their associated compliance requirements. In the Ohio SIP, EPA is approving OAC Rule 3745–18–03, the pertinent sections of 3745–18–04,[2] and 3745–18–47.

[1] In conjunction with the newly adopted limit for Cardinal and resubmitted limits for other Ohio sources, in Ohio Administrative Code (OAC) 3745–18–47, Ohio also adopted and submitted associated compliance deadlines and compliance determination procedures, in OAC 3745–18–03 and 3745–18–04, respectively.

[2] EPA has historically not taken action on several paragraphs of OAC 3745–18–04. Ohio requested that EPA approve ''the revisions to . . . 3745–18–04 . . ., with the exception of [several listed portions of OAC 3745–18–04 that mostly have not previously been approved].'' Although Ohio's rulemaking for this submittal only revised paragraph (D)(11) of this rule, for administrative convenience EPA is reapproving all of OAC 3745–18–04 except for the listed paragraphs.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Ohio and West Virginia Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov,* and at the EPA Region III and Region V Offices (please contact the applicable person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, 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 in the next update to the SIP compilation.[3]

V. 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);
- 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 (Pub. L. 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).

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 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 December 23, 2019. 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

[3] 62 FR 27968 (May 22, 1997).

shall not postpone the effectiveness of such rule or action.

This action to approve the Steubenville Area attainment plans for Ohio and West Virginia 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, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: September 23, 2019

Cosmo Servidio,

Regional Administrator, Region III.

Dated: October 7, 2019

Cathy Stepp,

Regional Administrator, Region V.

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.*

■ 2. Section 52.1870 is amended:

■ a. In the table in paragraph (c), under ''Chapter 3745–18 Sulfur Dioxide Regulations,'' by revising the entries for ''3745–18–03'', ''3745–18–04'' (with a State effective date of 2/16/2017), and ''3745–18–47''; and

■ b. In the table in paragraph (e), under the heading ''Summary of Criteria Pollutant Attainment Plans,'' by adding a second entry for ''SO_2 (2010)'' after the entry for ''SO_2 (2010)'' (with a State date of 2/16/2017).

The revisions and additions read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED OHIO REGULATIONS

Ohio citation	Title/subject	Ohio effective date	EPA approval date	Notes
*	*	*	*	*
Chapter 3745–18 Sulfur Dioxide Regulations				
*	*	*	*	*
3745–18–03	Compliance Time Schedules.	7/5/2019	10/22/2019, [insert **Federal Register** citation].	
*	*	*	*	*
3745–18–04	Measurement Methods and Procedures.	7/5/2019	10/22/2019, [insert **Federal Register** citation].	Except (D)(2), (D)(3), (D)(5), (D)(6), (D)(9)(c), (E)(2), (E)(3), and (E)(4).
*	*	*	*	*
3745–18–47	Jefferson County Emission Limits.	7/5/2019	10/22/2019, [insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

(e) * * *

EPA-APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
*	*	*	*	*
Summary of Criteria Pollutant Attainment Plans				
*	*	*	*	*
SO_2 (2010)	Steubenville	6/25/19	10/22/2019, [insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

■ 3. Section 52.2520 is amended:

■ a. In the table in paragraph (d) by adding an entry at the end of the table for ''Mountain State Carbon''; and

■ b. In the table in paragraph (e) by adding an entry at the end of the table for ''2010 Sulfur Dioxide Attainment Plan''.

The additions read as follows:

§ 52.2520 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED SOURCE SPECIFIC REQUIREMENTS

Source name	Permit/order or registration number	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.2565
*	*	*	*	*
Mountain State Carbon.	Consent Order CO–SIP–C–2017–9.	9/29/17	10/22/2019, [insert **Federal Register** citation].	

(e) * * *

Name of non-regulatory SIP revision	Applicable geographical area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
2010 Sulfur Dioxide Attainment Plan.	Steubenville Area (Brooke County).	4/25/16	10/22/2019, [insert **Federal Register** citation].	52.2525(c).

■ 4. Section 52.2525 is amended by adding paragraph (c) to read as follows:

§ 52.2525 Control strategy: Sulfur dioxide.

* * * * *

(c) EPA approves the attainment plan for Brooke County, West Virginia, submitted by the Department of Environmental Protection on April 25, 2016, supplemented on November 27, 2017, and with a clarification letter submitted on May 1, 2019.

[FR Doc. 2019–22909 Filed 10–21–19; 8:45 am]

BILLING CODE 6560–50–P

Appendix 7: Ohio - West Virginia: Letter from Laurie A. Stevenson, Director, Ohio EPA to Cathy Stepp, Regional Administrator US. EPA Region 5, requesting parallel processing of Ohio's attainment demonstration and revisions to the Ohio Administrative Code (Mar. 25, 2019)

Ohio Environmental Protection Agency

Mike DeWine, Governor
Jon Husted, Lt. Governor
Laurie A. Stevenson, Director

MAR 25 2019

Ms. Cathy Stepp
Regional Administrator
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604

Re: Supplement to Ohio's Attainment Demonstration for the Sulfur Dioxide National Ambient Air Quality Standard for the Steubenville OH-WV Nonattainment Area

Dear Administrator Stepp:

I am writing to supplement Ohio's attainment demonstration state implementation plan (SIP) for the 2010 sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS) for the Steubenville OH-WV nonattainment area. The United States Environmental Protection Agency (U.S. EPA) promulgated the revised NAAQS for SO_2 effective August 23, 2010 (75 FR 35520). On August 15, 2013, U.S. EPA published (78 FR 47191) the initial SO_2 nonattainment area designations for the 1-hour SO_2 standard across the country (effective October 4, 2013), including the Steubenville OH-WV nonattainment area (Cross Creek Township, Steubenville Township, Warren Township, Wells Township, and Steubenville City in Jefferson County, Ohio and Cross Creek Tax District in Brooke County, West Virginia).

The Clean Air Act (CAA), as amended, requires each state with areas failing to meet the 1-hour SO_2 NAAQS to develop and submit SIPs to expeditiously attain and maintain the standard. These nonattainment area SIPs were due by April 4, 2015. Ohio EPA submitted its attainment demonstration SIP on April 3, 2015 and submitted revisions on October 13, 2015 and March 13, 2017.

Ohio is now submitting as a supplement to the attainment demonstration the attached proposed revisions to Ohio Administrative Code (OAC) Chapter 3745-18 establishing a revised emission limit for the Cardinal Power Plant, along with the appropriate technical justification and modeling demonstrating the revised emission limit, in conjunction with the previously established emission limits, provides for attainment and maintenance of the SO_2 NAAQS. The revised emission limit and updated modeling supersede all emission limits and modeling in previous submittals.

While the technical justification and updated modeling are documented within Ohio EPA's attached draft redesignation request and maintenance plan for this area, Ohio is not requesting action on the redesignation itself at this time. Rather, Ohio is requesting parallel processing of U.S. EPA's approval of Ohio's attainment demonstration strategy and the revisions to OAC Chapter 3745-18 establishing a revised emission limit for the Cardinal Power Plant. When Ohio's rulemaking and comment processes are completed, which we aim to complete in the next two to three months, Ohio will submit the final revisions to OAC Chapter 3745-18 along with its associated technical justification and modeling. At that time, Ohio will also finalize and submit

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epa.ohio.gov • (614) 644-3020 • (614) 644-3184 (fax)

our redesignation request and maintenance plan and request U.S. EPA process that request expeditiously.

If you have questions, please contact Jennifer Van Vlerah in our Division of Air Pollution Control at (614) 644-3696.

Sincerely,

Laurie A. Stevenson
Director

Cc: Bob Hodanbosi, Chief, Division of Air Pollution Control, Ohio EPA

Enclosure

Appendix 8: Texas: Approval and Promulgation of Implementation Plans; Texas; Revisions to Emissions Banking and Trading Programs for Area and Mobile Sources. 82 FED. REG. 57,677 (Dec. 7, 2017)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0592; FRL–9971–41–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendment to Ambient Air Quality Standard for Ozone; Withdrawal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to adverse comments received, the Environmental Protection Agency (EPA) is withdrawing the October 16, 2017 direct final rule that approved a state implementation plan (SIP) revision submitted by the Commonwealth of Virginia to incorporate by reference the most recent federal ambient air quality standard for ozone into Virginia's SIP. EPA stated in the direct final rule that if EPA received adverse comments by November 15, 2017, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments. EPA will address comments received in a subsequent final action based upon the proposed rulemaking action, also published on October 16, 2017. EPA will not institute a second comment period on this action.

DATES: The direct final rule published at 82 FR 47985 on October 16, 2017 is withdrawn as of December 7, 2017.

FOR FURTHER INFORMATION CONTACT: Gavin Huang, (215) 814–2042, or by email at *huang.gavin@epa.gov.*

SUPPLEMENTARY INFORMATION: On July 25, 2016, the Commonwealth of Virginia through the Virginia Department of Environmental Quality (VADEQ) submitted a formal revision to its SIP. The SIP revision sought to incorporate the 2015 ozone national ambient air quality standards (NAAQS) promulgated by EPA on October 26, 2015 (80 FR 65292) into the Virginia SIP. In the direct final rule published on October 16, 2017 (82 FR 47985), EPA stated that if EPA received adverse comments by November 15, 2017, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from anonymous commenters.

Because adverse comments were received, EPA is withdrawing the direct final rule approving the revisions to the Virginia SIP that incorporates the 2015 ozone NAAQS promulgated by EPA on October 16, 2017 (82 FR 47985). EPA will respond to the adverse comments in a separate final rulemaking action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone.

Dated: November 17, 2017.

Cosmo Servidio,

Regional Administrator, Region III.

■ Accordingly, the amendment to § 52.2420(c) published on October 16, 2017 (82 FR 47985), which was to become effective December 15, 2017, is withdrawn as of December 7, 2017.

[FR Doc. 2017–26303 Filed 12–6–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2017–0192; FRL–9971–04-Region 6]

Approval and Promulgation of Implementation Plans; Texas; Revisions to Emissions Banking and Trading Programs for Area and Mobile Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving revisions to the Texas State Implementation Plan (SIP) Emissions Banking and Trading Programs submitted on October 10, 2017. Specifically, we are approving revisions that clarify and expand the existing provisions for the generation and use of emission credits from area and mobile sources.

DATES: This rule is effective on January 8, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2017–0192. 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 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 *http://www.regulations.gov* or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Adina Wiley, 214–665–2115, *wiley.adina@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' means the EPA.

I. Background

The background for this action is discussed in detail in our June 8, 2017 proposal (82 FR 26634). In that document we proposed to approve via parallel processing the proposed revisions to the Texas Emissions Banking and Trading Programs for the generation and use of emission credits from area and mobile sources. We preliminarily determined that the proposed revisions were consistent with the CAA and the EPA's regulations and guidance for emissions trading.

Under the EPA's ''parallel processing'' procedure, the EPA proposes a rulemaking action on a proposed SIP revision concurrently with the State's public review process. If the State's proposed SIP revision is not significantly changed, the EPA will finalize the rulemaking on the SIP revision as proposed after responding to any submitted comments. Final rulemaking action by the EPA will occur only after the final SIP revision has been fully adopted by the TCEQ and submitted formally to the EPA for approval as a revision to the Texas SIP. See 40 CFR part 51, Appendix V.

The TCEQ completed their state rulemaking process and adopted revisions on September 20, 2017. The TCEQ submitted these adopted changes as a revision to the Texas SIP on October 10, 2017. The EPA has evaluated the State's final SIP revision for any changes made from the time of proposal. Our evaluation indicates that the TCEQ made two types of revisions at adoption. First, the TCEQ made several non-substantive revisions to correct grammar, internal cross-references, and citations consistent with the *Texas Register* formatting guidance. The EPA has evaluated these non-substantive revisions and determined that they do not make any material changes to the regulations we proposed to approve. The TCEQ also made several substantive revisions at adoption that the EPA has evaluated and classified as logical outgrowth from our proposal. The EPA's evaluation of the adopted revisions is included in the ''Addendum to the Technical Support Document'' for EPA–R06–OAR–2017–0192, available in the rulemaking docket.

The EPA is proceeding with our final approval of the October 10, 2017, revisions to the Texas SIP, consistent with the parallel processing provisions

in 40 CFR part 51, Appendix V. We did not receive any comments regarding our proposal. As such, we are proceeding with our final approval because the submitted final regulations adopted by the state do not alter our rationale for proposal presented in our June 8, 2017 proposed rulemaking.

II. Final Action

The EPA has determined that the October 10, 2017, revisions to the Texas SIP are consistent with the CAA and the EPA's policy and guidance on emissions trading. Therefore, under section 110 of the Act, the EPA approves the following revisions to the Texas SIP that were adopted on September 20, 2017, and submitted to the EPA on October 10, 2017:

- Revisions to 30 TAC Section 101.300;
- Revisions to 30 TAC Section 101.302;
- Revisions to 30 TAC Section 101.303;
- Revisions to 30 TAC Section 101.304;
- Revisions to 30 TAC Section 101.306;
- Revisions to 30 TAC Section 101.370;
- Revisions to 30 TAC Section 101.372;
- Revisions to 30 TAC Section 101.373;
- Revisions to 30 TAC Section 101.374; and
- Revisions to 30 TAC Section 101.376.

III. 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 revisions to the Texas regulations as described in the Final Action section above. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 6 Office (please contact Adina Wiley for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, 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 (62 FR 27968, May 22, 1997).

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, the EPA's role is to approve state 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);
- 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 (Pub. L. 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).

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 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 February 5, 2018. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 1, 2017.

Samuel Coleman,

Acting Regional Administrator, Region 6.

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 SS—Texas

■ 2. In § 52.2270(c) the table titled ''EPA Approved Regulations in the Texas SIP'' is amended by revising the entries for Sections 101.300, 101.302, 101.303, 101.304, 101.306, 101.370, 101.372, 101.373, 101.374, and 101.376 to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
*	*	*	*	*
Chapter 101—General Air Quality Rules				
*	*	*	*	*
Subchapter H—Emissions Banking and Trading				
Division 1—Emission Credit Program				
Section 101.300	Definitions	09/20/2017	12/7/2017, [Insert **Federal Register** citation].	
*	*	*	*	*
Section 101.302	General Provisions	09/20/2017	12/7/2017, [Insert **Federal Register** citation].	
Section 101.303	Emission Reduction Credit Generation and Certification.	09/20/2017	12/7/2017, [Insert **Federal Register** citation].	
Section 101.304	Mobile Emission Reduction Credit Generation and Certification.	09/20/2017	12/7/2017, [Insert **Federal Register** citation].	
*	*	*	*	*
Section 101.306	Emission Credit Use	09/20/2017	12/7/2017, [Insert **Federal Register** citation].	
*	*	*	*	*
Division 4—Discrete Emission Credit Program				
Section 101.370	Definitions	09/20/2017	12/7/2017, [Insert **Federal Register** citation].	
*	*	*	*	*
Section 101.372	General Provisions	09/20/2017	12/7/2017, [Insert **Federal Register** citation].	
Section 101.373	Discrete Emission Reduction Credit Generation and Certification.	09/20/2017	12/7/2017, [Insert **Federal Register** citation].	
Section 101.374	Mobile Discrete Emission Reduction Credit Generation and Certification.	09/20/2017	12/7/2017, [Insert **Federal Register** citation].	
*	*	*	*	*
Section 101.376	Discrete Emission Credit Use	09/20/2017	12/7/2017, [Insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2017–26342 Filed 12–6–17; 8:45 am]

BILLING CODE 6560–50–P

west virginia department of environmental protection

Division of Air Quality
601 57th Street, SE
Charleston, WV 25304

Austin Caperton, Cabinet Secretary
dep.wv.gov

October 29, 2020

Ms. Melissa Duff
Director, Division of Air Quality
Kentucky Department of Environmental Protection
300 Sower Boulevard
Frankfort, KY 40601

Via e-mail: Melissa.Duff@ky.gov

RE: Proposed *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs)*

Dear Director Duff:

The West Virginia Department of Environmental Protection (DEP), Division of Air Quality (DAQ) is herein providing an opportunity for your review and comment for the proposed partial West Virginia State Plan: *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs).*

Section 111(d)(1) of the Clean Air Act requires all states to submit to the U.S. Environmental Protection Agency (EPA) a plan which establishes standards of performance for any existing source for any air pollutant to which a standard of performance would apply if such existing source were a new source and provides for the implementation and enforcement of such standards of performance. This proposed partial State Plan will establish a carbon dioxide standard of performance for Longview Power LLC, an existing source located in West Virginia, and will provide for the implementation and enforcement of such standard of performance.

Your state is being notified because Kentucky is a border state to West Virginia.

Once finalized, the *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs)* will be submitted to the U.S. EPA for approval. Written and oral comments will be accepted until the close of the public hearing and will be made part of the formal record. A public hearing is scheduled Tuesday, December 1, 2020 at 6:00 p.m. and will be held virtually due to COVID-19, as described in the public notice.

A copy of the proposed partial State Plan, supporting documentation and public notice may be viewed electronically on the Division of Air Quality website under the public notice and comment section: www.dep.wv.gov/daq/.

Send written comments to be included in the formal record to Laura M. Jennings, Division of Air Quality, at the address above or via e-mail to laura.m.jennings@wv.gov with "WV ACE State Plan Comments" in the subject line.

If you or your staff have any questions regarding this matter, please contact Laura Jennings at (304) 414-1266.

Sincerely,

Laura M. Crowder

Digitally signed by: Laura M. Crowder
DN: CN = Laura M. Crowder email = Laura.M.Crowder@wv.gov C = US O = West Virginia Department of Environmental Protection OU = Division of Air Quality
Date: 2020.10.29 10:27:12 -04'00'

Laura M. Crowder, Director
Division of Air Quality

Enclosure

LMC/lmj

west virginia department of environmental protection

Division of Air Quality
601 57th Street, SE
Charleston, WV 25304

Austin Caperton, Cabinet Secretary
dep.wv.gov

October 29, 2020

Mr. Tad Aburn
Director, Air & Radiation Management
Maryland Department of Environmental Protection
1800 Washington Blvd.
Baltimore, MD 21230-1780

Via e-mail: george.aburn@maryland.gov

RE: Proposed *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs)*

Dear Director Aburn:

The West Virginia Department of Environmental Protection (DEP), Division of Air Quality (DAQ) is herein providing an opportunity for your review and comment for the proposed partial West Virginia State Plan: *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs).*

Section 111(d)(1) of the Clean Air Act requires all states to submit to the U.S. Environmental Protection Agency (EPA) a plan which establishes standards of performance for any existing source for any air pollutant to which a standard of performance would apply if such existing source were a new source and provides for the implementation and enforcement of such standards of performance. This proposed partial State Plan will establish a carbon dioxide standard of performance for Longview Power LLC, an existing source located in West Virginia, and will provide for the implementation and enforcement of such standard of performance.

Your state is being notified because Maryland is a border state to West Virginia.

Once finalized, the *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs)* will be submitted to the U.S. EPA for approval. Written and oral comments will be accepted until the close of the public hearing and will be made part of the formal record. A public hearing is scheduled Tuesday, December 1, 2020 at 6:00 p.m. and will be held virtually due to COVID-19, as described in the public notice.

A copy of the proposed State Plan, supporting documentation and public notice may be viewed electronically on the Division of Air Quality website under the public notice and comment section: www.dep.wv.gov/daq/.

Send written comments to be included in the formal record to Laura M. Jennings, Division of Air Quality at the address above or via e-mail to laura.m.jennings@wv.gov with "WV ACE State Plan Comments" in the subject line.

If you or your staff have any questions regarding this matter, please contact Laura Jennings at (304) 414-1266.

Sincerely,

Laura M. Crowder

Digitally signed by: Laura M. Crowder
DN: CN = Laura M. Crowder email = Laura.M.Crowder@wv.gov C = US O = West Virginia Department of Environmental Protection OU = Division of Air Quality
Date: 2020.10.29 10:30:17 -04'00'

Laura M. Crowder, Director
Division of Air Quality

Enclosure

LMC/lmj

west virginia department of environmental protection

Division of Air Quality
601 57th Street, SE
Charleston, WV 25304

Austin Caperton, Cabinet Secretary
dep.wv.gov

October 29, 2020

Mr. Mark Hammond
Director, Bureau of Air Quality
Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17101

Via e-mail: mahammond@pa.gov

RE: Proposed *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs)*

Dear Director Hammond:

The West Virginia Department of Environmental Protection (DEP), Division of Air Quality (DAQ) is herein providing an opportunity for your review and comment for the proposed partial West Virginia State Plan: *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs).*

Section 111(d)(1) of the Clean Air Act requires all states to submit to the U.S. Environmental Protection Agency (EPA) a plan which establishes standards of performance for any existing source for any air pollutant to which a standard of performance would apply if such existing source were a new source and provides for the implementation and enforcement of such standards of performance. This proposed partial State Plan will establish a carbon dioxide standard of performance for Longview Power LLC, an existing source located in West Virginia, and will provide for the implementation and enforcement of such standard of performance.

Your state is being notified because Pennsylvania is a border state to West Virginia.

Once finalized, the *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs)* will be submitted to the U.S. EPA for approval. Written and oral comments will be accepted until the close of the public hearing and will be made part of the formal record. A public hearing is scheduled Tuesday, December 1, 2020 at 6:00 p.m. and will be held virtually due to COVID-19, as described in the public notice.

A copy of the proposed State Plan, supporting documentation and public notice may be viewed electronically on the Division of Air Quality website under the public notice and comment section: www.dep.wv.gov/daq/.

Send written comments to be included in the formal record to Laura M. Jennings, Division of Air Quality, at the address above or via e-mail to laura.m.jennings@wv.gov with "WV ACE State Plan Comments" in the subject line.

If you or your staff have any questions regarding this matter, please contact Laura Jennings at (304) 414-1266.

Sincerely,

Laura M. Crowder

Digitally signed by: Laura M. Crowder
DN: CN = Laura M. Crowder email = Laura.M.Crowder@wv.gov C = US O = West Virginia Department of Environmental Protection OU = Division of Air Quality
Date: 2020.10.29 10:29:46 -04'00'

Laura M. Crowder, Director
Division of Air Quality

Enclosure

LMC/lmj

west virginia department of environmental protection

Division of Air Quality
601 57th Street, SE
Charleston, WV 25304

Austin Caperton, Cabinet Secretary
dep.wv.gov

October 29, 2020

Mr. Bob Hodanbosi
Director, Division of Air Pollution Control
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, OH 43216-1049

Via e-mail: bob.hodanbosi@epa.ohio.gov

RE: Proposed *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs)*

Dear Director Hodanbosi:

The West Virginia Department of Environmental Protection (DEP), Division of Air Quality (DAQ) is herein providing an opportunity for your review and comment for the proposed partial West Virginia State Plan: *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs)*.

Section 111(d)(1) of the Clean Air Act requires all states to submit to the U.S. Environmental Protection Agency (EPA) a plan which establishes standards of performance for any existing source for any air pollutant to which a standard of performance would apply if such existing source were a new source and provides for the implementation and enforcement of such standards of performance. This proposed partial State Plan will establish a carbon dioxide standard of performance for Longview Power LLC, an existing source located in West Virginia, and will provide for the implementation and enforcement of such standard of performance.

Your state is being notified because Ohio is a border state to West Virginia.

Once finalized, the *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs)* will be submitted to the U.S. EPA for approval. Written and oral comments will be accepted until the close of the public hearing and will be made part of the formal record. A public hearing is scheduled Tuesday, December 1, 2020 at 6:00 p.m. and will be held virtually due to COVID-19, as described in the public notice.

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Date: 2020.10.29 10:27:45 -04'00'

Laura M. Crowder, Director
Division of Air Quality

Enclosure

LMC/lmj

west virginia department of environmental protection

Division of Air Quality
601 57th Street, SE
Charleston, WV 25304

Austin Caperton, Cabinet Secretary
dep.wv.gov

October 29, 2020

Mr. Michael Dowd
Director, Air and Renewable Energy Division
Virginia Department of Environmental Quality
P.O. Box 1105
Richmond, VA 23218

Via e-mail: Michael.Dowd@deq.virginia.gov

RE: Proposed *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs)*

Dear Director Dowd:

The West Virginia Department of Environmental Protection (DEP), Division of Air Quality (DAQ) is herein providing an opportunity for your review and comment for the proposed partial West Virginia State Plan: *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs).*

Section 111(d)(1) of the Clean Air Act requires all states to submit to the U.S. Environmental Protection Agency (EPA) a plan which establishes standards of performance for any existing source for any air pollutant to which a standard of performance would apply if such existing source were a new source and provides for the implementation and enforcement of such standards of performance. This proposed partial State Plan will establish a carbon dioxide standard of performance for Longview Power LLC, an existing source located in West Virginia, and will provide for the implementation and enforcement of such standard of performance.

Your state is being notified because Virginia is a border state to West Virginia.

Once finalized, the *West Virginia CAA §111(d) Partial Plan for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (EGUs)* will be submitted to the U.S. EPA for approval. Written and oral comments will be accepted until the close of the public hearing and will be made part of the formal record. A public hearing is scheduled Tuesday, December 1, 2020 at 6:00 p.m. and will be held virtually due to COVID-19, as described in the public notice.

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Send written comments to be included in the formal record to Laura M. Jennings, Division of Air Quality, at the address above or via e-mail to laura.m.jennings@wv.gov with "WV ACE State Plan Comments" in the subject line.

If you or your staff have any questions regarding this matter, please contact Laura Jennings at (304) 414-1266.

Sincerely,

Laura M. Crowder

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Date: 2020.10.29 10:26:26 -04'00'

Laura M. Crowder, Director
Division of Air Quality

Enclosure

LMC/lmj