[FR Doc. 2014–24493 Filed 10–15–14; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2011–0969; EPA–R05–OAR–2012–0991; EPA–R05–OAR–2013–0435; FRL–9917–60–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Illinois; Infrastructure SIP Requirements for the 2008 Ozone, 2010 NO_2, and 2010 SO_2 NAAQS

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve some elements and disapprove other elements of a state implementation plan (SIP) submission from Illinois regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2008 ozone, 2010 nitrogen dioxide (NO_2), and 2010 sulfur dioxide (SO_2) National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. Illinois already administers Federally promulgated regulations that address the disapprovals described in this rulemaking. Therefore, the state will not be obligated to submit any new or additional regulations as a result of this final disapproval. The proposed rulemaking associated with this final action was published on July 14, 2014, and EPA received one comment letter during the comment period, which ended on August 13, 2014. The concerns raised in this letter, as well as EPA's responses, will be addressed in this final action.

DATES: This final rule is effective on November 17, 2014.

ADDRESSES: EPA has established dockets for this action under Docket ID No. EPA–R05–OAR–2011–0969 (2008 ozone infrastructure SIP elements), Docket ID No. EPA–R05–OAR–2012–0991 (2010 NO_2 infrastructure SIP elements), and Docket ID No. EPA–R05–OAR–2013–0435 (2010 SO_2 infrastructure SIP elements). All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly-available only in hard copy. Publicly-available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Sarah Arra at (312) 886–9401 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Sarah Arra, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–9401, *arra.sarah@epa.gov.*

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

I. What is the background of these SIP submissions?

A. What state SIP submissions does this rulemaking address?

This rulemaking addresses a December 31, 2012, submission and a June 11, 2014, clarification from the Illinois Environmental Protection Agency (Illinois EPA) intended to address all applicable infrastructure requirements for the 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

B. Why did the state make these SIP submissions?

Under sections 110(a)(1) and (2) of the CAA, states are required to submit infrastructure SIPs to ensure that their SIPs provide for implementation, maintenance, and enforcement of the NAAQS, including the 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS. These submissions must contain any revisions needed for meeting the applicable SIP requirements of section 110(a)(2), or certifications that their existing SIPs for the NAAQS already meet those requirements.

EPA has highlighted this statutory requirement in multiple guidance documents, including the most recent guidance document entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)'' issued on September 13, 2013.

C. What is the scope of this rulemaking?

EPA is acting upon the SIP submission from Illinois that address the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS. The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment plan SIP'' submissions to address the nonattainment planning requirements of part D of title I of the CAA, ''regional haze SIP'' submissions required by EPA rule to address the visibility protection requirements of CAA section 169A, and nonattainment new source review (NNSR) permit program submissions to address the permit requirements of CAA, title I, part D.

This rulemaking will not cover three substantive areas that are not integral to acting on a state's infrastructure SIP submission: (i) existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction (''SSM'')at sources, that

may be contrary to the CAA and EPA's policies addressing such excess emissions; (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that purport to permit revisions to SIP approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA (collectively referred to as ''director's discretion''); and, (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (''NSR Reform''). Instead, EPA has the authority to address each one of these substantive areas in separate rulemaking. A detailed rationale, history, and interpretation related to infrastructure SIP requirements can be found in our May 13, 2014, proposed rule entitled, ''Infrastructure SIP Requirements for the 2008 Lead NAAQS'' in the section, ''What is the scope of this rulemaking?'' (*see* 79 FR 27241 at 27242–27245).

In addition, EPA is not acting on portions of section 110(a)(2)(D)(i)—Interstate transport for 2008 ozone and 2010 SO_2, and portions of section 110(a)(2)(J)—visibility protection and section 110(a)(2)(E)—state boards, for 2008 ozone, 2010 NO_2, and 2010 SO_2. EPA is also not acting on section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D, in its entirety. The rationale for not acting on elements of these requirements was included in EPA's July 14, 2014, proposed rulemaking. EPA will also not be taking action on 110(a)(2)(A) and the rational is included in the response to comments.

II. What is our response to comments received on the proposed rulemaking?

The public comment period for EPA's proposed actions (79 FR 40693) with respect to Illinois' satisfaction of the infrastructure SIP requirements for the 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS closed on August 13, 2014. EPA received one comment letter. A synopsis of the adverse comments contained in this letter and EPA's responses are provided below.

Comment 1—The commenter states that the plain language of the CAA requires infrastructure SIPs to be adequate to prevent violations of the NAAQS. In support, the commenter quotes the language in section 110(a)(1) that requires states to adopt a plan for implementation, maintenance, and enforcement of the NAAQS and the language in section 110(a)(2)(A) that requires SIPs to include enforceable emissions limitations as may be necessary to meet the requirements of the CAA and which commenters claimed include the maintenance plan requirement. Sierra Club also contends that the legislative history of the CAA supports the interpretation that infrastructure SIPs under section 110(a)(2) must include enforceable emission limitations, citing the Senate Committee Report and the subsequent Senate Conference Report accompanying the 1970 CAA. The commenter cites 40 CFR 51.112(a), providing that each plan must ''demonstrate that the measures, rules, and regulations contained in it are adequate to provide for the timely attainment and maintenance of the [NAAQS].'' The commenter asserts that this regulation requires all SIPs to include emissions limits necessary to ensure attainment of the NAAQS. The commenter states that ''[a]lthough these regulations were developed before the Clean Air Act separated Infrastructure SIPs from nonattainment SIPs—a process that began with the 1977 amendments and was completed by the 1990 amendments—the regulations apply to I–SIPs.'' The commenter also references two prior EPA rulemaking actions where EPA disapproved or proposed to disapprove SIPs and claimed they were actions in which EPA relied on section 110(a)(2)(A) and 40 CFR 51.112 to reject infrastructure SIPs including a 2006 partial approval and partial disapproval of revisions to Missouri's existing plan addressing the sulfur dioxide (SO_2) NAAQS, where EPA cited section 110(a)(2)(A) as a basis for disapproving a revision to the state plan on the basis that the state failed to demonstrate the SIP was sufficient to ensure maintenance of the SO_2 NAAQS and a 2013 disapproval of a revision to the SO_2 SIP for Indiana, where the revision removed an emission limit that applied to a specific emissions source at a facility in the state. Sierra Club also discusses several cases applying to the CAA which Sierra Club claims support their contention that courts have been clear that section 110(a)(2)(A) requires enforceable emissions limits in infrastructure SIPs to prevent violations of the NAAQS including Train v. NRDC, 421 U.S. 60, 78 (1975), Pennsylvania Dept. of Envtl. Resources v. EPA, 932 F.2d 269, 272 (3d Cir. 1991), Mision Industrial, Inc. v. EPA, 547 F.2d 123, 129 (1st Cir. 1976), Alaska Dept. of Envtl. Conservation v. EPA, 540 U.S. 461, 470 (2004), Mont. Sulphur & Chem. Co. v. EPA, 666 F.3d 1174, 1180 (9th Cir. 2012), and Mich. Dept. of Envtl. Quality v. Browner, 230 F.3d 181 (6th Cir. 2000). The commenter also contends that Illinois' infrastructure SIP does not adequately protect the 2008 ozone NAAQS because it does not provide emissions limits for ozone precursors. The commenter notes that the state has exceedances of the standard and should add emissions limits, especially for coal-fired power plants.

Response 1—While EPA does not agree with all of the statements made by the commenter regarding what is required under CAA section 110(a)(2)(A), we do agree that Illinois' submittal lacks identification of ''emissions limitations'' in the existing EPA-approved SIP provisions or new SIP provisions that the Illinois EPA has adopted and submitted for EPA approval that limit emissions of pollutants relevant to the 2008 ozone standard, including limits on ozone precursors. We are aware that the state does have numerous provisions in existing SIP that may be adequate to meet this requirement and we are working with the state to provide a submission that addresses this requirement. At this time, EPA is not taking final action on 110(a)(2)(A) for the 2008 ozone standard. We will take action in a separate rulemaking after providing the state with an opportunity to provide the necessary information.

Comment 2—The commenter contends that the current emissions limits in the permits of several Illinois coal-fired power plants are ''insufficient to attain and maintain the 2010 SO_2 NAAQS.'' The commenter supplies air dispersion modeling for several Illinois power plants showing their asserted impact on the 2010 SO_2 NAAQS and tables summarizing the concentration of SO_2 from the different facilities. The commenter alleges that the air dispersion modeling shows exceedances of the standard that should be addressed through emissions limits in Illinois' SO_2 Infrastructure SIP. The commenter also contends that ''air dispersion modeling is the best method for evaluating the short-term impacts of large SO_2 sources,'' supporting this reasoning with statements from EPA's 1994 SO_2 Guideline Document, EPA's 1983 Section 107 Designation Policy Summary and EPA's final 2010 SO_2 NAAQS rule, as well as the court cases *Montana Sulphur, Sierra Club* v. *Costle, Republic Steel Corp.* v. *Costle,* and *Catawba County* v. *EPA*. The commenter also contends that compliance with 110(a)(2)(A) requires proper averaging time for emissions limits, specifically a one-hour averaging time for the one-hour SO_2 NAAQS. The

commenter cites a February 3, 2011 letter from EPA Region 7 to the Kansas Department of Health and Environment regarding the need for one-hour SO_2 emission limits in a PSD permit, EPA's disapproval of a Missouri SIP which relied on annual averaging for SO_2 emission rates, and *In re: Mississippi Lime Co.,* PSDAPPEAL 11–01, 2011 WL 3557194, at *26–27 (EPA Aug. 9, 2011) and 71 FR 12623, 12624 (March 13, 2006), where EPA disapproved a control strategy SO_2 SIP for which the commenter quotes, ''Emission limits should be based on concentration estimates for the averaging time that results in the most stringent control requirements.'' The commenter also contends that the number of nonattainment areas in Illinois will jump with future rounds of designations, therefore establishing emissions limits in the infrastructure SIP that comply with NAAQS provides regulatory certainty for facilities currently considering controls for other rules.

The commenter contends that Illinois must require continuous emissions monitoring systems (CEMS) to comply with the requirements of section 110(a)(2)(F) for a system to monitor emissions from stationary sources.

Response 2—While EPA does not agree with all of the statements made by the commenter regarding what is required under CAA section 110(a)(2)(A), we do agree that Illinois' submittal lacks identification of ''emissions limitations'' in the existing EPA-approved SIP provisions or new SIP provisions that the air agency has adopted and submitted for EPA approval that limit emissions of pollutants relevant to the 2010 SO_2 standard. We are aware that the state does have numerous provisions in existing SIP that may be adequate to meet this requirement and we are working with the state to provide a submission that addresses this requirement. At this time, EPA is not taking final action on 110(a)(2)(A) for the 2010 SO_2 standard. We will take action in a separate rulemaking after providing the state with an opportunity to provide the necessary information.

Regarding the requirement in 110(a)(2)(F), this provision merely requires the state to address monitoring and reporting requirements ''prescribed by the Administrator.'' EPA has not prescribed any new or different monitoring or reporting requirements for the 2010 SO_2 NAAQS.

Comment 3—The commenter contends that Illinois' 2010 NO_2 infrastructure SIP fails to ensure attainment and maintenance of the 2010 NO_2 NAAQS because it does not include emissions limits or additional monitoring.

Response 3—While EPA does not agree with all of the statements made by the commenter regarding what is required under CAA section 110(a)(2)(A), EPA agrees that Illinois' submittal lacks identification of ''emissions limitations'' in the existing EPA-approved SIP provisions or new SIP provisions that the air agency has adopted and submitted for EPA approval that limit emissions of pollutants relevant to the 2010 NO_2 standard. We are aware that the state does have numerous provisions in existing SIP that may be adequate to meet this requirement and we are working with the state to provide a submission that addresses this requirement. At this time, EPA is not taking final action on 110(a)(2)(A) for the 2010 NO_2 standard. We will take action in a separate rulemaking after providing the state with an opportunity to provide the necessary information.

Comment 4—The commenter contends that the Illinois infrastructure SIPs for 2008 ozone, 2010 NO_2, and 2010 SO_2 are inadequate to protect those NAAQS because they allow for ''ambient air incremental increases, variances, exemptions, or exclusions with regard to limits placed on sources of pollutants.'' The commenter claims that 415 ILCS 5/28.1 and 415 ILCS 5/35 provide for wide discretion to amend or promulgate rules that exempt certain sources from complying with standards. The commenter also mentions the example of a variance in 2013 for the formerly Ameren-owned power plants. The commenter also asserts that it was not able to intervene in the proceeding of a variance, and that the Illinois Court of Appeals rejected the commenter's petition for judicial review of that variance. Therefore, the commenter also contends that the infrastructure SIP prohibits judicial review of variances. The commenter contends that the allowance of these variances, inadequacies, and exemptions implies that the infrastructure SIP cannot ensure the protection of the NAAQS.

Response 4—The statutes mentioned are not part of the SIP, and any variance granted pursuant to that state authority would not affect the approved SIP requirement. If the state exercised its authority to grant a variance pursuant to those state regulations, the requirement in the SIP would only be changed if the state submits the new requirement to EPA as a SIP revision and EPA approves that change into the SIP.

Comment 5—The commenter contends that Illinois' infrastructure SIP fails to address interstate transport with respect to NO_2 and that as a result EPA should disapprove the submittal. The commenter notes that infrastructure SIPs must be submitted within three years of promulgation of a NAAQS under CAA section 110. The commenter contends that the state cannot rely on EPA's failure to address the interstate transport provisions in its 2013 infrastructure SIP guidance as a basis for not addressing this component in its SIP. The commenter also contends that under the Cross-State Air Pollution Rule (CSAPR), Illinois was required to reduce NO_X and SO_2 emissions to address cross-state pollution for ozone and $PM_{2.5}$ standards that were less stringent than the 2008 ozone and 2010 SO_2 standards. In addition, the commenter claims that Illinois cannot rely on Illinois Mercury Rule, 35 IAC part 225, to demonstrate that it is addressing its contributions to other states without conducting modeling to determine the transport of NO_X emissions.

Response 5—EPA is not entirely clear which standards the commenter believed were deficient as to the interstate transport obligation in CAA section 110(a)(2)(D)(i)(I). Therefore, EPA will respond to the comment first as to the 2010 NO_2 standard and then as to the ozone and SO_2 standards.

For the 2010 NO_2 standard, as the commenter notes, the transport provisions of infrastructure SIPs should prohibit emissions that will contribute significantly to a nonattainment area in another state or interfere with another state's maintenance of a NAAQS. However, the infrastructure submittal requirement applies only to the promulgated standard that triggered the requirement for the infrastructure submittal. The commenter's argument appears to be that the 2010 NO_2 standard is not being met because of existing modeling from CSAPR showing NO_X transport. However, the commenter does not explain how the modeling demonstrates issues associated with the attainment and maintenance of the 2010 NO_2 NAAQS. The arguments that the commenter does make rely on modeling of NO_X and SO_2 as precursors to $PM_{2.5}$ and ozone, which is not solely based on NO_2 emissions and is not germane to the attainment or maintenance of the 2010 NO_2 standard. Even if the CSAPR modeling demonstrates that NO_X emissions from the Illinois are generally transported downwind, the commenter has not demonstrated that these emissions are associated with a nonattainment or maintenance problem as to the 2010 NO_2 NAAQS in a downwind state. As noted in the proposed rule, Illinois does have rules

controlling NO_2 emissions, including the Illinois Mercury Rule, and because there are no areas violating the 2010 NO_2 standard or any expected future violations, EPA finds the current controls sufficient to meet the requirements of 110(a)(2)(D)(i)(I) for the 2010 NO_2 standard.

To the extent that the commenter alleges the state has failed to address interstate transport as to the 2008 ozone and 2010 SO_2 NAAQS, as explained in the notice of proposed rulemaking (NPR), this action does not address the ''good neighbor provision'' in section 110(a)(2)(D)(i)(I) as to these NAAQS. Illinois did not make a SIP submission to address the requirements of section 110(a)(2)(D)(i)(I) as to ozone or SO_2 and thus there is no such submission upon which EPA could take action under section 110(k). EPA did not propose to take any action with respect to Illinois' obligations pursuant to section 110(a)(2)(D)(i)(I) as to these NAAQS and is not in this rulemaking action taking any such action. Further, EPA could not act under section 110(k) to disapprove a SIP that has not been submitted to EPA. Thus, to the extent the comment relates to the substance or approvability of the ''good neighbor provision'' as to the 2008 ozone and 2010 SO_2 infrastructure SIP submissions, the comment is not relevant to this present rulemaking. As stated in this final action and in the proposed rule, EPA will take later, separate action to address section 110(a)(2)(D)(i)(I) requirements for the 2008 ozone and 2010 SO_2 NAAQS.

EPA disagrees with the commenters' argument to the extent it asserts that EPA cannot approve a SIP without the ''good neighbor provision.'' Section 110(k)(3) of the CAA authorizes EPA to approve a plan in full, disapprove it in full, or approve it in part and disapprove it in part, depending on the extent to which such plan meets the requirements of the CAA. This authority to approve the states' SIP revisions in separable parts was included in the 1990 Amendments to the CAA to overrule a decision in the Court of Appeals for the Ninth Circuit holding that EPA could not approve individual measures in a plan submission without either approving or disapproving the plan as a whole. See S. Rep. No. 101–228, at 22, 1990 U.S.C.C.A.N. 3385, 3408 (discussing the express overruling of *Abramowitz* v. *EPA,* 832 F.2d 1071 (9th Cir. 1987)).

As such, the Agency interprets its authority under section 110(k)(3) as affording EPA the discretion to approve or conditionally approve individual elements of Illinois' infrastructure submission for the 2008 ozone and 2010 SO_2 NAAQS, separate and apart from any action with respect to the requirements of section 110(a)(2)(D)(i)(I) with respect to those NAAQS. EPA views discrete infrastructure SIP requirements, such as the requirements of 110(a)(2)(D)(i)(I), as severable from the other infrastructure elements and interprets section 110(k)(3) as allowing it to act on individual severable measures in a plan submission. In short, EPA has discretion under section 110(k) to act upon the various individual elements of the state's infrastructure SIP submission, separately or together, as appropriate. The commenters raise no compelling legal or environmental rationale for an alternate interpretation.

EPA notes, however, that it is working with state partners to assess next steps to address air pollution that crosses state boundaries and will later take a separate action to address section 110(a)(2)(D)(i)(I) for the 2008 ozone and 2010 SO_2 NAAQS. EPA's approval of the Illinois infrastructure SIP submission for the 2008 ozone and 2010 SO_2 NAAQS for the portions described in the NPR is therefore appropriate.

Comment 6—The commenter contends that Illinois does not have the adequate personnel, funding, and authority, required by section 110(a)(2)(E) of the CAA, to properly administer its Title V program, shown by overdue permits and improper reissuing of expired permits. The commenter provided an example of a recently proposed significant modification action for the Kincaid Generation Station as an interim step for a 20-year process that ''based on an application submitted almost nineteen years ago . . . left unacceptable gaps in the permit's conditions.'' The commenter states that this improper process is also the case for two other coal-fired power plants and, therefore, the state's Title V program for coal-fired power plants is seriously deficient.

Response 6—EPA disagrees that the issue raised by the commenter implies that Illinois EPA does not meet the criteria of section 110(a)(2)(E). Although Title V programs are not a component of the SIP, EPA fully approved Illinois' Title V program on December 4, 2001 (66 FR 62946). Illinois has funding for its program through Title V fees, and has the authority to implement the programs though a number of state rules to implement 40 CFR part 70, and dedicated staff for implementation of their Title V program. EPA acknowledges the commenter's concern over the backlog issue at Illinois EPA, including the Kincaid permit, however, Illinois EPA is actively addressing this issue, and has taken many corrective actions, including significant increases in recent personnel hirings and permit issuance rates.

III. What action is EPA taking?

For the reasons discussed in our July 14, 2014, proposed rulemaking and in the above responses to public comments, EPA is taking final action to approve, Illinois' infrastructure SIPs for the 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS with the exception of section 110(a)(2)(D)(i)—Interstate transport for 2008 ozone and 2010 SO_2. EPA is also not taking action on section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D, section 110(a)(2)(A)- Emission Limits, portions of section 110(a)(2)(E)—state boards, or portions of section 110(a)(2)(J)—visibility protection for the 2008 ozone, 2010 NO_2, and 2010 SO_2 standards.

Our final actions by element of section 110(a)(2) and NAAQS, are contained in the table below.

Element	2008 Ozone	2010 NO_2	2010 SO_2
(A): Emission limits and other control measures	NA	NA	NA
(B): Ambient air quality monitoring and data system	A	A	A
(C) 1: Enforcement of SIP measures	A	A	A
(C) 2: NO_X as a precursor to ozone for PSD	D,*	D,*	D,*
(C) 3: $PM_{2.5}$ Precursors/$PM_{2.5}$ and PM_{10} condensables for PSD	D,*	D,*	D,*
(C) 4: $PM_{2.5}$ Increments	D,*	D,*	D,*
(C) 5: GHG permitting thresholds in PSD regulations	D,*	D,*	D,*
(D) 1: Contribute to nonattainment/interfere with maintenance of NAAQS	NA	A	NA
(D) 2: PSD	**	**	**

Element	2008 Ozone	2010 NO_2	2010 SO_2
(D) 3: Visibility Protection	A	A	A
(D) 4: Interstate Pollution Abatement	D,*	D,*	D,*
(D) 5: International Pollution Abatement	A	A	A
(E): Adequate resources	A	A	A
(E): State boards	NA	NA	NA
(F): Stationary source monitoring system	A	A	A
(G): Emergency power	A	A	A
(H): Future SIP revisions	A	A	A
(I): Nonattainment area plan or plan revisions under part D	NA	NA	NA
(J) 1: Consultation with government officials	A	A	A
(J) 2: Public notification	A	A	A
(J) 3: PSD	**	**	**
(J) 4: Visibility protection	+	+	+
(K): Air quality modeling and data	A	A	A
(L): Permitting fees	A	A	A
(M): Consultation and participation by affected local entities	A	A	A

In the above table, the key is as follows:

A	Approve.
NA	No Action/Separate Rulemaking.
D	Disapprove.
+	Not germane to infrastructure SIPs.
*	Federally promulgated rules in place.
**	Previously discussed in element (C).

IV. 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 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 (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).

This rule is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 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 December 15, 2014. 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, Sulfur dioxide.

Dated: September 30, 2014.

Susan Hedman,

Regional Administrator, Region 5.

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 52.745 is amended by adding paragraphs (e), (f), and (g) to read as follows:

§ 52.745 Section 110(a)(2) infrastructure requirements.

* * * * *

(e) Approval and Disapproval—In a December 31, 2012, submittal, Illinois certified that the State has satisfied the infrastructure SIP requirements of section 110(a)(2)(A) through (H), and (J) through (M) for the 2008 ozone NAAQS except for 110(a)(2)(D)(i)(I). EPA is not taking action on the state board requirements of (E)(ii) or 110(a)(2)(A). Although EPA is disapproving portions of Illinois' submission addressing the prevention of significant deterioration, Illinois continues to implement the Federally promulgated rules for this purpose as they pertain to (C), (D)(i)(II), (D)(ii), and the prevention of significant deterioration (PSD) portion of (J).

(f) Approval and Disapproval—In a December 31, 2012, submittal, Illinois certified that the state has satisfied the infrastructure SIP requirements of section 110(a)(2)(A) through (H), and (J) through (M) for the 2010 nitrogen dioxide (NO_2) NAAQS. EPA is not taking action on the state board requirements of (E)(ii) or 110(a)(2)(A). Although EPA is disapproving portions of Illinois' submission addressing the prevention of significant deterioration, Illinois continues to implement the Federally promulgated rules for this purpose as they pertain to (C), (D)(i)(II), (D)(ii), and the prevention of significant deterioration (PSD) portion of (J).

(g) Approval and Disapproval—In a December 31, 2012, submittal, Illinois certified that the state has satisfied the infrastructure SIP requirements of section 110(a)(2)(A) through (H), and (J) through (M) for the 2010 sulfur dioxide (SO_2) NAAQS except for 110(a)(2)(D)(i)(I). EPA is not taking action on the state board requirements of (E)(ii) or 110(a)(2)(A). Although EPA is disapproving portions of Illinois' submission addressing the prevention of significant deterioration, Illinois continues to implement the Federally promulgated rules for this purpose as they pertain to (C), (D)(i)(II), (D)(ii), and the prevention of significant deterioration (PSD) portion of (J).

[FR Doc. 2014–24353 Filed 10–15–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Part 1290

Office of Hearings and Appeals

43 CFR Part 4

[Docket No. ONRR–2011–0017; DS63610000 DR2PS0000.CH7000 145D0102R2]

RIN 1012–AA08

Clarification of Appeal Procedures

AGENCY: Office of Natural Resources Revenue and Office of Hearings and Appeals, Interior.

ACTION: Final rule.

SUMMARY: The Office of Natural Resources Revenue (ONRR) and Office of Hearing and Appeals (OHA) are amending and clarifying regulations concerning certain aspects of appeals of ONRR correspondence and clarifying the final administrative nature of ONRR orders that are not paid or appealed.

DATES: *Effective Date:* November 17, 2014.

FOR FURTHER INFORMATION CONTACT: For questions on technical issues, contact Bonnie Robson, Office of Enforcement and Appeals, ONRR, telephone (303) 231–3729, or email *bonnie.robson@onrr.gov.* For other questions, contact Armand Southall, Regulatory Specialist, ONRR, telephone (303) 231–3221, or email *armand.southall@onrr.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

ONRR is amending its appeal regulations. On May 13, 1999, the Department of the Interior (Department) published in the **Federal Register** (64 FR 26240) a final rule governing the appeal of the former Minerals Management Service's (MMS) Minerals Revenue Management (MRM) orders. In this rule, ONRR clarifies the appeal regulations by removing ambiguity regarding the ONRR definition of an *Order,* the timing of appeals of orders to perform restructured accounting, and the orders that have become final for the Department that the recipient has not paid or appealed.

II. Reorganization of Title 30 CFR

On May 19, 2010, the Secretary of the Interior (Secretary) separated the responsibilities previously performed by the former MMS and reassigned those responsibilities to three separate organizations. As part of this reorganization, the Secretary renamed MMS's MRM the Office of Natural Resources Revenue and directed that ONRR transition from the Office of the Assistant Secretary for Land and Minerals Management to the Office of the Assistant Secretary for Policy, Management and Budget (PMB). This change required the reorganization of title 30, *Code of Federal Regulations* (30 CFR). In response, ONRR published a direct final rule on October 4, 2010 (75 FR 61051), to establish a new chapter XII in 30 CFR; to remove certain regulations from chapter II; and to recodify these regulations in the new chapter XII. Therefore, all references to ONRR in this rule include its predecessor MRM, and all references to 30 CFR part 1290 in this rule include former 30 CFR part 290, subpart B.

III. Comments on the Proposed Amendments

ONRR published the proposed rule on July 22, 2013 (78 FR 43843). We received comments on the proposed rule from 1 oil and gas producer, 1 Indian Tribe, and 1 trade association. We have analyzed these comments, which are discussed below:

A. 30 CFR Part 1290—Appeals

1. § 1290.102 Definition of ''order.''

Public Comments: Both the company and trade association expressed concern over the definition of an ''order.'' Specifically, they believe that paragraph 2(vi) which states that ''[a]ny correspondence that does not include the right to appeal in writing'' is not an ''order,'' is too broad, confusing, and unnecessary. Their primary concern is that correspondence that contains a requirement to pay or other ''substantive obligation to perform,'' but does not set out the right to appeal, forces the recipient to either (1) comply with the correspondence ''but have no right to appeal'' or (2) call ONRR to find out if ONRR intentionally left out the appeals language. The trade association thus suggests that we delete paragraph 2(vi) in the final rule or add language to paragraph 2(vi) that correspondence ''without express appeal language has no immediate legal effect on the recipient.'' The company suggests that ONRR correspondence state whether it is appealable or not instead of stating in the rule that correspondence is not appealable if it does not contain appeal rights.

ONRR Response: In the proposed rule we explained that ''the rule proposes to amend existing appeal regulations in titles 30 and 43 to clarify which ONRR correspondence are appealable orders . . . [because] ONRR has received appeals filed in response to ''Dear