

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R05-OAR-2011-0969; EPA-R05-OAR-2012-0991; EPA-R05-OAR-2013-0435; FRL-9927-94-Region-5]

**Approval and Promulgation of Air Quality Implementation Plans; Illinois; Emission Limit Infrastructure SIP Requirements for the 2008 Ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve some elements of state implementation plan (SIP) submissions from Illinois regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2008 ozone, 2010 nitrogen dioxide (NO<sub>2</sub>), and 2010 sulfur dioxide (SO<sub>2</sub>) 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. In this action, EPA is specifically approving infrastructure requirements concerning emission limits and other control measures. The proposed rulemaking associated with today's final action was published on February 27, 2015, and EPA received no comments during the comment period, which ended on March 30, 2015.

**DATES:** This final rule is effective on June 22, 2015.

**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<sub>2</sub> infrastructure SIP elements), and Docket ID No. EPA-R05-OAR-2013-0435 (2010 SO<sub>2</sub> infrastructure SIP elements). All documents in the docket are listed in the [www.regulations.gov](http://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](http://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](mailto: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?
- II. What is our response to comments received on the proposed rulemaking?
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews.

**I. What is the background of these SIP submissions?**

*A. What state SIP submission does this rulemaking address?*

This rulemaking addresses three submissions from December 31, 2012, and a January 9, 2015, clarification from the Illinois Environmental Protection Agency (Illinois EPA) intended to address all applicable infrastructure requirements for the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> 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<sub>2</sub>, and 2010 SO<sub>2</sub> 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 submissions from Illinois that address the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub>

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.

In this specific rulemaking, EPA is only taking action on the CAA 110(a)(2)(A) requirements of these submittals. The majority of the other infrastructure elements were finalized in an October 16, 2014 (79 FR 62042), rulemaking.

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

The proposed rulemaking associated with today's final action was published on February 27, 2015 (80 FR 10652), and EPA received no comments during the comment period, which ended on March 30, 2015.

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

To meet the infrastructure element under CAA section 110(a)(2)(A), IEPA has identified rules and regulations that provide control measures and limit emissions of pollutants relevant to the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS. For the reasons discussed in our proposed rulemaking, EPA is taking final action to approve, as proposed, Illinois' submittal certifying that its current SIP is sufficient to meet the required infrastructure element under CAA section 110(a)(2)(A) for the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

**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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (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 July 21, 2015. 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, Ozone, Nitrogen dioxide, Sulfur dioxide, Reporting and recordkeeping requirements.

Dated: May 13, 2015.

**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 revising 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 approving Illinois’ submission addressing the infrastructure SIP requirements of section 110(a)(2)(A), (B), (C) with respect to enforcement, (D)(i)(II) with respect to visibility protection, (D)(ii), (E) except for state board requirements, (F) through (H), (J) except for prevention of significant deterioration, and (K) through (M). EPA

is disapproving Illinois’ submission addressing the prevention of significant deterioration, in (C), (D)(i)(II), and the prevention of significant deterioration (PSD) portion of (J). EPA is not taking action on the state board requirements of (E). 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), 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<sub>2</sub>) NAAQS. EPA is approving Illinois’ submission addressing the infrastructure SIP requirements of section 110(a)(2)(A), (B), (C) with respect to enforcement, (D)(i)(I), (D)(i)(II) with respect to visibility protection, (D)(ii), (E) except for state board requirements, (F) through (H), (J) except for prevention of significant deterioration, and (K) through (M). EPA is disapproving Illinois’ submission addressing the prevention of significant deterioration, in (C), (D)(i)(II), and the prevention of significant deterioration (PSD) portion of (J). EPA is not taking action on the state board requirements of (E).

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), 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<sub>2</sub>) NAAQS except for

110(a)(2)(D)(i)(I). EPA is approving Illinois’ submission addressing the infrastructure SIP requirements of section 110(a)(2)(A), (B), (C) with respect to enforcement, (D)(i)(II) with respect to visibility protection, (D)(ii), (E) except for state board requirements, (F) through (H), (J) except for prevention of significant deterioration, and (K) through (M). EPA is disapproving Illinois’ submission addressing the prevention of significant deterioration, in (C), (D)(i)(II), and the prevention of significant deterioration (PSD) portion of (J). EPA is not taking action on the state board requirements of (E).

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), and the prevention of significant deterioration (PSD) portion of (J).

[FR Doc. 2015-12355 Filed 5-21-15; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 228

[EPA-R2-OW-2014-0587; FRL-9928-04-Region 2]

#### Modification of the Designations of the Caribbean Ocean Dredged Material Disposal Sites

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

**ACTION:** Final rule.

**SUMMARY:** Through this rulemaking, the U.S. Environmental Protection Agency (EPA) is modifying the designations for the five Ocean Dredged Material Disposal Sites (ODMDS) around Puerto Rico (San Juan Harbor, PR ODMDS; Yabucoa Harbor, PR ODMDS; Ponce Harbor, PR ODMDS; Mayaguez Harbor, PR ODMDS; Arecibo Harbor, PR ODMDS). Currently, each of the ODMDS is restricted to only allow disposal of dredged material from the specific harbor for which it is named. This modification removes the restriction that limits eligibility for disposal at each of the disposal sites based solely on the geographic origin of the dredged material. The modifications to the site designations do not actually authorize the disposal of any particular dredged material at any site. All proposals to dispose of dredged material at any of the designated sites will continue to be subject to project-specific reviews and must still be demonstrated to satisfy the criteria for ocean dumping before any material is authorized for disposal. This rulemaking was taken to provide long-term flexibility for management of any dredged material that may potentially be derived from maintenance, development, or emergency activities in areas outside those harbors provided for in the original designations. The modifications to the site designations are for an indefinite period of time. Each ODMDS will continue to be monitored to ensure that significant unacceptable, adverse environmental impacts do not occur as a result of dredged material disposal at the site.

**DATES:** This final rule is effective on June 22, 2015.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R02-OW-2014-0587. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy by appointment at the Dredging, Sediment and Oceans Section (CWD), U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, NY 10007. This Docket Facility is open from 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is 212-637-3799.

**FOR FURTHER INFORMATION CONTACT:** Mark Reiss, Clean Water Division Region 2 (24th Floor), Environmental Protection Agency, 290 Broadway New York, NY 10007; telephone number: 212-637-3799; fax number: 212-637-3891; email address: [reiss.mark@epa.gov](mailto:reiss.mark@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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##### I. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. 1401 *et seq.*, gives the Administrator of EPA the authority to designate sites where ocean disposal may be permitted. On October 1, 1986, the Administrator delegated the authority to designate ocean disposal sites to the Regional Administrator of the Region in which the sites are located. These modifications are being made pursuant to that authority. EPA is conducting this rulemaking to remove the geographic restrictions on the origin of the dredged material that can be disposed from the designations of the San Juan Harbor, PR, Ponce Harbor, PR, Yabucoa Harbor, PR, Mayaguez Harbor, PR and Arecibo Harbor, PR ODMDSs.

The site modifications in this action provide the Corps, Commonwealth of Puerto Rico, municipal, and private entities with greater long term flexibility

in managing dredged materials outside the specific harbors provided for in the original designations.

The background for today's action is discussed in detail in EPA's October 14, 2014, proposal (79 FR 61591). The EPA received two comments on the proposed rule that supported the rulemaking. One of the letters raised some general concerns about the need to ensure that sensitive marine habitats are not adversely impacted by activities allowed by this rulemaking.

Modification of the designation of ocean disposal sites under 40 CFR part 228 is essentially a preliminary, planning measure. The practical effect of such a designation is only to require that if future ocean disposal activity is permitted and/or authorized (in the case of Corps projects) under 40 CFR part 227, then such disposal should normally be consolidated at the designated sites (see 33 U.S.C. 1413(b).) Modification of the designation of an ocean disposal site does not authorize any actual disposal and does not preclude EPA or the Corps from finding available and environmentally preferable alternative means of managing dredged materials, or from finding that certain dredged material is not suitable for ocean disposal under the applicable regulatory criteria.

This modification provides flexibility for management of dredged material from areas outside the harbors provided for in the original designations. However, it should be emphasized that modification of the designations of the ODMDS does not constitute or imply Corps' or EPA's approval of open water disposal of dredged material from any specific project. Before disposal of dredged material at any site may commence, Essential Fish Habitat and Endangered Species Act consultations must be completed, and EPA and the Corps must evaluate the proposal and authorize disposal according to the ocean dumping regulatory criteria (40 CFR part 227). All projects proposed for disposal at the ODMDS will be subject to review and comment by the relevant resource agencies and the public to ensure that any concerns regarding potential impacts associated with transport of material from the project area to the ODMDS are addressed before they are authorized for disposal. All transport and disposal activities must adhere to the strict provisions and restrictions laid out for each site in its Site Monitoring and Management Plan, which include specific monitoring and management requirements to avoid impacts to sensitive habitats. Finally, EPA has the right to disapprove the actual disposal, if it determines that