

consistent with the NAAQS promulgated by EPA in 2006.⁴

iii. O₃

On July 18, 1997, EPA revoked the 1-hour primary NAAQS for O₃. See 62 FR 38856. On March 27, 2008, EPA promulgated a new 8-hour primary and secondary NAAQS for O₃ at a level of 0.075 parts per million (ppm), based on an annual fourth-highest daily maximum 8-hr concentration averaged over three years. See 73 FR 16483. Accordingly, in the May 3, 2012, SIP submission, Jefferson County revised Regulation 3.01 to update its air quality standards for O₃ to be consistent with the NAAQS promulgated by EPA in 2008.

iv. NO₂

On February 9, 2010, EPA promulgated a new 1-hour primary NAAQS for NO₂ at a level of 100 parts per billion (ppb), based on a 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. See 75 FR 6474. Accordingly, in the May 3, 2012, SIP submission, Jefferson County revised Regulation 3.01 to update its primary air quality standard for NO₂ to be consistent with the NAAQS promulgated by EPA in 2010.

v. SO₂

On June 22, 2010, EPA promulgated a revised primary SO₂ NAAQS to an hourly standard of 75 ppb, based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations, and revoked the 24-hour SO₂ NAAQS. See 75 FR 35520. Accordingly, in the May 3, 2012, SIP submission, Jefferson County revised Regulation 3.01 to update its primary air quality standards for SO₂ to be consistent with the NAAQS promulgated by EPA in 2010.

EPA has reviewed the revisions to Regulation 3.01 in the May 3, 2012, SIP submission, including the NAAQS updates for Pb, particulate matter, O₃, NO₂, and SO₂, and has made the preliminary determination that these changes are consistent with the CAA.

III. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with

⁴ On January 15, 2013, EPA revised the primary annual PM_{2.5} NAAQS to 12 µg/m³, based on annual mean PM_{2.5} concentrations averaged over three years. See 78 FR 3086. Since Jefferson County's May 3, 2012, submission preceded EPA's promulgation of the new annual standard, an update reflecting the new NAAQS was not included as part of SIP revision.

requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Jefferson County Regulation 1.02—*Definitions* (except for the definitions of “Acute noncancer effect,” “Cancer,” “Carcinogen,” and “Chronic noncancer effect”) and Regulation 3.01—*Ambient Air Quality Standards*. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the Region 4 office (see the **ADDRESSES** section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve the portions of the Commonwealth of Kentucky's March 22, 2011, and May 3, 2012, SIP revisions identified in section II, above, because they are consistent with the CAA.

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 Act and applicable Federal regulations. See 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 proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the 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).

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 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Sulfur dioxide, Reporting and recordkeeping requirements.

Dated: July 20, 2016.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2016-18011 Filed 7-29-16; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2016-0107; FRL-9949-98-Region 8]

Approval and Promulgation of Air Quality Implementation Plans; Interstate Transport for Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to take action on portions of six submissions from the State of Utah that are intended to demonstrate that the State Implementation Plan (SIP) meets certain interstate transport requirements of the Clean Air Act (Act or CAA). These submissions address the 2006 and 2012 fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS), 2008 ozone NAAQS, 2008

lead (Pb) NAAQS, 2010 sulfur dioxide (SO₂) NAAQS and 2010 nitrogen dioxide (NO₂) NAAQS. Specifically, the EPA is proposing to approve interstate transport prong 4 for the 2008 Pb and 2010 SO₂ NAAQS, and proposing to disapprove prong 4 for the 2006 PM_{2.5}, 2008 ozone, 2010 NO₂ and 2012 PM_{2.5} NAAQS.

DATES: Comments must be received on or before August 31, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2016-0107 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Adam Clark, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. (303) 312-7104, clark.adam@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

What should I consider as I prepare my comments for EPA?

1. *Submitting Confidential Business Information (CBI).* Do not submit CBI to EPA through <http://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information

claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** volume, date, and page number);
- Follow directions and organize your comments;
- Explain why you agree or disagree;
- Suggest alternatives and substitute language for your requested changes;
- Describe any assumptions and provide any technical information and/or data that you used;
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced;
- Provide specific examples to illustrate your concerns, and suggest alternatives;
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats; and,
- Make sure to submit your comments by the comment period deadline identified.

II. Background

On September 21, 2006, the EPA revised the primary 24-hour NAAQS for PM_{2.5} to 35 micrograms per cubic meter (µg/m³) (71 FR 61144, Oct. 17, 2006). On March 12, 2008, the EPA revised the levels of the primary and secondary 8-hour ozone standards to 0.075 parts per million (ppm) (73 FR 16436, Mar. 27, 2008). On October 15, 2008, the EPA revised the level of the primary and secondary Pb NAAQS to 0.15 µg/m³ (73 FR 66964, Nov. 12, 2008). On January 22, 2010, the EPA promulgated a new 1-hour primary NAAQS for NO₂ at a level of 100 parts per billion (ppb) while retaining the annual standard of 53 ppb (75 FR 6474, Feb. 9, 2010). The secondary NO₂ NAAQS remains unchanged at 53 ppb. On June 2, 2010, the EPA promulgated a revised primary 1-hour SO₂ standard at 75 ppb (75 FR 35520, June 22, 2010). Finally, on December 14, 2012, the EPA promulgated a revised annual PM_{2.5} standard by lowering the level to 12.0 µg/m³ and retaining the 24-hour PM_{2.5} standard at a level of 35 µg/m³ (78 FR 3086, Jan. 15, 2013).

Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the applicable requirements of

section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as the EPA may prescribe. Section 110(a)(2) requires states to address structural SIP elements such as monitoring, basic program requirements, and legal authority that are designed to provide for implementation, maintenance, and enforcement of the NAAQS. The SIP submission required by these provisions is referred to as the “infrastructure” SIP. Section 110(a) imposes the obligation upon states to make a SIP submission to the EPA for a new or revised NAAQS, but the contents of individual state submissions may vary depending upon the facts and circumstances.

CAA section 110(a)(2)(D)(i)(I) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from emitting any air pollutant in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in another state (known as the “good neighbor” provision). The two provisions of this section are referred to as prong 1 (significant contribution to nonattainment) and prong 2 (interfere with maintenance). Section 110(a)(2)(D)(i)(II) requires SIPs to contain adequate provisions to prohibit emissions that will interfere with measures required to be included in the applicable implementation plan for any other state under part C to prevent significant deterioration of air quality (prong 3) or to protect visibility (prong 4).

In this action, the EPA is addressing prong 4 with regard to the 2006 and 2012 PM_{2.5}, 2008 ozone, 2008 Pb, 2010 SO₂ and 2010 NO₂ NAAQS. The EPA addressed prongs 1 and 2 for the 2008 ozone and 2008 Pb NAAQS in a proposed action published May 10, 2016 (81 FR 28807), and intends to finalize that action in conjunction with the actions in this proposed rule in one joint, final rulemaking. The EPA is addressing prong 3 for the applicable NAAQS in a separate action proposed April 26, 2016 (81 FR 24525), which can be found in regulations.gov under the docket EPA-R08-OAR-2013-0561.

III. State Submissions

The Utah Department of Environmental Quality (Department or UDEQ) submitted the following: A certification of Utah’s infrastructure SIP for the 2006 PM_{2.5} NAAQS on September 21, 2010; a certification of Utah’s infrastructure SIP for the 2008 Pb SIP on January 19, 2012; a certification of Utah’s infrastructure SIP for the 2008

ozone NAAQS and 2010 NO₂ NAAQS on January 31, 2013; a certification of Utah's infrastructure SIP for the 2010 SO₂ NAAQS on June 2, 2013; and a certification of Utah's infrastructure SIP for the 2012 PM_{2.5} on December 22, 2015.

Each of these infrastructure certifications addressed all of the required infrastructure elements under section 110(a)(2).¹ As noted above, the EPA is only addressing the 110(a)(2)(D)(i)(II), prong 4 (visibility) element of each of these submissions here; all other infrastructure elements from these certifications are being addressed in separate actions.

In Utah's 2006 PM_{2.5} infrastructure certification, UDEQ pointed to SIP language verifying that no Utah sources of emissions interfere with implementation of reasonably attributable visibility impairment (RAVI) SIPs in other states, in accordance with EPA guidance.²

In Utah's 2006 PM_{2.5}, 2008 ozone, 2010 SO₂, 2010 NO₂ and 2012 PM_{2.5} NAAQS infrastructure certifications, the Department pointed to its Regional Haze SIP (Utah SIP Section XX) to certify that the State meets the visibility requirements of section 110(a)(2)(D)(i)(II). Utah specifically noted in each of these submittals (aside from the 2006 PM_{2.5} submittal) that the State had consulted with other states in the Western Regional Air Partnership (WRAP), and that reductions in emissions from Utah were included in the WRAP regional visibility modeling. As explained below, this information is relevant in determining whether Utah's SIP will achieve the emission reductions that the WRAP states mutually agreed are necessary to avoid interstate visibility impacts in Class I areas.³

UDEQ addressed visibility for the 2008 Pb NAAQS by pointing to the short distance travelled by Pb emissions, and by noting that there was not a significant source of Pb in Utah within 100 miles of a Class I area.

IV. Utah's Regional Haze SIP

As stated in the EPA's September 13, 2013 Infrastructure SIP Guidance Memo

¹ For discussion of other infrastructure elements, see EPA's "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)," September 13, 2013.

² See EPA's "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle (PM_{2.5}) National Ambient Air Quality Standards (NAAQS)," September 25, 2009, at 6.

³ See "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)," September 13, 2013, at 34.

("2013 Guidance"), "[o]ne way in which prong 4 may be satisfied for any relevant NAAQS is through an air agency's confirmation in its infrastructure SIP submission that it has an approved regional haze SIP that fully meets the requirements of 40 CFR 51.308 or 51.309. 40 CFR 51.308 and 51.309 specifically require that a state participating in a regional planning process include all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process."⁴

On May 26, 2011, Utah submitted to the EPA a SIP revision to address the requirements of the regional haze program. The EPA partially approved and partially disapproved Utah's SIP revision on December 14, 2012 (77 FR 74355). In that action, the EPA disapproved Utah's NO_x and PM₁₀ Best Available Retrofit Technology (BART) determinations (77 FR 74357), and approved Utah's BART alternative for SO₂, which relied on the State's participation in the backstop SO₂ trading program.⁵

In response to the EPA's December 14, 2012 partial disapproval, UDEQ submitted further SIP revisions on June 4, 2015, and October 20, 2015, to meet the regional haze requirements for NO_x and PM₁₀ BART. Instead of establishing BART controls for NO_x, Utah's SIP revisions contained an alternative to BART. The revisions also included BART controls for PM₁₀.

On July 5, 2016, the EPA finalized action on Utah's June 4, 2015 Regional Haze SIP, approving the PM₁₀ BART determinations for both the affected sources, the Hunter and Huntington power plants, and disapproving the State's NO_x BART alternative for these two facilities. The EPA also promulgated a final federal implementation plan (FIP) to address the deficiencies in Utah's NO_x BART determinations and the associated monitoring, recordkeeping and reporting requirements for both the Hunter and Huntington power plants (81 FR 43894, July 5, 2016).

V. EPA's Assessment

The 2013 Guidance states that section 110(a)(2)(D)(i)(II)'s prong 4 requirements can be satisfied by approved SIP provisions that the EPA has found to adequately address a state's contribution to visibility impairment in other states.

⁴ See "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)," September 13, 2013, at 33.

⁵ EPA's final approval of the "Western Backstop Sulfur Dioxide Trading Program" into the Utah SIP is codified at 40 CFR 52.2320(c)(71)(C) and (D).

The EPA interprets prong 4 to be pollutant-specific, such that the infrastructure SIP submission need only address the potential for interference with protection of visibility caused by the pollutant (including precursors) to which the new or revised NAAQS applies.⁶

The 2013 Guidance lays out two ways in which a state's infrastructure SIP submittal may satisfy prong 4. As explained above, one way is through a state's confirmation in its infrastructure SIP submittal that it has an EPA approved regional haze SIP in place. In the absence of a fully approved regional haze SIP, a state can make a demonstration in its infrastructure SIP submittal that emissions within its jurisdiction do not interfere with other states' plans to protect visibility. Such a submittal should point to measures in the state's SIP that limit visibility-impairing pollutants and ensure that the resulting reductions conform with any mutually agreed emission reductions under the relevant regional haze regional planning organization (RPO) process.⁷

UDEQ worked through its RPO, the WRAP, to develop strategies to address regional haze. To help states in establishing reasonable progress goals for improving visibility in Class I areas, the WRAP modeled future visibility conditions based on the mutually agreed emissions reductions from each state. The WRAP states then relied on this modeling in setting their respective reasonable progress goals. As a result, we consider emissions reductions from measures in Utah's SIP that conform with the level of emission reductions the State agreed to include in the WRAP modeling to meet the visibility requirement of CAA section 110(a)(2)(D)(i)(II).

With regard to the 2010 SO₂ NAAQS, the EPA proposes to find that the State's implementation of the Western Backstop Sulfur Dioxide Trading Program and the agreed upon SO₂ reductions achieved through that program sufficient to meet the requirements of prong 4.⁸ Under 40 CFR

⁶ See "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)" at 33.

⁷ See "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)" at 34, and also 76 FR 22036 (April 20, 2011) containing EPA's approval of the visibility requirement of 110(a)(2)(D)(i)(II) based on a demonstration by Colorado that did not rely on the Colorado Regional Haze SIP.

⁸ Specifically, the State is required to reach its "emissions milestone" for this program by keeping its SO₂ emissions below 141,849 tons/SO₂ in 2018 and each year thereafter.

51.309, certain states, including Utah, can satisfy their SO₂ BART requirements by adopting an alternative program consisting of SO₂ emission milestones and a backstop trading program.⁹ Utah Administrative Rules (UAR) R307–250 and R307–150 implement the backstop trading program provisions and the EPA has approved the State's rules, including the SO₂ reduction milestones, as satisfying its regional haze SO₂ obligations.¹⁰ Utah's SIP thus contains measures requiring reductions of SO₂ consistent with what the State agreed to achieve under the WRAP process in order to protect visibility. As a result, EPA is proposing to approve 110(a)(2)(D)(i)(II) prong 4 for the 2010 SO₂ NAAQS.

The EPA is also proposing to approve Utah's prong 4 SIP submittal for the 2008 Pb NAAQS. The EPA agrees with UDEQ's submission, which states that significant impacts from Pb emissions from stationary sources are expected to be limited to short distances from the source. The State also noted that it does not have any major sources of Pb located within 100 miles of a neighboring state's Class I area. Further, when evaluating the extent to which Pb could impact visibility, the EPA has found Pb-related visibility impacts insignificant (*e.g.*, less than 0.10 percent).¹¹ The EPA proposes to approve prong 4 for the 2008 Pb NAAQS based on Utah's conclusion that it does not have any significant sources of lead emissions near another state's Class I area and that it, therefore, does not have emissions of Pb that would interfere with the requirements of section 110(a)(2)(D)(i)(II) with respect to visibility.

The EPA is proposing to disapprove Utah's prong 4 infrastructure SIP submittals for the 2006 PM_{2.5}, 2008 ozone, 2010 NO₂, and 2012 PM_{2.5} NAAQS. The EPA's disapproval of Utah's NO_x BART determination in our July 5, 2016 final rulemaking included the specific disapproval of the NO_x control measures the State submitted for the Hunter and Huntington facilities (81 FR 43894, 43902).

As noted, Utah relied on its Regional Haze SIP (Utah SIP Section XX), and specifically its participation in the WRAP, as justification for the approvability of prong 4 for 2006 PM_{2.5}, 2008 ozone, 2010 NO₂ and 2012 PM_{2.5} NAAQS. Because the Department did not provide an alternative demonstration that its SIP contains

measures to limit NO_x emissions in accordance with the emission reductions it agreed to under the WRAP,¹² the EPA's disapproval of Utah's NO_x BART alternative makes Utah's justification insufficient for the NAAQS pollutants impacted by the control of NO_x. Specifically, NO_x is a precursor of PM_{2.5} and ozone, and is also a term which refers to both NO (nitrogen oxide) and NO₂. The EPA is therefore proposing to disapprove prong 4 of Utah's infrastructure certifications with regard to the 2006 PM_{2.5}, 2008 ozone, 2010 NO₂ and 2012 PM_{2.5} NAAQS.

If the EPA disapproves an infrastructure SIP submission for prong 4, as we are proposing for the 2006 PM_{2.5}, 2008 Ozone, 2010 NO₂ and 2012 PM_{2.5} NAAQS, a FIP obligation will be created. However, since the EPA recently promulgated a FIP for Utah that corrects all regional haze SIP deficiencies (81 FR 43894), there will be no additional practical consequences from the disapproval for UDEQ, the sources within its jurisdiction, or the EPA.¹³ The EPA will not be required to take further action with respect to these prong 4 disapprovals, if finalized, because the FIP already in place would satisfy the requirements with respect to prong 4.¹⁴ Additionally, since the infrastructure SIP submission is not required in response to a SIP call under CAA section 110(k)(5), mandatory sanctions under CAA section 179 would not apply because the deficiencies are not with respect to a submission that is required under CAA title I part D.¹⁵

VI. Proposed Action

The EPA is proposing to approve portions of Utah's infrastructure certifications which address the interstate transport requirements of CAA section 110(a)(2)(D)(i)(II), and to disapprove portions of other certifications addressing this CAA requirement. The EPA is proposing to approve 110(a)(2)(D)(i)(II) prong 4 for the 2008 Pb and 2010 SO₂ NAAQS. The EPA is also proposing to disapprove 110(a)(2)(D)(i)(II) prong 4 for the 2006 PM_{2.5}, 2008 ozone, 2010 NO₂ and 2012 PM_{2.5} NAAQS. The EPA is soliciting public comments on this proposed action and will consider public comments received during the comment period.

¹² With the exception of the 2006 PM_{2.5} NAAQS, which referenced the State's lack of interference with RAVI.

¹³ EPA's September 13, 2013 Infrastructure SIP Guidance, at 34.

¹⁴ *Id.* at 35.

¹⁵ *Id.*

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, the EPA's role is to approve state actions, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes approval of some state law as meeting federal requirements and proposes disapproval of other state law because it does not meet federal requirements; this proposed action does not propose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
 - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
 - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
 - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
 - Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
 - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
 - Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, the SIP does not apply on any Indian reservation land or in any other area where the EPA or an Indian

⁹ 40 CFR 51.309.

¹⁰ 77 FR 74355 (Dec. 14, 2012).

¹¹ EPA's September 13, 2013 Infrastructure SIP Guidance, at 33.

tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed 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).

List of Subjects in 40 CFR Part 52

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

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

Dated: July 19, 2016.

Shaun L. McGrath,

Regional Administrator, Region 8.

[FR Doc. 2016-18153 Filed 7-29-16; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[EPA-HQ-OW-2016-0376; FRL-9950-07-OW]

Public Notification for Combined Sewer Overflows in the Great Lakes; Public Listening Session; Request for Stakeholder Input

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for stakeholder input.

SUMMARY: The Environmental Protection Agency (EPA) is announcing plans to hold a public “listening session” on September 14, 2016 in Chicago, Illinois to obtain information from the public to help inform development of a new regulation establishing public notification requirements for combined sewer overflow discharges in the Great Lakes. This rulemaking is in response to new requirements included with the 2016 appropriations. EPA is requesting input from the public regarding potential approaches for these new public notification requirements for combined sewer overflow discharges in the Great Lakes through participation in the public listening session and by submitting information in writing at the listening sessions or to the agency directly through email, fax, or mail. The agency is undertaking this outreach to help it shape a future regulatory proposal intended to provide the affected public with information that will help better protect public health.

DATES: The session will be held on September 14, 2016. Comments must be received on or before September 23, 2016.

ADDRESSES: The public listening session will be held at the Environmental Protection Agency Region 5 Office (Lake Erie Room, Floor 12), 77 West Jackson Boulevard, Chicago, IL 60604-3507. Submit your comments, identified by Docket ID No. EPA-HQ-OW-2016-0378, to the *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>. For details on the public listening session see **SUPPLEMENTAL INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Lisa Biddle, Water Permits Division, Office of Water (4203M), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: 202-566-0350; fax number: 202-564-6392; email address: biddle.lisa@epa.gov. Also see the following Web site for additional information regarding the rulemaking: <https://www.epa.gov/npdes/combined-sewer-overflows-great-lakes-basin>.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Public Listening Session

EPA will hold an informal public listening session to afford an opportunity for the public to provide input on a regulatory action that EPA is considering to establish public notification requirements for combined sewer overflow discharges in the Great Lakes. Brief oral comments (three minutes or less) and written statements

will be accepted at the session. The listening session will be held on September 14, 2016 at 10 a.m. at the Environmental Protection Agency Region 5 Office (Lake Erie Room, Floor 12), 77 West Jackson Boulevard, Chicago, IL 60604-3507. The listening session will continue until all speakers in attendance have had a chance to provide comments or 3 p.m., whichever comes first. If time allows after all comments have been heard, a broader discussion may take place regarding topics identified under Section III, Input on Public Notice Considerations.

B. Additional Information and Public Meeting Registration

Prior to the public meeting date, EPA will post any relevant materials to the following Web site: <https://www.epa.gov/npdes/combined-sewer-overflows-great-lakes-basin>. Information posted to the Web site will include any handouts that may be provided at the meeting as well as a web link that participants may use to register for the public meeting in advance. Advanced registration is not required but is requested so that EPA can ensure there is sufficient space and time allotted for those who wish to participate.

II. Background

The Environmental Protection Agency (EPA) will be proposing a rule to establish public notification requirements for combined sewer overflows (CSOs) to the Great Lakes, as required by Section 425 of the Consolidated Appropriations Act of 2016 (Pub. L. 114-113) (hereafter, referred to as “Section 425”). Section 425 requires EPA to work with the Great Lakes states to create these public notice requirements, and EPA is also seeking public input in the development of these requirements.

Combined Sewer Overflows From Municipal Wastewater Collection Systems

Municipal wastewater collection systems collect domestic sewage and other wastewater from homes and other buildings and convey it to wastewater treatment plants for proper treatment and disposal. The collection and treatment of municipal sewage and wastewater is vital to the public health in our cities and towns. In the United States, municipalities historically have used two major types of sewer systems. Many municipalities collect domestic sewage in a sanitary sewer system and convey the sewage to a publicly owned treatment works (POTW) for treatment. These municipalities also have separate sewer systems to collect surface