VI. Paperwork Reduction Act

The proposed rule to codify inclined sleepers for infants as a banned hazardous product contains no information collection requirements that would be subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). However, if the Commission requires testing and certification to this ban, the Commission will expand the existing control number for Third Party Testing of Children's Products, OMB Control No. 3041–0159.

VII. Request for Comments

We invite comments on all aspects of the Commission's proposal to codify the ban on inclined sleepers for infants under section 2 of the SSBA with an effective date of November 12, 2022. Comments must be submitted in accordance with the instructions in the **ADDRESSES** section at the beginning of this notice. We also invite comment on the following topics:

A. Effective Date: The Commission proposes to implement the inclined sleeper ban in the SSBA with an effective date of November 12, 2022. Should the Commission adopt this proposed effective date, or an alternative date ''[n]ot later than 180 days after the date of enactment''? If the commenter believes that an effective date later than November 12, 2022, is permitted under section 2 of the SSBA, what is the legal basis for that assertion, and what later date should be adopted?

B. Interpretation: In 2021, the Commission promulgated its Safety Standard for Infant Sleep Products (16 CFR part 1236, the ISP Rule), which became effective on June 23, 2022. (86 FR 33022 (June 23, 2021)). Pursuant to 16 CFR 1236.2(b)(10)(i), the ISP Rule defines an ''infant sleep product'' as a ''product marketed or intended to provide a sleeping accommodation for an infant up to 5 months of age, and that is not subject to'' one of the following: 16 CFR part 1218 (bassinets and cradles); 16 CFR part 1219 (full-size cribs); 16 CFR part 1220 (non-full-size cribs); 16 CFR part 1221 (play yards); and 16 CFR part 1222 (bedside sleepers) (collectively, CPSC sleep standards).[2] 86 FR at 33072. The SSBA, by contrast, applies to products ''marketed, intended, or designed'' for infants up to 1 years old. The operative provisions of the SSBA and the ISP Rule thus are not identical. Particularly in that light, the Commission requests comment on interpreting, codifying, and enforcing the SSBA with respect to inclined sleep products, including:

1. How should the Commission interpret and implement the phrase ''sleeping accommodations'' for purposes of the SSBA ban?
2. What, if any, effect should inclusion of the term ''designed'' in the SSBA have on the Commission's interpretation and implementation of the SSBA as compared to the ISP Rule? For example, what significance, if any, might ''designed'' have for inclined products that are not marketed for sleep but in which an infant may fall asleep, such as bouncers, swings, and rockers?
3. In the SSBA, what product characteristics, if any, demonstrate that a product is ''designed'' for sleep?
4. How should the Commission interpret and implement the terms ''marketed'' and ''intended'' as a sleeping accommodation in the SSBA? Should these terms be interpreted and implemented the same as in the ISP Rule? Why or why not?
5. What is the significance of the age distinction between the ISP Rule and the SSBA's ban? How might this difference bear on implementation of the SSBA as compared to the ISP Rule, including with respect to developmental differences between a newborn to 5 month old as identified in the ISP Rule, versus a newborn to 1 year old as identified in the SSBA?
6. How, if at all, should the SSBA's ban of inclined sleepers for infants affect the ISP Rule or the Commission's application of it?

C. Testing and Certification: When a ban does not remove all products in a product category from the market, testing and certification requirements may apply. For example, CPSC requires a General Certificate of Conformity (GCC) for certain banned hazardous products. *See, e.g., https://www.cpsc.gov/Business-Manufacturing/Testing-Certification/Lab-Accreditation/Rules-Requiring-a-General-Certificate-of-Conformity,* CPSC's website providing guidance that bans set forth in 16 CFR parts 1304, 1305, and 1306 require a GCC. In this case, inclined sleepers with an inclined sleep surface of 10 degrees or less, or that are marketed, intended, or designed to provide sleeping accommodations for an infant older than 1 year, are not within the scope of the SSBA's ban. To the extent inclined sleepers remain on the market that are not banned by this rule, and that are not regulated under the ISP Rule, should CPSC require testing and certification to this ban, to demonstrate that a product is *not* within the scope of the ban? Why, or why not?

[2] If an infant sleep product does not already comply with a CPSC sleep standard, the ISP Rule requires the sleep surface angle to measure l0 degrees or less, and the product must meet part 1218 of the Commission's Rules, the bassinet standard, including the definition of a bassinet, meaning the product must have a stand. The ISP Rule applies to both flat and inclined products.

List of Subjects in 16 CFR Part 1310

Administrative practice and procedure, Consumer protection, Infants and children.

For the reasons stated in the preamble, the Commission proposes to add part 1310 to title 16 of the Code of Federal Regulations as follows:

PART 1310—BAN OF INCLINED SLEEPERS FOR INFANTS

Sec.
1310.1 Purpose and scope
1310.2 Definition
1310.3 Banned hazardous product
1310.4 Effective date

Authority: Sec. 2, Pub. L. 117–126, 136 Stat. 1208; 15 U.S.C. 2057d.

§ 1310.1 Purpose and scope

The purpose of this rule is to prohibit the sale of inclined sleepers for infants as set forth in the Safe Sleep for Babies Act of 2021.

§ 1310.2 Definition

Inclined sleeper for infants means ''a product with an inclined sleep surface greater than ten degrees that is intended, marketed, or designed to provide sleeping accommodations for an infant up to 1 year old.''

§ 1310.3 Banned Hazardous product

Any inclined sleeper for infants, regardless of the date of manufacture, is a banned hazardous product under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057).

§ 1310.4 Effective date

The effective date of this ban is November 12, 2022.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2022–15904 Filed 7–25–22; 8:45 am]

BILLING CODE 6355–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2022–0092; FRL–10017–01–R4]

Air Plan Approval; Kentucky; Emissions Inventory Requirements for the 2015 8-Hour Ozone Standard Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet (Cabinet) on December 22, 2021, to address the base year emissions inventory requirements for the 2015 8-hour ozone national ambient air quality standard (NAAQS) for Kentucky counties in the Cincinnati, Ohio-Kentucky 2015 8-hour ozone NAAQS nonattainment area (hereinafter referred to as the Cincinnati, OH-KY Area), and for Kentucky counties in the Louisville, Kentucky-Indiana 2015 8-hour NAAQS nonattainment area (hereinafter referred to as the Louisville, KY-IN Area). Specifically, EPA is proposing to approve Kentucky's SIP revision addressing the emissions inventory requirements for the 2015 8-hour ozone nonattainment areas for the portions of Boone, Campbell, and Kenton Counties in the Cincinnati, OH-KY Area, and Bullitt, Jefferson, and Oldham Counties in the Louisville, KY-IN Area. These requirements apply to all ozone nonattainment areas. This action is being proposed pursuant to the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before August 25, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2022–0092 at *www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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 *www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Sarah LaRocca, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8994. Ms. LaRocca can also be reached via electronic mail at *larocca.sarah@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On October 1, 2015, EPA promulgated a revised 8-hour primary and secondary ozone NAAQS, strengthening both from 0.075 parts per million (ppm) to 0.070 ppm (the 2015 8-hour ozone NAAQS). *See* 80 FR 65292 (October 26, 2015). The 2015 8-hour ozone NAAQS is set at 0.070 ppm based on an annual fourth-highest daily maximum 8-hour average concentration averaged over three years. Under EPA's regulations at 40 Code of Federal Regulations (CFR) part 50, the 2015 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentration is less than or equal to 0.070 ppm. *See* 40 CFR 50.19. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. *See* 40 CFR part 50, Appendix U. The ambient air quality monitoring data completeness requirement is met when the average percentage of days with valid ambient monitoring data is greater than 90 percent and no single year has less than 75 percent data completeness as determined using Appendix U.

Upon promulgation of a new or revised ozone NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS based on the three most recent years of ambient air quality data. On June 4, 2018 (effective August 3, 2018), EPA designated the 7-county Cincinnati, OH-KY Area as a Marginal ozone nonattainment for the 2015 8-hour ozone NAAQS.[1] *See* 83 FR 25776. Also, on June 4, 2018 (effective August 3, 2018), EPA designated the five-county Louisville, KY-IN Area as a Marginal ozone nonattainment for the 2015 8-hour ozone NAAQS.[2] The Cincinnati, OH-KY Area and the Louisville, KY-IN Area were designated nonattainment for the 2015 8-hour ozone NAAQS using 2014–2016 ambient air quality data.

On December 6, 2018, EPA finalized a rule titled ''Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements'' (SIP Requirements Rule) that establishes the requirements that state, tribal, and local air quality management agencies must meet as they develop implementation plans for areas where air quality exceeds the 2015 8-hour ozone NAAQS.[3] *See* 83 FR 62998; 40 CFR part 51, subpart CC. This rule establishes nonattainment area attainment deadlines based on Table 1 of section 181(a) of the CAA, including an attainment deadline of August 3, 2021, three years after the August 3, 2018, effective date, for areas classified as Marginal for the 2015 8-hour ozone NAAQS.

Ground level ozone is not emitted directly into the air but is created by chemical reactions between oxides of nitrogen (NO_X) and volatile organic compounds (VOC) in the presence of sunlight. Emissions from industrial facilities and electric utilities, motor vehicle exhaust, gasoline vapors, and chemical solvents are some of the major sources of NO_X and VOC. Section 182(a)(1) of the CAA requires states with areas designated nonattainment for the ozone NAAQS to submit a SIP revision providing a comprehensive, accurate, and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area. NO_X and VOC are the relevant pollutants because they are the precursors—*i.e.,* the pollutants that contribute to the formation—of ozone.

Based on the nonattainment designation, Kentucky was required to develop a SIP revision addressing certain CAA requirements for the Cincinnati, OH-KY Area and the Louisville, KY-IN Area. Among other things, Kentucky was required to submit a SIP revision addressing the emissions inventory requirements in CAA section 182(a)(1).

[1] The Cincinnati, OH-KY Area consists of the following counties: Boone (partial), Campbell (partial), and Kenton (partial) in Kentucky and the entire counties of Butler, Clermont, Hamilton, and Warren in Ohio. EPA took action on the 2015 8-hour ozone NAAQS nonattainment area emissions inventory requirements for Butler, Clermont, Hamilton, and Warren Counties in Ohio in a separate action. *See* 86 FR 12270 (March 3, 2021).

[2] The Louisville, KY-IN Area consists of Bullitt, Jefferson, and Oldham Counties in Kentucky and Clark and Floyd Counties in Indiana. EPA took action on the 2015 8-hour ozone NAAQS nonattainment area emissions inventory requirements for Clark and Floyd Counties in Indiana in a separate action. *See* 87 FR 39750 (July 5, 2022).

[3] The SIP Requirements Rule addresses a range of nonattainment area SIP requirements for the 2015 8-hour ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology, reasonably available control measures, major nonattainment new source review, emission inventories, and the timing of SIP submissions and compliance with emission control measures in the SIP.

II. Commonwealth's Submittal

On December 22, 2021, Kentucky submitted a SIP revision addressing the emissions inventory requirements related to the 2015 8-hour ozone NAAQS for the Cincinnati, OH-KY Area and the Louisville, KY-IN Area.[4] EPA is proposing to approve this SIP revision as meeting the inventory requirements of section 182(a)(1) of the CAA and EPA's SIP Requirements Rule. More information on EPA's analysis of Kentucky's SIP revision and how this SIP revision addresses these requirements is provided below.

III. Analysis of Commonwealth's Submittal

As discussed above, section 182(a)(1) of the CAA requires areas to submit a comprehensive, accurate, and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in each ozone nonattainment area. The section 182(a)(1) base year inventory is defined in the SIP Requirements Rule as ''a comprehensive, accurate, current inventory of actual emissions from sources of VOC and NO_X emitted within the boundaries of the nonattainment area as required by CAA section 182(a)(1).'' *See* 40 CFR 51.1300(p). The inventory year must be selected consistent with the baseline year for the RFP plan as required by 40 CFR 51.1310(b),[5] and the inventory must include actual ozone season day emissions as defined in 40 CFR 51.1300(q)[6] and contain data elements consistent with the detail required by 40 CFR part 51, subpart A. *See* 40 CFR 51.1315(a), (c), and (e). In addition, the point source emissions included in the inventory must be reported according to the point source emissions thresholds of the Air Emissions Reporting Requirements (AERR) in 40 CFR part 51, subpart A.

Kentucky selected 2017 as the base year for the emissions inventories, which is the most recent calendar year for which a complete triennial inventory is required to be submitted to the EPA under 40 CFR part 51, subpart A. This base year is consistent with the regulations for 2015 ozone NAAQS nonattainment area base year emission inventory regulations. *See* 40 CFR 51.1315(a) and 51.1310(b). The emissions inventory is based on data developed and submitted by both the Cabinet and Louisville Metro Air Pollution Control District (District)[7] to EPA's 2017 National Emissions Inventory (NEI), and it contains data elements consistent with the requirements of 40 CFR part 51, subpart A.

Kentucky's emissions inventory for the Cincinnati, OH-KY Area and Louisville, KY-IN Area provides 2017 typical average summer day emissions for NO_X and VOC for the following general source categories: point sources, nonpoint sources,[8] on-road mobile sources, and non-road. For the Kentucky portion of the Cincinnati, OH-KY Area, the following percentages represent the portions of each Kentucky county that are located in the Area: Boone: 95 percent; Campbell: 92 percent; and Kenton: 95 percent. The nonattainment area apportionment percentages were applied to the point, nonpoint, and nonroad sectors. For on-road emissions, vehicle miles traveled (VMT) data for the nonattainment portions of the counties were used as inputs to the MOVES 3 model. Annual emission totals were then converted to tons per summer day by taking the calculated annual emissions totals, multiplying them by 25 percent to account for the four seasons, and then dividing by the 92 days of the summer season.[9] For the Kentucky portion of the Louisville, KY-IN Area, summer day emissions were calculated using a ''Summer's Operation Percentage'' as reported by facilities and explained in Appendices E.2 and A.3 of the submittal. Table 1 and Table 2 provide a summary of the emissions inventories for the Kentucky portions of the Cincinnati, OH-KY Area and the Louisville, KY-IN Area, respectively.

[4] On October 15, 2020, the Cabinet submitted a certification that included other required elements for ozone nonattainment areas pursuant to CAA section 182(a)(2)(C), Nonattainment New Source Review, and CAA section 182(a)(3)(B), Emissions statements. On August 12, 2020, KDAQ submitted a certification on behalf of the Louisville Metro Air Pollution Control District that included the required elements for ozone nonattainment areas pursuant to CAA section 182(a)(3)(B), Emissions statements. On April 5, 2022, EPA took final action on the portion of Kentucky's October 15, 2020, submission related to CAA section 182(a)(2)(C), Nonattainment New Source Review. *See* 87 FR 19649. On March 9, 2022, EPA took final action on the District's August 12, 2020, submission related to CAA section 182(a)(3)(B), Emissions statements. *See* 87 FR 13177. On April 26, 2022, EPA took final action on the portion of Kentucky's October 15, 2020, submission related to CAA section 182(a)(3)(B), Emissions statements. *See* 87 FR 24429.

[5] 40 CFR 51.1310(b) states that ''at the time of designation for the ozone NAAQS the baseline emissions inventory shall be the emissions inventory for the most recent calendar year for which a complete triennial inventory is required to be submitted to the EPA under the provisions of subpart A of this part. States may use an alternative baseline emissions inventory provided that the year selected corresponds with the year of the effective date of designation as nonattainment for that NAAQS. All states associated with a multi-state nonattainment area must consult and agree on using the alternative baseline year. The emissions values included in the inventory required by this section shall be actual ozone season day emissions . . . .'' For additional information, please see the guidance document titled ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations,'' EPA–454/B–17–003, July 2017, available at: *https://www.epa.gov/air-emissions-inventories/air-emissions-inventory-guidance-implementation-ozone-and-particulate.*

[6] ''Ozone season day emissions'' is defined as ''an average day's emissions for a typical ozone season work weekday. The state shall select, subject to EPA approval, the particular month(s) in the ozone season and the day(s) in the work week to be represented, considering the conditions assumed in the development of RFP plans and/or emissions budgets for transportation conformity.'' *See* 40 CFR 51.1300(q).

[7] The Cabinet submitted emissions inventories for the KY portion of both the Cincinnati, OH-KY and the Louisville, KY-IN nonattainment areas for the 2015 8-hour ozone standard. The District provided emissions information for the Jefferson County portion of the Louisville, KY-IN nonattainment area for the 2015 8-hour ozone standard.

[8] On June 2, 2022, Kentucky informed EPA that the Base Year (Nonattainment) Emissions Inventory State Implementation Plan it submitted on December 22, 2021, included biogenic emissions in the nonpoint category, whereas biogenic emissions were excluded from the inventories developed for Kentucky's redesignation requests and maintenance plans for the Cincinnati and Louisville Areas, in accordance with EPA Guidance (*Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations* (May 2017)). Kentucky's June 2, 2022, email is included in the docket for this proposed action.

[9] For sources that reported seasonal operations (primarily in Jefferson County), the seasonal operations data was used to calculate summer emissions, which were then divided by the 92 days in the summer months (June, July, and August) to derive tons per ozone season day/tons per summer day emissions. For the remaining sources, tons per summer day emissions were calculated by dividing annual emissions by four and then by the 92 days of summer. EPA has preliminarily determined that this is an appropriate method for determining summer day emissions, as the average summer operations from facilities reporting such information were determined to be approximately 24.6% to 26.3% (approximately 25%) of the annual emissions. Furthermore, for one of the largest contributors to these remaining emissions, the Louisville International Airport, this method of approximation is supported by data available on monthly flights indicating that flights in June, July, and August made up almost precisely one quarter of total annual flights (25.1%).

TABLE 1—2017 EMISSIONS FOR THE KENTUCKY PORTION OF THE CINCINNATI, OH-KY AREA

[Tons/summer day]

County	Point		Nonpoint		On-road		Non-road	
	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC
Boone	9.47	2.57	1.60	14.78	3.78	2.31	0.67	1.20
Campbell	0.32	0.41	1.08	6.46	1.78	1.08	0.34	0.37
Kenton	0.30	0.66	1.82	7.43	3.77	2.12	0.58	0.65

TABLE 2—2017 EMISSIONS FOR THE KENTUCKY PORTION OF THE LOUISVILLE, KY-IN AREA

[Tons/summer day]

County	Point		Nonpoint		On-road		Non-road	
	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC
Bullitt	0.85	9.33	0.84	18.13	3.49	1.19	0.26	0.42
Jefferson	34.81	21.56	6.66	41.57	20.97	7.85	4.32	4.02
Oldham	0.13	0.04	0.87	5.98	1.85	0.69	0.30	0.41

The emissions reported for the Cincinnati, OH-KY Area and for the Louisville, KY-IN Area reflect the emissions within the portions of Boone, Campbell, and Kenton Counties, and within Bullitt, Jefferson, and Oldham Counties, respectively, comprising the nonattainment areas. The inventory contains point source emissions data for facilities located within the Kentucky portions of the Areas. More detail on the emissions for individual source categories is provided below and in the appendices to Kentucky's December 22, 2021, submittal.

Point sources are large, stationary, identifiable sources of emissions that release pollutants into the atmosphere. NO_X and VOC emissions were calculated by using facility-specific emissions data reported to the 2017 NEI from sources that are required to submit inventory data according to the AERR. A detailed account of the point source emissions can be found in Appendix A of Kentucky's submittal.

Nonpoint sources are small stationary sources of emissions, which due to their large number, collectively have significant emissions (*e.g.,* dry cleaners, service stations). Emissions for these sources were obtained from the 2017 NEI. A detailed account of the nonpoint source emissions can be found in Appendix B of Kentucky's submittal.

On-road mobile sources include vehicles used on roads for transportation of passengers or freight. For both the Cincinnati, OH-KY Area and Louisville, KY-IN Area, on-road emissions inventories were developed using the latest version of EPA's Motor Vehicle Emissions Simulator (MOVES), MOVES3, for each ozone nonattainment county. County level on-road emissions modeling was conducted using county-specific vehicle populations and other local data. A detailed account of the on-road source emissions can be found on page 6, page 12, and in Appendix C of Kentucky's submittal.

Non-road mobile sources include vehicles, engines, and equipment used for construction, agriculture, recreation, and other purposes that do not use the roadways (*e.g.,* lawn mowers, construction equipment, railroad locomotives, and aircraft). Kentucky obtained emissions for the non-road mobile sources from the 2017 NEI. A detailed account of non-road mobile source emissions can be found in Appendix D of the December 22, 2021, submittal.

EPA has preliminarily determined that Kentucky's emissions inventories for the Cincinnati, OH-KY and the Louisville, KY-IN Areas meet the requirements under CAA section 182(a)(1) and the SIP Requirements Rule for the 2015 8-hour ozone NAAQS, as well as the requirements in 40 CFR part 51, subpart A.

IV. Proposed Action

EPA is proposing to approve the SIP revision submitted by Kentucky on December 22, 2021, addressing the base year emissions inventory requirements for the 2015 8-hour ozone NAAQS for the Cincinnati, OH-KY Area and Louisville, KY-IN Area. EPA proposes to find that the Commonwealth's submission meets the requirements of sections 110 and 182 of 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 they meet the criteria of the CAA. This proposed 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 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 (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).

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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: July 19, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

[FR Doc. 2022–15776 Filed 7–25–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2022–0397; FRL–10011–01–R4]

Air Plan Approval; South Carolina: New Source Review Updates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (hereinafter referred to as SC DHEC or South Carolina) via a letter dated February 3, 2022. The SIP revisions include updates to South Carolina's Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) regulations. Specifically, the updates incorporate recent changes to the federal New Source Review (NSR) regulations, consisting of a clarification to the Project Emissions Accounting provisions, updates promulgated in the recent NSR Corrections Rule, and updates to reflect the regulation of greenhouse gases (GHGs) pursuant to the Tailoring Rule. EPA is proposing to approve these revisions pursuant to the Clean Air Act (CAA or Act) and implementing federal regulations.

DATES: Comments must be received on or before August 25, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2022–0397 at *www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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 *www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Andres Febres, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8966. Mr. Febres can also be reached via electronic mail at *febres-martinez.andres@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The PSD program is a preconstruction permitting program that requires ''major'' stationary sources of air pollution to obtain a PSD permit prior to beginning construction in areas classified as either in attainment with the National Ambient Air Quality Standards (NAAQS) or unclassifiable. *See* CAA section 165. EPA requires PSD SIPs to meet or exceed the minimum requirements codified at 40 CFR 51.166.[1]

The NNSR permitting program is a preconstruction permitting program that requires ''major'' stationary sources of air pollution to obtain an NNSR permit prior to beginning construction in areas classified as being in nonattainment with the NAAQS. *See* CAA section 173. EPA requires NNSR SIPs to meet the minimum requirements codified at 40 CFR 51.165.

Over the years, EPA has updated its rules implementing NNSR and PSD permitting at 40 CFR 51.165 and 40 CFR 51.166, respectively, and as a result of these amendments, states and localities similarly are required to update their SIP-approved rules to ensure consistency with the minimum requirements in federal PSD and NNSR rules. Collectively, EPA commonly refers to its PSD and NNSR permitting programs as major ''new source review'' permitting programs.

On February 3, 2022, SC DHEC submitted SIP revisions to EPA for approval that include changes to South Carolina's major NSR permitting regulations to make them more closely align with federal requirements for PSD and NNSR permitting based on recent updates to the federal NSR regulations.[2] Specifically, these changes update South Carolina's Regulation 61–62.5, Standard No. 7—*Prevention of Significant Deterioration* and Standard No. 7.1—*Nonattainment New Source Review.*[3]

EPA last approved updates to South Carolina's SIP-approved major NSR regulations on October 28, 2021 by acting on an April 24, 2020 submittal from South Carolina. *See* 86 FR 59646. Since the time of South Carolina's previous April 24, 2020 submittal to revise its major NSR rules, EPA has updated the federal major NSR regulations to clarify the Project Emissions Accounting provisions and to correct certain errors in the NSR

[1] Related rules setting forth the federal PSD program for areas without an approved PSD permitting program are codified at 40 CFR 52.21.

[2] EPA notes that the February 3, 2022, submittal was received by EPA on February 4, 2022. For clarity, EPA will refer to this submittal based on the date of the letter.

[3] EPA notes that under the February 3, 2022, cover letter, SC DHEC also submitted updates to the following State Regulations: 61–62.60, *South Carolina Designated Facility Plan and New Source Performance Standards;* Regulation 61–62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories;* and Regulation 61–62.70, *Title V Operating Permit Program.* However, South Carolina explains in the February 3, 2022, cover letter that these regulations are not part of the SIP, and they are not being requested for approval by EPA into the South Carolina SIP at this time.