

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

[EPA-R01-OAR-2023-0186; FRL-12105-03-R1]

**Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Regional Haze State Implementation Plan for the Second Implementation Period; Extension of Comment Period****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The Environmental Protection Agency (EPA) is extending the comment period for a proposed rule that published July 19, 2024. The current comment period for the proposed rule was set to end on August 19, 2024. Due to a technical issue, some of the background materials for the proposed rule were not made available to [www.regulations.gov](https://www.regulations.gov) until July 24, 2024. The EPA is therefore extending the comment period for the proposed action to August 26, 2024.

**DATES:** The comment period for the proposed rule published on July 19, 2024, at 89 FR 58663 is extended. Comments must now be received on or before August 26, 2024.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R01-OAR-2023-0186 at <https://www.regulations.gov>, or via email to [rackauskas.eric@epa.gov](mailto:rackauskas.eric@epa.gov). For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia

submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests if possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

**FOR FURTHER INFORMATION CONTACT:** Eric Rackauskas, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 5-MI), Boston, MA 02109-3912, tel. (617) 918-1628, email [rackauskas.eric@epa.gov](mailto:rackauskas.eric@epa.gov).

**SUPPLEMENTARY INFORMATION:** On July 19, 2024, the EPA published the proposed rule “Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Regional Haze State Implementation Plan for the Second Implementation” in the **Federal Register** (89 FR 58663). The original deadline to submit comments was August 19, 2024. This action extends the comment period; written comments must now be received by August 26, 2024.

Dated: July 29, 2024.

**David Cash,***Regional Administrator, EPA Region 1.*

[FR Doc. 2024-17222 Filed 8-5-24; 8:45 am]

**BILLING CODE 6560-50-P****ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R08-OAR-2024-0225; FRL-12122-01-R8]

**Air Plan Approval and Conditional Approval; Colorado; Regulation Numbers 7 and 21 and RACT Requirements for the 2008 8-Hour Ozone Standard for the Denver Metro/ North Front Range Nonattainment Area****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve and conditionally approve portions of a State Implementation Plan (SIP) submission from the State of Colorado

dated May 3, 2024. The submission relates to Colorado Air Quality Control Commission (AQCC or Commission) Regulation Number 7 (Reg. 7) and Regulation Number 21 (Reg. 21), and addresses Colorado SIP obligations related to reasonably available control technology (RACT) requirements for sources in nonattainment areas for the 2008 ozone National Ambient Air Quality Standards (NAAQS). The EPA is taking this action pursuant to the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before September 5, 2024.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2024-0225, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from <https://www.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 <https://www2.epa.gov/dockets/commenting-epa-dockets>.

**Docket:** All documents in the docket are listed in the <https://www.regulations.gov> index. 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, will be publicly available only in hard copy. Publicly available docket materials are available electronically in <https://www.regulations.gov>. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

**FOR FURTHER INFORMATION CONTACT:** Abby Fulton, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street,

Denver, Colorado 80202-1129, telephone number: (303) 312-6563, email address: [fulton.abby@epa.gov](mailto:fulton.abby@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

#### I. What action is EPA proposing to take?

As explained below, EPA is proposing to approve and conditionally approve various Colorado SIP provisions with respect to the adequacy of reporting requirements that the State resubmitted on May 3, 2024. These provisions were part of SIP submittals originally submitted by Colorado on May 14, 2018; May 13, 2020; March 22, 2021; and May 20, 2022, to address RACT requirements for purposes of the 2008 ozone NAAQS. EPA previously finalized approvals, conditional approvals, limited approvals, limited disapprovals, and disapprovals of different portions of these submittals on May 9, 2023;<sup>1</sup> November 7, 2023;<sup>2</sup> and December 8, 2023.<sup>3</sup> As relevant to today’s proposal, EPA previously issued a limited approval/limited disapproval of certain SIP provisions, with the limited disapproval portion applicable to the adequacy of the reporting requirements associated with those provisions in the May 9, 2023 action.<sup>4</sup>

On May 3, 2024, the State of Colorado resubmitted portions of the prior SIP submissions that were the subject of the limited disapproval and also submitted a letter committing to undertake additional steps to improve public access to regulatory compliance information and clarify existing SIP reporting requirements (Commitment Letter).<sup>5</sup> Based on the additional information described in this letter, EPA is now proposing to approve Colorado’s Reg. 7 and Reg. 21 with respect to the adequacy of reporting requirements for storage tank emission controls, storage

tank and wet seal centrifugal compressor control device testing, consumer products, and architectural and industrial maintenance (AIM) coatings. EPA is basing its proposed approval on the additional information and clarification that the State provided concerning the existing reporting requirements that apply to them. Based on the additional information and commitments by the State to make additional revisions, EPA is also proposing to conditionally approve the adequacy of reporting requirements for metal parts and metal products coatings, wood products coatings, combustion equipment at major sources, and foam manufacturing. This proposed conditional approval is based on the State’s commitment to make further revisions to the reporting requirements for these specific rules, and to submit those revisions to EPA for approval into the SIP, to address the deficiencies identified in the May 9, 2023 rulemaking that were the basis for the limited disapproval.<sup>6</sup>

Under section 110(k)(4) of the CAA, the EPA may conditionally approve a SIP submission based on a commitment from a state to adopt specific enforceable measures by a date certain no later than one year from the date of approval of the plan revision.<sup>7</sup> If EPA finalizes the proposed conditional approval of the identified Reg. 7 rules, the State must meet its commitment to submit the necessary SIP revisions to EPA by May 31, 2025.<sup>8</sup> If the State fails to do so, this conditional approval action would automatically become a disapproval on that date. If the State submits timely SIP revisions but EPA finds the SIP submittal to be incomplete, this conditional approval action would become a disapproval on the date of EPA’s incompleteness finding. In either case, EPA would notify the State by letter that the conditional approval has converted to a disapproval. The EPA subsequently would publish a document in the **Federal Register** notifying the public that the conditional approval was converted to a disapproval. EPA notes that the provisions that we are proposing to conditionally approve are already part of the SIP due to our May 9, 2023 limited approval. Thus, in the

event the conditional approval is converted to a disapproval, the underlying SIP provisions that were the subject of the prior limited approval/limited disapproval would remain in the SIP, but the prior limited disapproval of those provisions with respect to the adequacy of reporting requirements would return.

If we finalize this rulemaking as proposed, Colorado will have corrected some of the deficiencies identified in our May 9, 2023 limited disapproval, and committed to correct the remaining deficiencies as described in its Commitment Letter. We are concurrently making an interim final determination to defer application of CAA section 179 sanctions associated with our May 9, 2023 limited disapproval. Consistent with applicable sanction regulations,<sup>9</sup> EPA will be making the interim final determination based on this proposal to approve and conditionally approve SIP revisions from Colorado to resolve the deficiencies that were the basis of our prior limited disapproval that triggered sanctions. If this conditional approval converts to a disapproval due to the State’s failure to meet its commitment, then the offset sanction under CAA section 179(b)(2) would apply in the affected area on the later of: (1) the date when the approval becomes a disapproval or EPA issues such a proposed or final disapproval, whichever is applicable; or (2) December 9, 2024 (*i.e.* 18 months from the finding that started the original sanctions clock).<sup>10</sup> Subsequently, the highway sanction under section 179(b)(1) would apply in the affected area six months after the date the offset sanction applies.<sup>11</sup>

The basis for our proposed action is discussed in this proposed rulemaking. Technical information that we are relying on, as well as the State’s Commitment Letter, are in the docket, available at <https://www.regulations.gov>, Docket ID No. EPA-R08-OAR-2024-0225.

#### II. Background

##### 2008 8-Hour Ozone NAAQS Nonattainment

On March 12, 2008, EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 parts per million (ppm) (based on the annual fourth-highest daily maximum 8-hour average concentration, averaged over 3

<sup>1</sup> Final rule, Air Plan Approval, Conditional Approval, Limited Approval and Limited Disapproval; Colorado; Serious Attainment Plan Elements and Related Revisions for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 88 FR 29827.

<sup>2</sup> Final rule, Air Plan Approval and Disapproval; Colorado; Serious Attainment Plan Elements and Related Revisions for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 88 FR 76676.

<sup>3</sup> Final rule, Air Plan Disapproval; Colorado; RACT Elements for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 88 FR 85511.

<sup>4</sup> 88 FR 29827.

<sup>5</sup> “Resubmittal of SIP revisions following Reconsideration. EPA Docket Nos.: EPA-R08-OAR-2022-0632; EPA-R08-OAR-2022-0857; and FRL-10362-02-R8” commitment letter. Available in the docket for this action.

<sup>6</sup> *Id.*

<sup>7</sup> The provisions that we are proposing to conditionally approve are already part of the SIP due to our May 9, 2023 limited approval and thus are federally enforceable by the State and EPA, notwithstanding concerns about the current reporting requirements that may limit potential enforceability by others under CAA section 304 citizen suit authority.

<sup>8</sup> See Commitment Letter, p. 13.

<sup>9</sup> 40 CFR 52.31(d)(2)(i).

<sup>10</sup> See *id.* In this case, the finding that started the original sanctions clock was the May 9, 2023 limited disapproval.

<sup>11</sup> See *id.*

years), to provide increased protection of public health and the environment.<sup>12</sup> The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997, but is set at a more protective level. Specifically, the 2008 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 concentrations is less than or equal to 0.075 ppm.<sup>13</sup> Effective July 20, 2012, EPA designated any area that was violating the 2008 8-hour ozone NAAQS based on the three most recent years (2008–2010) of air monitoring data as nonattainment.<sup>14</sup> In that action, EPA designated the Denver Metro/North Front Range (DMNFR) Area as nonattainment and classified the area as Marginal.<sup>15</sup> Ozone nonattainment areas are classified based on the severity of their ozone levels, as determined using the area's design value. The design value is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration at a monitoring site.<sup>16</sup> States with areas designated as nonattainment and classified as Marginal were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2015, based on 2012–2014 monitoring data.<sup>17</sup>

On May 4, 2016, EPA published its determination that the DMNFR Area, among other areas, had failed to attain the 2008 8-hour ozone NAAQS by the applicable Marginal area attainment deadline, and accordingly reclassified the area as Moderate.<sup>18</sup> Colorado submitted SIP revisions to the EPA on May 31, 2017, to meet the requirements for the Moderate classification in the DMNFR Area.<sup>19</sup> Among the

requirements for Moderate areas, states must submit SIP provisions to impose RACT level controls on relevant emission sources in the nonattainment area. EPA took final action approving the majority of the May 31, 2017 submittal on July 3, 2018, but deferred action on portions of the Reg. 7 rules submitted by the state to meet RACT requirements.<sup>20</sup> On February 24, 2021, EPA took final action approving additional measures as addressing Colorado's RACT obligations for Moderate nonattainment areas.<sup>21</sup> States with nonattainment areas classified as Moderate were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2018, based on 2015–2017 monitoring data.<sup>22</sup> On December 26, 2019, EPA published its determination that the DMNFR Area, among other areas, had failed to attain the 2008 8-hour ozone NAAQS by the applicable attainment deadline for Moderate areas, and accordingly reclassified the area as Serious.<sup>23</sup>

#### *EPA's May 9, 2023 Final Rule*

On May 9, 2023, EPA took final action approving portions of the 2008 8-hour ozone Serious area attainment plan for the DMNFR Area submitted by the State of Colorado on March 22, 2021, and portions of additional SIP submissions made by the State related to those requirements on May 8, 2019, May 13, 2020, March 22, 2021, May 18, 2021, and May 20, 2022.<sup>24</sup> The State made these SIP submissions to meet Serious ozone nonattainment plan requirements for the DMNFR Area, to address RACT requirements for certain source categories in the DMNFR Area, and to adopt volatile organic compounds (VOC) standards for consumer products and architectural and industrial maintenance coatings. In the May 9, 2023 action, EPA also finalized a limited approval and limited disapproval of parts of the SIP submissions made on May 14, 2018, May 13, 2020, March 22, 2021, May 18,

2021, and May 20, 2022, with respect to certain RACT categories,<sup>25</sup> and finalized a limited conditional approval and limited disapproval of specific provisions intended to meet RACT requirements.<sup>26</sup>

The limited disapproval portions of the May 9, 2023 final rule resulted from the Agency's determination that although the rules met RACT requirements with respect to stringency, they lacked adequate periodic reporting requirements as required under the CAA and EPA regulations. Section 110 of the CAA includes several subsections requiring that a state's SIP provisions be enforceable, and that states require reporting from sources. Under section 110(a)(2)(A), state SIPs must "include enforceable emission limitations and other control measures, means, or techniques \* \* \* as may be necessary or appropriate to meet the applicable requirements of this chapter." Further, section 110(a)(2)(C) requires SIPs to "include a program to provide for the enforcement of the measures described in subparagraph (A)."

Typically, a primary mechanism for ensuring that a SIP provision is legally and practicably enforceable is for a state to impose sufficient monitoring, recordkeeping, and reporting (MRR) requirements on affected sources. Section 110(a)(2)(F)(ii) speaks more explicitly to source reporting by requiring SIPs to "require periodic reports on the nature and amounts of emissions and emissions-related data," as may be prescribed by EPA. EPA has promulgated regulations implementing section 110(a)(2)(F) requirements at 40 CFR 51.211(a), which requires state SIPs to provide for periodic reports to the state on the nature and amount of emissions from stationary sources. EPA notes that reporting requirements serve multiple purposes, including promoting transparency, providing deterrence against violations, and supporting effective enforcement of SIP requirements. A lack of adequate reporting requirements can undermine citizens' ability to participate in the enforcement of the SIP as authorized and provided for in CAA section 304. As explained in our May 9, 2023 action, EPA concluded that the rules subject to the limited disapproval did not "include sufficient reporting requirements to ensure that citizens will be able to enforce the SIP requirements,

<sup>12</sup> Final rule, National Ambient Air Quality Standards for Ozone, 73 FR 16436 (March 27, 2008). The EPA has since further strengthened the ozone NAAQS, but the 2008 8-hour standard remains in effect. See Final Rule, National Ambient Air Quality Standards for Ozone, 80 FR 65292 (Oct. 26, 2015).

<sup>13</sup> 40 CFR 50.15(b).

<sup>14</sup> Final rule, Air Quality Designations for the 2008 Ozone National Ambient Air Quality Standards, 77 FR 30088 (May 21, 2012).

<sup>15</sup> *Id.* at 30110. The nonattainment area includes Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson Counties, and portions of Larimer and Weld Counties. See 40 CFR 81.306.

<sup>16</sup> 40 CFR part 50, appendix I.

<sup>17</sup> See 40 CFR 51.903.

<sup>18</sup> Final rule, Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Several Areas for the 2008 Ozone National Ambient Air Quality Standards, 81 FR 26697 (May 4, 2016).

<sup>19</sup> CAA section 182, 42 U.S.C. 7511a, outlines SIP requirements applicable to ozone nonattainment areas in each classification category. Areas classified Moderate under the 2008 8-hour ozone NAAQS had a submission deadline of January 1, 2017 for these SIP revisions (81 FR 26699).

<sup>20</sup> Final rule, Approval and Promulgation of State Implementation Plan Revisions; Colorado; Attainment Demonstration for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, and Approval of Related Revisions (83 FR 31068).

<sup>21</sup> Final rule, Approval and Promulgation of Implementation Plans; Colorado; Revisions to Regulation Number 7 and RACT Requirements for 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 86 FR 11125.

<sup>22</sup> See 40 CFR 51.903.

<sup>23</sup> Final rule, Finding of Failure to Attain and Reclassification of Denver Area for the 2008 Ozone National Ambient Air Quality Standard, 84 FR 70897 (Dec. 26, 2019); see 40 CFR 81.306.

<sup>24</sup> 88 FR 29827, table 1, 29829–29830 (May 9, 2023).

<sup>25</sup> *Id.* at 29830–29831, table 2 (listing portions subject to limited approval and limited disapproval), table 3 (RACT categories).

<sup>26</sup> *Id.* at 29830–29831, table 3. All other portions of the May 9, 2023 final rule were effective as of June 8, 2023, and remain in effect.

as is necessary under the CAA and EPA regulations.”<sup>27</sup>

On July 10, 2023, the State submitted a Petition for Reconsideration asking EPA to reconsider the limited disapproval portions of the May 9, 2023 final rule. EPA responded to the Petition for Reconsideration in a letter dated August 31, 2023, informing the State that EPA was granting the petition as to the limited disapproval portions of the May 9, 2023 final rule.<sup>28</sup> Since granting the petition for reconsideration, EPA has offered Colorado the opportunity to explain more fully how the State’s regulations provide for adequate reporting, to inform EPA of various actions taken by the Colorado Air Pollution Control Division (Division) to enhance access to public records and information, and to consider what changes to existing regulations would improve reporting requirements to address deficiencies. As a result of these discussions, Colorado has resubmitted Reg. 7 and Reg. 21 with additional explanations to support proposed approval of some provisions and a commitment to make changes to support proposed conditional approval of others.

### III. Summary of State’s SIP Submittals

In this action, we are evaluating Colorado’s May 3, 2024 SIP submittal intended to address reporting requirements in response to the May 9, 2023 limited disapproval. In this submittal, the State explained why some of the SIP provisions subject to the limited disapproval have adequate reporting requirements, and made a commitment to add reporting requirements for the other SIP provisions subject to the limited disapproval. The portions of the original SIP submittals that the State has resubmitted for EPA’s evaluation with respect to reporting requirements are described below.

#### May 14, 2018 Submittal

This submittal contained amendments to Reg. 7, sections XII. (Volatile Organic Compound Emissions from Oil and Gas Operations) and XVIII. (Natural Gas-Actuated Pneumatic Controllers Associated with Oil and Gas Operations) to implement RACT for oil and gas sources covered by the EPA’s 2016 Oil and Gas Control Techniques Guidelines (CTG).<sup>29</sup> We previously

acted on this SIP submittal,<sup>30</sup> which included finalizing a limited disapproval of Reg. 7, section XII.J.1., concerning centrifugal compressors.

#### May 13, 2020 Submittals

On May 13, 2020, the State made two SIP submittals. One of the submittals included a full reorganization of Reg. 7 into parts A–E, amended oil and gas storage tank requirements, updated RACT requirements for major sources of VOC and nitrogen oxides (NO<sub>x</sub>) in the DMNFR Area, updated requirements for gasoline transport truck testing and vapor control systems, and included typographical, grammatical, and formatting corrections throughout. We previously acted on this SIP submittal,<sup>31</sup> including finalizing a limited disapproval of Reg. 7, part D, sections I.D., I.E., and I.F. concerning storage tanks and section I.J.1. concerning centrifugal compressors.

The second submittal contained a new Reg. 21 to limit the VOC content in consumer products and in AIM coatings manufactured, distributed, or sold in the DMNFR Area. Specifically, this rule adopted VOC standards in the Ozone Transport Commission (OTC) AIM coatings model rule phase 2 (2014) and VOC standards in the OTC consumer products model rule phase 4 (2013). Reg. 21 included definitions, exemptions, labeling, and recordkeeping provisions based on the OTC model rules. We previously acted on this SIP submittal,<sup>32</sup> including a limited disapproval of Reg. 21, parts A and B.

#### March 22, 2021 Submittal

This submittal contained the State’s Serious ozone attainment plan and revisions to Reg. 7 to include RACT requirements in Colorado’s ozone SIP for major sources that emit 50 tons per year (tpy) or more of VOC and/or NO<sub>x</sub>. The Reg. 7 revisions included expanding categorical requirements to reduce VOC emissions related to wood surface coatings in part C, section I.O.; adding NO<sub>x</sub> emission limits for turbines, boilers, and landfill or biogas engines in part E, section II.; and adding categorical requirements to reduce VOC emissions related to foam manufacturing in part E, section V. The State also made non-substantive typographical, grammatical, and

formatting corrections to Reg. 7. We previously acted on this SIP submittal,<sup>33</sup> including a limited approval/limited disapproval of Reg. 7, part C, section I.O. concerning wood products coatings and part E, sections II.A. and V. concerning RACT rules for combustion equipment and foam manufacturing. The limited disapproval was only with respect to the adequacy of source reporting requirements.

#### May 20, 2022 Submittals

One of the State’s May 20, 2022 submittals contained amendments to Reg. 7 that establish categorical RACT requirements for major sources of NO<sub>x</sub> and sources covered by the miscellaneous metal parts coatings CTG in the DMNFR Area. Specifically, on July 16, 2021, the AQCC adopted RACT requirements in part C, section I. for miscellaneous metal parts coatings and part E, section II. RACT requirements for process heaters at major sources of NO<sub>x</sub> emissions. The State also made non-substantive typographical, grammatical, and formatting corrections to Reg. 7.

The other May 20, 2022 submittal contained revisions concerning RACT requirements for oil and gas sources. Specifically, on December 17, 2021, the AQCC adopted revisions to Reg. 7, part D, section I. for performance or manufacturer testing for combustion equipment used to control emissions from storage vessels and wet seal centrifugal compressors.

We previously acted on these May 20, 2022 SIP submittals,<sup>34</sup> including a limited approval/limited disapproval of Reg. 7, part C, section I.L. pertaining to metal parts and product coatings; part D, sections I.E. and I.J. pertaining to inspections of and performance testing for storage tanks and centrifugal compressors; and part E, section II. pertaining to combustion equipment rules. The limited disapproval was only with respect to the adequacy of source reporting requirements.

### IV. Procedural Requirements

The CAA requires that states meet certain procedural requirements before submitting a SIP submittal to the EPA, including the requirement that states adopt SIP revisions after reasonable notice and public hearing.<sup>35</sup> In our November 9, 2022 proposed and May 9, 2023 final actions, we determined that Colorado had satisfied this requirement with respect to the SIP provisions that

<sup>30</sup> Final rule, Approval and Promulgation of Implementation Plans; Colorado; Revisions to Regulation Number 7; Aerospace, Oil and Gas, and Other RACT Requirements for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 86 FR 61071 (Nov. 5, 2021) and 88 FR 29827 (May 9, 2023).

<sup>31</sup> 86 FR 61071 (Nov. 5, 2021) and 88 FR 29827 (May 9, 2023).

<sup>32</sup> 88 FR 29827 (May 9, 2023).

<sup>33</sup> 88 FR 29827 (May 9, 2023), 88 FR 76676 (Nov. 7, 2023), and 88 FR 85511 (Dec. 8, 2023).

<sup>34</sup> 88 FR 29827 (May 9, 2023) and 88 FR 76676 (Nov. 7, 2023).

<sup>35</sup> CAA section 110(a)(2), 42 U.S.C. 7410(a)(2).

<sup>27</sup> 88 FR at 29828.

<sup>28</sup> See letter from EPA Regional Administrator KC Becker to Colorado Attorney General Phil Weiser (Aug. 31, 2023), in the docket for this action.

<sup>29</sup> Control Techniques Guidelines for the Oil and Natural Gas Industry, EPA–453/B–16–001 (Oct. 2016).

the State has resubmitted again for consideration here. For additional background, see the November 9, 2022 proposed and May 9, 2023 final rules. We had previously acted on the State's May 14, 2018; May 13, 2020; March 22, 2021; and May 20, 2022 submittals, but in this action, EPA is evaluating Colorado's May 3, 2024 SIP submittal intended to address reporting requirements in response to the May 9, 2023 limited disapproval. In this submission, the State has resubmitted the SIP provisions described above, explained why it has adequate reporting requirements for some of those SIP provisions, and made a commitment to add reporting requirements for the other SIP provisions.

#### **V. EPA's Evaluation of SIP Control Measures in Light of New Information Submitted to EPA by the State of Colorado in the Commitment Letter**

In this proposed action, we are evaluating Colorado's May 3, 2024 SIP submittal, which was intended to address reporting requirements in response to the May 9, 2023 limited disapproval, for the limited purpose of considering whether the submitted SIP provisions include reporting requirements that are adequate to comply with relevant requirements of CAA section 110 (as outlined in section II. of this document) and EPA regulations at 40 CFR 51.211(a). This consideration includes assessing whether the reporting requirements are sufficient to make the submitted SIP provisions legally and practicably enforceable by citizens.

Our proposed approval and conditional approval of the respective SIP provisions in today's action does not otherwise alter our previous determination that these rules implement RACT with respect to the sources covered by the rules, but for the specified deficiencies in reporting requirements identified in the limited disapproval. We are taking comment on today's proposal for 30 days. Any comments on this proposal should address only our proposed approval and conditional approval with respect to reporting requirements.

In the May 9, 2023 limited disapproval, we noted that the provisions at issue only required facilities to provide records to the state upon request of the state. In other words, these rules did not require sources to make any other periodic report related to compliance with the applicable provisions. We determined that this is inconsistent with CAA and regulatory requirements and undermines citizen enforceability of the

specified rules. To address EPA's limited disapproval with respect to the absence of periodic reporting requirements, Colorado submitted a commitment letter to EPA on May 3, 2024. The Commitment Letter describes the process the State undertook to identify existing adequate reporting requirements for some of the SIP provisions subject to the limited disapproval, as well as a commitment to add adequate reporting provisions to the other SIP provisions subject to the limited disapproval. In this action, we are proposing to determine that the State has provided adequate information and made the requisite commitments to make further changes to its rules that would ensure compliance with the relevant CAA provisions under section 110 and EPA regulations, and to allow for citizen enforceability of these rules under CAA section 304, so long as the State fulfills its commitments as described in the Commitment Letter.

In evaluating what additional revisions might be appropriate to address EPA's limited disapproval, Colorado focused on three concepts to ensure public access to information necessary to evaluate compliance with SIP emission limitations: (1) the frequency of reporting; (2) the content of the information reported; and (3) public access to the reported information. More specifically, Colorado focused on three questions: (1) does the SIP require sources to report information necessary to evaluate compliance on a periodic basis?; (2) is the content of the information reported sufficient for a member of the public to evaluate whether the source is in compliance with applicable SIP emission limits?; and (3) can a member of the public access the requisite reported information? In general, EPA agrees with Colorado's approach of considering the three concepts of frequency, content, and public access to the information, as a useful approach to assess reporting requirements, based on the facts and circumstances related to a given SIP provision, such as the affected sources, form of the emission limitation, and other relevant considerations. Based upon EPA's evaluation of Colorado's May 3, 2024 SIP submission, which includes additional information submitted by the State and Colorado's commitment to revise certain rules, we are now proposing to approve some of the SIP provisions and to conditionally approve the other SIP provisions that were previously subject to the limited disapproval, as described below.

#### *Metal Parts and Metal Product Rules, Reg. 7, Part C., Section I.L.*

Reg. 7, part C, section I. contains rules for surface coating operations.<sup>36</sup> Section I.L. includes metal parts and metal products rules and applies to major and minor sources of VOC in the DMNFR Area. The rules require sources to use products that comply with VOC content limits listed in tables 1 and 2 of the regulation. The recordkeeping provisions in Reg. 7, part C., section I.L.5. currently require applicable records to be maintained for five years and made available to the Division upon request.

In its May 3, 2024 letter, the State clarifies that at least every five years, sources subject to metal parts and product rules must submit Air Pollution Emission Notices (APENs) that include records of the products used by the source. SIP-approved Reg. 3, part A, section II. requires that APENs specify the nature of the facility, process, or activity, and include an estimate of the annual actual emissions, including emission controls.<sup>37</sup> APENs are required for sources in a nonattainment area with uncontrolled actual emissions of criteria pollutants (including the ozone precursors VOC and NO<sub>x</sub>) of one ton per year or more, and an affected source must submit them at least once every five years. Revised APENs must also be submitted by sources when various conditions occur, including when a significant change in annual actual emissions occurs, when new control equipment is installed, and when a permit limitation must be modified. Sources subject to section I.L.5. are required to list their most commonly used products on their APENs with enough specificity to enable the public to find the VOC content of those products. APENs are publicly available through the Division's Public Records Portal.<sup>38</sup>

In its Commitment Letter, Colorado also expresses concerns about EPA's statement regarding a potential director's discretion issue related to the APEN program in our response to comments in the May 9, 2023 final action.<sup>39</sup> In this document, we clarify

<sup>36</sup> Reg. 7, part C SIP-approved rules can be found at <https://www.epa.gov/air-quality-implementation-plans/epa-approved-statutes-and-regulations-colorado-sip>.

<sup>37</sup> SIP approved Reg. 3 APEN requirements can be found at <https://www.epa.gov/air-quality-implementation-plans/epa-approved-statutes-and-regulations-colorado-sip>.

<sup>38</sup> See <https://oitco.hylandcloud.com/CDPHERMPublicAccess/index.html>.

<sup>39</sup> See EPA, *Response to Comments for the Federal Register Notice on Air Plan Approval; Colorado; Serious Attainment Plan Elements and*

that the statement was intended to explain why we did not view the APEN program as sufficient by itself to provide adequate reporting requirements for the relevant rules subject to the limited disapproval. We did not intend to suggest that the APEN program itself creates a problematic director's discretion issue, or that the information required to be submitted through APENs in SIP-approved Reg. 3 is itself problematic. Rather, EPA intended the statement to be specific to the point addressed in that response to comments, and to whether the APEN program could sufficiently address the periodic reporting requirement deficiencies identified in the relevant regulations that resulted in the limited disapproval.

In its Commitment Letter, Colorado provided additional information about the APEN program, and has committed to incorporate additional reporting requirements for the metal parts and metal products source category. In particular, because the APEN list of products used by a source might not be entirely comprehensive and a change in products used might not trigger the submittal of a revised APEN under Reg. 3 (and which therefore might result in the APEN not being updated until the 5-year expiration of the previous notice), Colorado has committed to SIP revisions that will require sources to report information necessary to evaluate compliance on a periodic basis through, at a minimum, annual reports.<sup>40</sup> The content of the information reported through the semi-annual or annual reports will include information on VOC content limits of products used such that the public can access the information necessary to evaluate compliance with the applicable SIP emission limits in section I.L. A member of the public will be able to access the requisite reported information through the Division's Public Records Portal.<sup>41</sup> Accordingly, we are proposing to find that the revisions to which the State has committed would address the deficiencies identified in our May 9, 2023 limited disapproval, and we propose to conditionally approve Reg. 7, part C, section I.L.

*Wood Products Coating Rules, Reg. 7, Part C., Section I.O.*

Reg. 7, part C., section I.O. includes wood products coating rules applicable

to major stationary sources of VOC emissions in the DMNFR Area.<sup>42</sup> The rules require sources to use products that comply with VOC content limits in section I.O.3. The recordkeeping provisions in section I.O.5. require applicable records to be maintained for five years and to be made available to the Division upon request.

In its Commitment Letter, the State clarifies that sources subject to wood products coating rules are subject to requirements for mandatory periodic reporting of certain information under state law for APEN filing requirements and under federal law for Title V reporting, such as deviations from emission limits. Sources must also submit an APEN to the State at least every five years, reporting the products used, among other things. These APENs are publicly available through the Division's Public Records Portal. Nonetheless, to help ensure that the public will be able to sufficiently evaluate whether sources are using products compliant with the VOC content limit in section I.O.3., and to ensure that the information is reasonably current (*i.e.*, updated more frequently than every 5 years), Colorado has committed to SIP revisions that will require sources to report information necessary to evaluate compliance on a periodic basis through, at a minimum, semi-annual reports.<sup>43</sup> The content of the information reported through the semi-annual reports will include information on VOC content limits of products used such that the public can access the information necessary to evaluate compliance with the applicable SIP emission limits in section I.O. A member of the public will be able to access the requisite reported information through the Division's Public Records Portal. Accordingly, we are proposing to find that the revisions to which the State has committed would address the deficiencies identified in our May 9, 2023 limited disapproval, and we propose to conditionally approve Reg. 7, part C., section I.O.

*Combustion Equipment Rules, Reg. 7, Part E, Section II*

Reg. 7, part E, section II. includes regulations for combustion equipment located at major sources of NO<sub>x</sub> emissions in the DMNFR Area.<sup>44</sup> These

rules require sources to comply with NO<sub>x</sub> emission limits and combustion tuning requirements. The recordkeeping provisions in SIP-approved Reg. 7, part E, section II.A.7. require that affected sources keep records for a period of five years and make them available to the Division upon request. Additionally, as the State clarifies in the Commitment Letter, most of the subject combustion equipment is also subject to either continuous emissions monitoring or performance testing requirements, with corresponding reporting of excess emissions and performance testing. For example, the State explains that SIP-approved section II.A.8. requires sources that demonstrate compliance with emission limits in section II.A.4. using continuous emissions monitoring systems (CEMS) or continuous emissions rate monitoring systems (CERMS) to submit quarterly or semi-annual excess emissions reports to the Division. For units demonstrating compliance with section II.A.4 using performance testing, the State explains that sources must submit performance test reports to the Division within 60 days after completion of the performance test program. Under state law and the CAA Title V permitting program, the State further explains that sources are also subject to requirements for periodic reporting of certain information, such as deviations from emissions limitations. This information is publicly available through the Division's Public Records Portal. These specific reporting provisions were not the subject of the EPA limited disapproval. That limited disapproval applied to sources covered by the rule that are subject to combustion process adjustment requirements but did not have associated CEMS/CERMS or performance testing requirements.

To help ensure that members of the public will be able to evaluate compliance with the applicable emissions limitations, particularly with respect to sources not also subject to CEMS/CERMS or performance testing requirements, the State has committed to SIP revisions that will require sources to submit periodic reports containing information necessary to evaluate compliance.<sup>45</sup> The content of the information reported will include information with respect to sources not also subject to continuous monitoring or performance testing such that the public can access the information necessary to evaluate compliance with all of the applicable SIP emission limitations in Reg. 7, part E, section II. A member of the public will be able to access the

*Related Revisions for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area* (Apr. 25, 2023) ("Response to Comments"), at 48.

<sup>40</sup> Commitment Letter, p. 5.

<sup>41</sup> Colorado's Commitment Letter also lists other ways the public has access to reporting information. Colorado May 3, 2024 letter to EPA, p. 2-3.

<sup>42</sup> Reg. 7, part C SIP approved rules can be found at <https://www.epa.gov/air-quality-implementation-plans/epa-approved-statutes-and-regulations-colorado-sip>.

<sup>43</sup> Commitment Letter, p. 5.

<sup>44</sup> Reg. 7, part E SIP approved rules can be found at <https://www.epa.gov/air-quality-implementation-plans/epa-approved-statutes-and-regulations-colorado-sip>.

<sup>45</sup> Commitment Letter, p. 2-3.

requisite reported information through the Division's Public Records Portal. Accordingly, we are proposing to find that the revisions to which the State has committed would address the deficiencies identified in our May 9, 2023 limited disapproval, and we propose to conditionally approve Reg. 7, part E, section II.

*Foam Manufacturing Rules, Reg. 7, Part E, Section V*

Reg. 7, part E., section V. includes regulations for foam manufacturing operations located at major sources of VOC emissions in the DMNFR Area.<sup>46</sup> The rules require sources to comply with VOC emission limits in section V.A.4. The recordkeeping provisions in section V.A.7. require that affected sources keep records for a period of five years and make them available to the Division upon request.

The State's Commitment Letter clarifies that these sources are also subject to periodic reporting of certain information, including deviations from emissions limits such as pounds of VOC per material used, under the CAA federal Title V permitting program and state law. Colorado also explains that as to performance tests on emission control equipment that are required in Reg. 7, part E, section V.A.6., subject sources must submit test reports to the Division within 30 days of the performance tests, per SIP-approved requirements in the Common Provisions,<sup>47</sup> and that these reports are publicly available through the Division's Public Records Portal.

To help ensure that members of the public will be able to sufficiently evaluate source compliance with applicable emission limits, the SIP revisions that Colorado has committed to make as described in the Commitment Letter will require sources to report information necessary to evaluate compliance on a periodic basis through semi-annual reports.<sup>48</sup> The content of the information reported through the semi-annual reports will include information on a pounds of VOC per material used basis such that

the public can access the information necessary to evaluate compliance with the applicable SIP emission limits in section V. A member of the public will be able to access the requisite reported information through the Division's Public Records Portal.<sup>49</sup> Accordingly, we are proposing to find that the revisions to which the State has committed would address the deficiencies identified in our May 9, 2023 limited disapproval, and we propose to conditionally approve Reg. 7, part E., section V.

*Inspections of and Performance Testing for Storage Tanks and Centrifugal Compressors, Reg. 7, Part D, Sections I.E. and I.J.*<sup>50</sup>

Reg. 7, part D., sections I.E. and I.J. include regulations for inspections and performance testing for storage tanks and centrifugal compressors located at major and minor VOC oil and gas exploration and production operations, natural gas compressor stations, and natural gas drip stations in the DMNFR Area.<sup>51</sup> The rules require sources to comply with SIP emission limitations, including combustion efficiency requirements for storage tank controls in I.D.3.a.(i) and performance testing requirements for enclosed combustion devices in sections I.E.3. and I.J.1.h.

The State's Commitment Letter explains how members of the public can obtain information on a periodic basis with the relevant content to evaluate compliance with storage tank emission limitations and any enclosed combustion device testing for the specified tanks or compressors. The State explains that owners or operators of storage tanks must conduct weekly inspections and submit an annual report to the Division with information in section I.F.3.c. to demonstrate compliance with the 95% VOC emission control strategy.<sup>52</sup> The State further explains that this reporting must include a list of all storage tanks controlled pursuant to this rule, the monthly VOC emissions and emission factor, and the control efficiency for air pollution control equipment for each storage tank. Sources must also submit APENs at least every five years for storage tanks with uncontrolled actual VOC emissions equal to or greater than one ton per year. In the APENs, owners

or operators report, among other information, actual annual emissions and control device efficiency. These annual reports and APENs are available to the public in the Division's Public Records Portal.

In the Commitment Letter, Colorado also explains that section I.E.3.a. requires owners or operators of storage vessels with the potential for VOC emissions equal to or greater than six tons per year to conduct performance testing of the control device used to reduce emissions at least every five years. Section I.J.1.h. requires that combustion devices used to reduce VOC emissions from wet seal fluid degassing systems on wet seal centrifugal compressors be tested at least every five years.<sup>53</sup> For storage vessels and wet seal centrifugal compressors subject to sections I.E.3.a. and I.J.1.h., the State explains that the federal testing requirements in 40 CFR 60.5413a that Colorado has incorporated by reference into its SIP include periodic reporting requirements.<sup>54</sup> Colorado further explains that these testing requirements include performance testing of control devices used to reduce VOC emissions from storage vessels and wet seal fluid degassing systems on wet seal centrifugal compressors.

Colorado also explains that the provisions in EPA's New Source Performance Standards (NSPS) OOOOa, incorporated into the SIP and applicable to any existing or new storage vessel or wet seal centrifugal compressor subject to the rule, requires owners or operators to submit performance test reports on a periodic basis. Accordingly, based on the additional information and clarification provided by the State in the Commitment Letter that NSPS OOOOa provisions for submitting performance test reports to EPA on a periodic basis have been incorporated into the SIP and that a member of the public will be able to access the requisite reported information through EPA,<sup>55</sup> we are now proposing to approve the provisions in sections I.E. and I.J. with respect to the adequacy of reporting requirements.

<sup>46</sup> Reg. 7, part E SIP approved rules can be found at <https://www.epa.gov/air-quality-implementation-plans/epa-approved-statutes-and-regulations-colorado-sip>.

<sup>47</sup> See section II.C.1. SIP-approved Common Provisions can be found at <https://www.epa.gov/air-quality-implementation-plans/epa-approved-statutes-and-regulations-colorado-sip>. See also May 15, 2024 email from Leah Martland, Colorado Air Pollution Control Division, to Abby Fulton, EPA, "Request On Commitment Letter to EPA" verifying the SIP-approved citation and explanation that the thirty day time period is specified in the Division's Compliance Test Manual (see page 9), which is available at <https://cdphe.colorado.gov/compliance-and-enforcement>.

<sup>48</sup> Commitment Letter, p. 7.

<sup>49</sup> See p. 2–3 of the Commitment Letter for a description of ways the public can access records and information.

<sup>50</sup> Previously Reg. 7, sections XII.E. and XII.J.

<sup>51</sup> Reg. 7, part D SIP approved rules can be found at <https://www.epa.gov/air-quality-implementation-plans/epa-approved-statutes-and-regulations-colorado-sip>.

<sup>52</sup> Reg. 7, part D., section I.F.3.a.

<sup>53</sup> The applicability threshold for performance testing of control devices for storage vessels and wet seal centrifugal in sections I.E.3.a. and I.J.1.h. is the same for control devices subject to NSPS OOOOa performance testing.

<sup>54</sup> See initial performance test reporting requirements in § 60.5413a(b)(5)(i)–(ii), reporting requirements of periodic performance tests in §§ 60.5420a(b)(9) and 60.5413a(d)(12), and reporting requirements for control devices tested by the manufacturer in §§ 60.5420a(b)(10) and 60.5413a(e)–(e)(1).

<sup>55</sup> Performance test information submitted through EPA's Central Data Exchange (<https://cdx.epa.gov/>) is available to the public. See 40 CFR 60.5420a(b)(9).

*Consumer Products and Architectural and Industrial Maintenance (AIM) Coatings Rules, Reg. 21, Parts A and B*

Reg. 21, parts A and B include regulations for consumer products and AIM coatings.<sup>56</sup> The rules apply to any person who sells, supplies, offers for sale, distributes for sale, or manufactures for sale consumer products in Colorado. Reg. 21 also applies to any person who supplies, sells, offers for sale, or manufactures any AIM coating in Colorado and any person who applies or solicits the application of any AIM coating in Colorado. While these requirements apply statewide in Colorado, for purposes of federal applicability in Colorado's SIP, these requirements are only included in the SIP for sources in Colorado's ozone nonattainment area. The rules require affected entities to comply with the VOC content limits for consumer products in part A, table 1 and AIM coatings in part B, table 1. Container labeling requirements for consumer products are in part A, section III., and provide, among other things, that labels must include the date the product was manufactured or a date code representing the date of manufacture. Container labeling requirements for AIM coatings are in part B, section III., and provide, among other things, that labels must include the date the coating was manufactured or a date code representing the date of manufacture, and the applicable emission limitation (e.g., VOC content in grams per liter of coating).

In the State's Commitment Letter, Colorado explains how members of the public can obtain information to assess compliance with the VOC content limits through existing publicly available means.<sup>57</sup> Colorado has provided additional explanation about how already available information such as product labels, manufacturer websites, safety data sheets, and product testing give the public a way to evaluate a consumer product or AIM coating's compliance with emission limits in Reg. 21. Based on the availability of this information, the State has indicated why additional reporting requirements for the State's version of the AIM rule, unlike the federally applicable AIM rule, would not require any additional periodic source reporting requirements to make it enforceable. For these reasons, EPA proposes to agree that no additional reporting is needed with

respect to this SIP provision. Accordingly, after considering all the information provided in the Commitment Letter, EPA is now proposing to approve the Reg. 21 provisions with respect to the adequacy of reporting.

#### **VI. Proposed Action**

For the reasons explained above, EPA proposes to conditionally approve revisions to metal parts and metal products coatings rules in Reg. 7, part C, section I.L.; wood products coatings rules in Reg. 7, part C, section I.O.; rules for combustion equipment at major sources in Reg. 7, part E, section II.; and rules for foam manufacturing operations in Reg. 7, part E, section V. as described in the State's Commitment Letter. We also propose to fully approve storage tank emission control and storage tank and wet seal centrifugal compressor control device testing requirements for oil and gas exploration and production operations, natural gas compressor stations, and natural gas drip stations in the DMNFR Area in Reg. 7, part D., sections I.E. and I.J., and consumer products and AIM coatings rules in Reg. 21, which were previously subject to our May 9, 2023 limited disapproval based on the additional information that the State has provided.

#### **VII. Consideration of Section 110(I) of the CAA**

Under section 110(I) of the CAA, the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress toward attainment of the NAAQS, or any other applicable requirement of the Act. In addition, section 110(I) requires that each revision to an implementation plan submitted by a state be adopted by the state after reasonable notice and public hearing. The Colorado SIP provisions that the EPA is proposing to approve and to conditionally approve in this action do not interfere with any applicable requirements of the Act. In the case of those for which EPA is proposing approval, the State has provided additional information and explanation concerning how the existing provisions require reporting sufficient to meet CAA requirements. In the case of those for which EPA is proposing conditional approval, the State is committing to adopt and submit additional reporting obligations on sources that EPA anticipates will meet CAA requirements. Thus, EPA is proposing to find that the approval and conditional approval of the State's May 3, 2024 SIP submission is consistent with section

110(I). Colorado's submittals provide adequate evidence that the provisions were adopted after reasonable public notice and hearings. Therefore, EPA proposes to determine the CAA section 110(I) requirements are satisfied.

#### **VIII. Environmental Justice Considerations**

As discussed in our May 9, 2023 final rule, the EPA reviewed demographic data, which provides an assessment of individual demographic groups of populations living within the DMNFR Area. The EPA then compared the data to the national averages for each of the demographic groups. The results of this analysis are being provided for informational and transparency purposes. The results of the demographic analysis indicate that for populations within the DMNFR Area, there are census block groups in which the percentage of people of color (persons who reported their race as a category other than White alone and/or Hispanic or Latino) is greater than the national average of 39%, with some census block groups ranking above the 80th percentile.<sup>58</sup> There are also census block groups within the DMNFR Area where the percentage of low-income population is above the national average of 33% with some census block groups ranking above the 80th percentile.<sup>59</sup>

This proposed action is intended to ensure that certain Colorado regulations have adequate reporting requirements or other mechanisms to make them legally and practicably enforceable, in accordance with the citizen suit provision of CAA section 304. We expect that this action will generally be neutral or (combined with the anticipated final action) contribute to reduced environmental and health impacts on all populations in the DMNFR Area, including people of color and low-income populations. At a minimum, we expect that this action will not worsen any existing air quality. Further, there is no information in the record indicating that this action is expected to have disproportionately high or adverse human health or environmental effects on a particular group of people.

#### **IX. 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).

<sup>58</sup> See "EJSCREEN Maps" pdf, available within the docket.

<sup>59</sup> *Id.*

<sup>56</sup> Reg. 21 SIP approved rules can be found at <https://www.epa.gov/air-quality-implementation-plans/epa-approved-statutes-and-regulations-colorado-sip>.

<sup>57</sup> Commitment Letter, p. 11.



Thus, in reviewing SIP submissions, the 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 (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.

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. 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).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address

"disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as "the fair

treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies." The AQCC did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA performed an environmental justice analysis, as is described above in the section titled, "Environmental Justice Considerations." The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. In addition, there is no information in the record upon which this decision is based inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, 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 29, 2024.

**KC Becker,**

*Regional Administrator, Region 8.*

[FR Doc. 2024-17091 Filed 8-5-24; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-HQ-OAR-2021-0663; EPA-R07-OAR-2021-0851; FRL-11688-01-R7]

### Air Plan Disapproval; Missouri; Interstate Transport of Air Pollution for the 2015 8-Hour Ozone National Ambient Air Quality Standards

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA or the Agency) is proposing to disapprove a State Implementation Plan (SIP) revision submitted by Missouri (the State) on November 1, 2022 regarding interstate transport for the 2015 8-hour ozone national ambient air quality standards (NAAQS). The "good neighbor" or "interstate transport" provision requires that each State's SIP contain adequate provisions to prohibit emissions from within the State from significantly contributing to nonattainment or interfering with maintenance of the NAAQS in other States. This requirement is part of the broader set of "infrastructure" requirements 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. Missouri previously submitted a SIP revision regarding ozone transport for the 2015 8-hour ozone NAAQS (2015 ozone NAAQS) on June 10, 2019, which the EPA previously disapproved. Missouri submitted a second SIP submission, reanalyzing its good neighbor obligations and making revisions to its SIP, on November 1, 2022. In this document, the EPA proposes to disapprove the November 1, 2022, submission as inadequate to address Missouri's obligations. This disapproval, if finalized, will establish a 2-year deadline for the EPA to promulgate a Federal Implementation Plan (FIP) to address the relevant interstate transport requirements, unless the EPA approves a subsequent SIP submission that meets these requirements. Disapproval does not start a mandatory sanctions clock.

**DATES:** Written comments must be received on or before September 20, 2024. *Virtual public hearing:* The EPA will hold a virtual public hearing on August 21, 2024. The last day to pre-register to speak at the hearing will be August 19, 2024. On August 20, 2024,