

(B) Road #2/95 Spur near Hite, also known as Dirty Devil Spur (approximately 1.14 miles).

(C) Cove Canyon Spur Road near Hite (approximately 0.65 miles).

(D) Flint Trail Spur Road near Hite, also known as Waterhole Flat Spur #1 Road and Dark Canyon Overlook Road (approximately 0.72 miles).

(E) Ticaboo Mesa Road near Bullfrog (approximately 1.45 miles).

(F) Muley Point Road (approximately 1.26 miles).

(G) Johns Canyon Road near Muley Point (approximately 7.49 miles).

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(6) * * *

(i) * * *

(ii) The superintendent will provide public notice of all such actions through one or more of the methods listed in § 1.7 of this chapter, and through publication on the recreation area website.

* * * * *

Shannon A. Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2024-0186; FRL-12250-01-R4]

Air Plan Approval; Mississippi; PSD and Air Quality Modeling Infrastructure Requirements for the 2015 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) submission provided by the State of Mississippi, through the Mississippi Department of Environmental Quality (MDEQ), via a letter dated February 28, 2024. Specifically, EPA is proposing to approve updates to the incorporation by reference of Federal prevention of significant deterioration (PSD) rules in the Mississippi SIP. EPA is also proposing to convert the previous conditional approval of Mississippi's infrastructure SIP PSD and air quality modeling provisions for the 2015 Ozone National Ambient Air Quality Standards (NAAQS) to a full approval. EPA is also proposing changes to public notice

provisions for PSD permitting to provide for electronic notice (e-notice) and to remove the mandatory requirement to provide public notice in a newspaper, and other minor changes to the PSD rules. EPA is proposing to approve these changes pursuant to the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before October 16, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2024-0186 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 <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Josue Ortiz Borrero, 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) 562-8085. Mr. Ortiz Borrero can also be reached via electronic mail at ortizborrero.josue@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Overview

Mississippi's February 28, 2024, SIP submission seeks to revise the State's new source review (NSR) permitting regulations at 11 Mississippi Administrative Code (MAC), Part 2, Chapter 2, *Permit Regulations for the Construction and/or Operation of Air Emissions Equipment* (Chapter 2) and PSD permitting regulations at 11 MAC, Part 2, Chapter 5, *Regulations for the Prevention of Significant Deterioration of Air Quality* (Chapter 5) to adopt relevant Federal permitting regulations into the SIP. The PSD permitting

changes at Chapter 5, amend MDEQ's incorporate by reference (IBR) date of the Federal PSD regulations at 40 CFR 51.166(f) and 40 CFR 52.21 to December 27, 2023. Mississippi's December 27, 2023, IBR date adopts into the SIP at Chapter 5, changes to 40 CFR 52.21 that EPA promulgated in several rulemakings since the Mississippi's last IBR update of February 17, 2016. The changes at Chapter 2 amend NSR general permitting requirements. EPA is also proposing to convert EPA's March 1, 2023, conditional approval of PSD and air quality modeling provisions at section 110(a)(2)(C), (D)(i)(II) (prong 3), (J), and (K), for Mississippi's infrastructure SIP for the 2015 ozone NAAQS to a full approval based on the revisions to Chapter 2 and Chapter 5. Lastly, the February 28, 2024, SIP submission proposes to revise the SIP-approved PSD regulations at Chapter 5 to adopt public participation revisions consistent with EPA's October 5, 2016, rule "Revisions to Public Notice Provisions in Clean Air Act Permitting Programs" Final Rule.¹

EPA's proposed rule briefly summarizes the framework of the PSD permitting program, how the program is implemented in Mississippi, and what Federal changes MDEQ is requesting EPA to IBR into its SIP. EPA is proposing to approve Mississippi's February 28, 2024, PSD revisions to Chapters 2 and 5 because they are consistent with EPA's Federal PSD permitting regulations and the CAA. EPA summarizes the PSD rule revisions in sections II.B and II.C of this document. Please refer to the referenced **Federal Register** citations for additional detailed background on the Federal PSD regulations at 40 CFR 52.21.

II. Background

A. Mississippi's 2015 Ozone NAAQS Infrastructure SIP Submissions

On October 1, 2015, EPA promulgated a revised primary and secondary NAAQS for ozone, revising the 8-hour ozone standards from 0.075 parts per million (ppm) to a new more protective level of 0.070 ppm. *See* 80 FR 65292 (October 26, 2015). Pursuant to section 110(a)(1) of the CAA, States are required to submit SIP revisions meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires States to address basic SIP

¹ *See* 81 FR 71613. The February 28, 2024, SIP submission also updates 11 MAC, Part 2, Chapter 2 to address NSR requirements that will be addressed in a separate rulemaking.

elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS. This particular type of SIP is commonly referred to as an “infrastructure SIP” or “iSIP.” States were required to submit such SIP revisions for the 2015 8-hour ozone NAAQS to EPA no later than October 1, 2018.²

Mississippi submitted two SIP submissions on September 6, 2019, and January 25, 2021, to address their 110(a)(1) and (2) infrastructure obligations for the 2015 ozone standard.³ Through previous rulemakings, EPA approved most of the iSIP elements for the 2015 ozone NAAQS.⁴

On December 23, 2022, EPA proposed to conditionally approve⁵ changes to portions of Mississippi’s 2015 8-hour ozone NAAQS iSIP contained in MDEQ’s original January 25, 2021, infrastructure submittal as supplemented on November 18, 2022.^{6,7} Specifically, EPA proposed conditional approval of the PSD elements of CAA section 110(a)(2)(C), (D)(i)(II) (prong 3) and (J), and the modeling requirements of section 110(a)(2)(K) because

² In infrastructure SIP submissions, States generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of State regulations and statutes, some of which have been incorporated into the SIP. In addition, certain federally approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2).

³ Mississippi submitted their interstate transport SIP on September 6, 2019, to address the State’s section 110(a)(2)(D)(i)(I) prongs 1 and 2 interstate transport obligations respecting contribution to nonattainment or interference with maintenance, respectively, in other States. EPA took final action on this submission on February 13, 2023, (88 FR 9336). On January 25, 2021, Mississippi submitted a second SIP revision to EPA to address all required infrastructure elements except for the interstate transport provisions of section 110(a)(2)(D)(i)(I) prongs 1 and 2.

⁴ See 87 FR 57832 (September 22, 2022), and 88 FR 9336 (February 13, 2023).

⁵ Under CAA section 110(k)(4), EPA may conditionally approve a SIP revision based on a commitment from a State to adopt specific enforceable measures by a date certain, but not later than one year from the date of approval. If the State fails to meet the commitment within one year of the final conditional approval, the conditional approval will be treated as a disapproval and EPA will issue a finding of disapproval.

⁶ Air Plan Approval; Mississippi; PSD and Air Quality Modeling Infrastructure Requirements for the 2015 8-Hour Ozone National Ambient Air Quality Standards, 87 FR 78896 (December 23, 2022).

⁷ Mississippi supplemented its January 25, 2021, infrastructure SIP with a November 18, 2022, commitment letter to EPA to update outdated references to the Federal guideline on air quality modeling found in Appendix W of 40 CFR part 51. See Docket ID EPA–R04–OAR–2024–0186 for a copy of the commitment letter.

Mississippi’s SIP-approved PSD regulations did not, at the time, reference the most updated version of EPA’s *Guideline of Air Quality Models*, codified at 40 CFR part 51, Appendix W. On March 1, 2023, EPA finalized the conditional approval for the PSD infrastructure elements (*i.e.*, section 110(a)(2)(C), (D)(i)(II) (prong 3) and (J)), and the air quality modeling element of section 110(a)(2)(K), portion of the January 25, 2021, infrastructure SIP submission, as supplemented on November 18, 2022.⁸

The March 1, 2023, conditional approval of the PSD and air quality modeling iSIP provisions established a requirement for Mississippi to submit a final SIP submission that addresses the terms of the conditional approval commitment one year after EPA’s conditional approval of these portions of Mississippi’s ozone iSIP or March 1, 2024. Accordingly, on February 28, 2024, Mississippi submitted a final SIP revision in response to the conditional approval commitment to address the outdated references to the Federal guideline on air quality modeling, by revising Chapter 2 and Chapter 5 to require the use of the current version of 40 CFR part 51, Appendix W (*Guideline on Air Quality Models*).

B. PSD Public Participation Revisions and Increment Consumption IBR Update

Mississippi’s February 28, 2024, SIP submission proposes to revise the SIP-approved PSD regulations at Chapter 5 to adopt public participation revisions consistent with EPA’s October 5, 2016, rule “Revisions to Public Notice Provisions in Clean Air Act Permitting Programs.”⁹ This 2016 rule revised EPA’s public notice provisions for the NSR, Title V, and Outer Continental Shelf permitting programs of the CAA to remove the mandatory requirement to provide public notice of permitting actions through publication in a newspaper and allow for electronic notice (e-notice) as an option for permitting authorities. Permitting authorities are not required to adopt e-notice, and nothing in the revised Federal rules prevents a permitting authority with an EPA-approved permitting program from continuing to use newspaper notification and/or from supplementing e-notice with newspaper notification and/or additional means of notification. For the noticing of draft permits issued by permitting authorities

⁸ Air Plan Approval; Mississippi; PSD and Air Quality Modeling Infrastructure Requirements for the 2015 8-Hour Ozone National Ambient Air Quality Standards, 88 FR 12833 (March 1, 2023).

⁹ See 81 FR 71613.

with EPA-approved programs, the rule requires the permitting authority to use “a consistent noticing method” for all permit notices under the specific permitting program. When e-notice is provided, EPA’s rule requires electronic access (e-access) to the draft permit for the duration of the public comment period which would enable permitting authorities to communicate permitting and other affected actions to the public more quickly and efficiently and provide cost savings over newspaper publication. A full description of the e-notice and e-access provisions is contained in EPA’s October 18, 2016, rulemaking notice. See 81 FR 71613. The 2024 submission revises the public participation provisions by deleting an incorporated reference to the public notice provisions at 40 CFR 51.166(q) in Rule 5.4 and adding public participation requirements to new Rule 5.7. Rule 5.4 is also revised to include an IBR date of December 23, 2024, for 40 CFR 51.166(f)—*Exclusions from Increment Consumption*, which does not substantively change these incorporated provisions.

C. Mississippi’s February 28, 2024, SIP Submission Chapter 5 PSD Incorporate by Reference Update for 40 CFR 52.21

Mississippi’s 2024 SIP submission proposes updates to the IBR of the 40 CFR 52.21 Federal PSD permitting rules in the Mississippi SIP at Chapter 5 from February 17, 2016, to December 27, 2023. Mississippi’s Rule 5.2 IBR date revision incorporates the following Federal PSD regulation amendments at 40 CFR 52.21 that EPA promulgated from 2016 through 2021:¹⁰ “Source Determination for Certain Emission Units in the Oil and Natural Gas Sector” 81 FR 35622 (June 3, 2016); “Rescission of Preconstruction Permits Issued under the Clean Air Act” 81 FR 78043 (November 7, 2016); “Revisions to the Guideline on Air Quality Models: Enhancements to the AERMOD Dispersion Modeling System and Incorporation of Approaches to Address Ozone and Fine Particulate Matter” 82 FR 5182 (January 17, 2017); “Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Project Emissions Accounting” 85 FR 74890 (November 24, 2020); and “New Source Review Errors Correction” 86 FR 37918 (July 19, 2021). EPA summarizes these PSD rule revisions below. Please refer to the referenced **Federal Register** citations for additional

¹⁰ See Mississippi’s February 28, 2024, SIP revision in the docket for this rulemaking (Docket ID: EPA–R04–OAR–2024–0186).

detailed background on the Federal PSD regulations at 40 CFR 52.21.

i. Oil and Natural Gas Source Determinations PSD Revisions

On June 3, 2016, EPA finalized the rule entitled “Source Determination for Certain Emission Units in the Oil and Natural Gas Sector”¹¹ to clarify the agency’s air permitting rules as they apply to the oil and natural gas industry. The final rule clarifies when oil and gas equipment and activities must be deemed a single source when determining whether major source permitting programs apply, including PSD and Nonattainment New Source Review preconstruction permitting programs, and the Title V Operating permits program. By defining the term “adjacent,” the rule specifies that equipment and activities in the oil and gas sector that are under common control will be considered part of the same source if they are located near each other—specifically if they are located on the same site or on sites that share equipment and are within ¼ mile of each other. EPA previously addressed this definition through policy interpretation and guidance. The final rule applies to equipment and activities used for onshore oil and natural gas production, and for natural gas processing. It does not apply to offshore operations. The meaning of adjacency for onshore activities is addressed in the definition of “building, structure, facility, or installation” found in 40 CFR 52.21(b)(6) and incorporated into 11 Miss. Admin. Code Pt. 2, Ch. 5 via the revised IBR date of December 27, 2023.

ii. PSD Permit Rescission Revisions

On November 7, 2016, EPA finalized amendments to the Federal PSD rules at 40 CFR 52.21(w) to remove a date restriction that limited the use of the permit rescission provision, a provision that allows a PSD permit to be cancelled, and clarified implementing provisions.¹² Before this revision, only permits based on rules issued on or before July 30, 1987, and any PSD greenhouse gas permits issued as part of Step 2 of the Tailoring Rule could be rescinded. Removal of the date restriction allows for the rescission of PSD permits that are no longer needed issued by EPA, delegated permitting authorities, or by a permitting authority with SIP-approved NSR program that incorporates 40 CFR 52.21(w). This regulatory revision is incorporated into

11 MAC, Part 2, Chapter 5.2 via the revised IBR date of December 27, 2023.

iii. Revisions to the Guideline on Air Quality Models Appendix W

On December 20, 2016, EPA finalized several additions and changes to its Guideline on Air Quality Models (Guideline), located at 40 CFR part 51, Appendix W.¹³ The Guideline is used by EPA, States, Tribes, and industry to prepare and review permits for new sources of air pollution.¹⁴ State and Tribal air agencies also use the Guideline to revise their plans detailing strategies for reducing emissions and improving air quality in State or Tribal Implementation Plans. EPA’s PSD regulations at 40 CFR 52.21(l) require estimates of ambient concentrations required for PSD to be based on the Guideline, and 40 CFR 51.166(l) requires SIP PSD programs to require that modeling be conducted in accordance with the Guideline.¹⁵ Therefore, modeling under PSD is required to use the December 20, 2016, version of the Guideline.

This regulatory change is incorporated into 11 MAC, Part 2, Chapter 5.2 via the revised IBR date of December 27, 2023.

For iSIP elements C and J to be approved for PSD, a SIP must include a PSD program that meets current Federal requirements. Element D(i)(II) (prong 3) is also approvable when a State’s implementation plan contains a fully approved and up-to-date PSD program. EPA’s regulations at 40 CFR 51.166(l) require SIP PSD provisions to require that modeling be conducted in accordance the Guideline. It is incorporated into EPA’s regulations, satisfying a requirement under the CAA for the EPA to specify with reasonable particularity models to be used in the PSD program. EPA promulgated the most current version of the Guideline on January 17, 2017.¹⁶ Therefore, in order to approve the iSIP PSD elements (*i.e.*, section 110(a)(2)(C), (D)(i)(II) (prong 3) and (J)), and the air quality modeling element of section 110(a)(2)(K),¹⁷ PSD regulations in SIPs are required to

¹³ See “Revisions to the Guideline on Air Quality Models: Enhancements to the AERMOD Dispersion Modeling System and Incorporation of Approaches to Address Ozone and Fine Particulate Matter,” 82 FR 5182 (January 17, 2017).

¹⁴ Appendix W provides EPA’s preferred models and other recommended techniques, as well as guidance for their use in estimating ambient concentrations of air pollutants.

¹⁵ 40 CFR 51.166 sets forth the requirements for State PSD programs in SIPs, and 40 CFR 52.21 implements PSD requirements for PSD programs administered by EPA and States with delegated authority.

¹⁶ See 82 FR 5182.

reference the most current version of the Guideline.

iv. Project Emissions Accounting Rule

On November 24, 2020, EPA finalized revisions to the PSD applicability regulations concerning the determination of whether a modification at an existing stationary source constitutes a major modification, as defined in 40 CFR 52.21.¹⁸ EPA added an explanation of “sum of the differences” in 40 CFR 52.21(a)(2)(iv)(g) to clarify that this phrase includes both increases and decreases in emissions calculated for a project. EPA also stated in the preamble to this rule that the decreases considered in Step 1 do not have to be enforceable, though to be evaluated as contemporaneous decreases in Step 2 for future projects, the decreases must be enforceable per 40 CFR 52.21(b)(3)(vi)(b). The regulatory change to 40 CFR 52.21 promulgated in the Project Emissions Accounting is incorporated into 11 MAC Part 2 Chapter 5, Rule 5.2 via the revised IBR date of December 27, 2023.

v. NSR Error Corrections Rule

On June 22, 2021, EPA finalized an NSR Error Corrections Rule to correct non-substantive errors and make conforming changes to address the 1990 CAA Amendments in the NSR rules.¹⁹ The final rule corrects inadvertent typographical and spelling errors, removes court vacated rule language, removes or updates outdated or incorrect cross references, and conforms certain provisions to changes contained in the 1990 CAA Amendments. The NSR regulations in 40 CFR parts 51 and 52 have undergone restructuring and revisions over the years, and a number of inadvertent errors have accumulated during that time. The regulatory revision to 40 CFR 52.21 promulgated in the *NSR Error Corrections Rule* addressing these corrections is incorporated into 11 MAC Part 2 Chapter 5, Rule 5.2 via the revised IBR date of December 27, 2023.

III. EPA’s Approach to the Review of Infrastructure SIP Submissions

As discussed above, whenever EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires States to submit infrastructure SIPs that meet the various requirements of CAA section 110(a)(2), as applicable. Due to ambiguity in some of the language of CAA section 110(a)(2), EPA believes

¹⁸ See “Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review,” 85 FR 74890 (November 24, 2020).

¹⁹ See “New Source Review Errors Correction,” 86 FR 37918 (July 19, 2021).

¹¹ See 81 FR 35622.

¹² See, “Rescission of Preconstruction Permits Issued under the Clean Air Act,” 81 FR 78043 (November 7, 2016).

that it is appropriate to interpret these provisions in the specific context of acting on infrastructure SIP submissions. EPA has previously provided comprehensive guidance on the application of these provisions through a guidance document for iSIP submissions and through regional actions on infrastructure submissions.²⁰

Unless otherwise noted below, EPA is following that existing approach in acting on this submission. In addition, in the context of acting on such infrastructure submissions, EPA evaluates the submitting State's implementation plan for facial compliance with statutory and regulatory requirements, not for the State's implementation of its SIP.²¹ EPA has other authority to address any issues concerning a State's implementation of the rules, regulations, consent orders, etc. that comprise its SIP.

IV. EPA's Analysis of Mississippi's February 28, 2024, SIP Revision

On February 28, 2024, Mississippi submitted a SIP revision to update references to 40 CFR part 51, Appendix W, and address the PSD and modeling iSIP requirements for the 2015 8-hour ozone NAAQS.²² The SIP revision also amends Mississippi's SIP-approved PSD rules at 11 MAC, Part 2 Chapter 5 to adopt public participation e-notice provisions and other changes to the PSD rules based on an updated IBR date of Federal PSD regulations at 11 MAC, Part 2 Chapter 5 from February 17, 2016, to December 27, 2023 for 40 CFR 52.21, as well as including the IBR date of December 27, 2023, for increment consumption exclusions under 40 CFR 51.166(f). The modeling updates at Chapter 2 and 5 respecting references to Appendix W in 40 CFR 52.21(l) support the State's request to convert EPA's March 1, 2023, conditional approval of the PSD requirements of elements 110(a)(2)(C), (D)(i)(II) (Prong 3), and (J), and the air quality modeling element under section 110(a)(2)(K), of Mississippi's 2015 8-hour ozone NAAQS infrastructure SIP to a full approval. Lastly, the SIP revision makes

minor updates to Mississippi's PSD regulations at Chapter 2 and Chapter 5.

A. Changes to 11 MAC, Part 2, Chapter 2

The SIP-approved version of 11 MAC, Part 2, Chapter 2, Rule 2.5B, *Modeling*, provides at subparagraph 2.5B(1) that all estimates of ambient concentrations of air pollutants shall be based on the requirements specified in the "Guideline on Air Quality Modeling, (Revised)" 40 CFR part 51, Appendix W, which are incorporated herein and adopted by reference. Rule 2.5B(1), is being revised to refer to the version of Appendix W approved in 11 MAC, Part 2, Chapter 5. As further explained in section IV.B(ii) of this document, the incorporation of 40 CFR 52.21 is updated via the revised IBR date to include the most recent version of the Appendix W guidelines, which will ensure its use to estimate ambient concentrations of air pollutants in Mississippi. Additionally, subparagraph 2.5B(2), is being revised to delete the word "Revised" from the first sentence of subparagraph 2. The February 28, 2024, SIP submission provides additional changes to 11 MAC, Part 2, Chapter 2 to address NSR requirements, which will be addressed in a separate rulemaking.

B. Changes to 11 MAC, Part 2, Chapter 5

Mississippi's February 28, 2024, SIP submission, seeks to revise the State's SIP-approved PSD permitting regulations at 11 MAC, Part 2, Chapter 5. The revision updates the IBR date for 40 CFR 52.21 in the Mississippi SIP at Chapter 5 from February 17, 2016, to December 27, 2023, at Rule 5.2. This IBR date change adopts PSD rule revisions EPA promulgated since the State's last IBR update to Rule 5.2 and includes Revisions to the Guideline on Air Quality Models which includes the reference to Appendix W in 40 CFR 52.21(l), project emissions accounting, PSD regulatory corrections, oil and gas source determinations, and preconstruction permit rescissions. The SIP revision also makes administrative changes to Chapter 5 including adding a Chapter table of contents, revising the State regulatory citations to ensure they are referenced consistently throughout the rule,²³ and correcting grammatical

errors. Mississippi's February 28, 2024, SIP revision, also includes minor edits to the citation format of 40 CFR 52.21 at Rule 5.3, *Definition of term "Administrator"* and Rule 5.6, *Applicability*. Mississippi's SIP revision does not make any regulatory or typographical changes at Rule 5.5—*Transmittal of Permit Applications to EPA Administrator*. EPA's analysis below discusses the specific changes to Chapter 5 that EPA is proposing to approve.

i. Chapter 5, Rule 5.1, Purpose of This Regulation

Rule 5.1 of Chapter 5 describes the purpose of Mississippi's Chapter 5 PSD regulations, which is to implement a PSD permitting program in the State as required by Federal regulations at 40 CFR 51.166 and acknowledges that the current regulation replaces any previously approved changes to the Chapter. The February 28, 2024, SIP submission changes the regulation by removing the citations to 40 CFR 51.166 and 52.21 because the Federal PSD requirements at 40 CFR 52.21 and 51.166(f) are now addressed in 11 MAC, Part 2, Chapter 5, Rule 5.2, *Adoption of Federal Rules by Reference* and Rule 5.4, *Adoption of Federal Rules for Exclusions from Increment Consumption*, respectively. The change adds a reference to 11 MAC, Part 2, Chapter 5 and clarifies that the newly revised regulation replaces and supersedes previously adopted versions. This includes removing the references to the date of last amendment and promulgation of 40 CFR 51.166 and 52.21 since the IBR dates are more appropriately addressed in Rules 5.2 and 5.4. Lastly, the change corrects a misspelling of the word "supersedes," and makes minor formatting changes. EPA proposes to approve Mississippi's February 28, 2024, amendments at Chapter 5, Rule 5.1 because they streamline the description of the purpose of the State's PSD permitting regulations at Chapter 5 and are consistent with Federal PSD regulations.

ii. Chapter 5, Rule 5.2, Adoption of Federal Rules by Reference

Mississippi's SIP revision proposes changes to 11 MAC, Part 2, Chapter 5, *Regulations for the Prevention of Significant Deterioration*, at Rule 5.2, *Adoption of Federal Rules by Reference*, by updating the incorporation by reference date for 40 CFR 52.21 from February 17, 2016, to December 27, 2023, with the exception of exclusions

abbreviated version (e.g., 11 Miss. Admin. Code Pt. 2, R. 2.4.).

²⁰ EPA explains and elaborates on these ambiguities and its approach to address them in its 2013 Guidance (available at https://www3.epa.gov/airquality/urbanair/sipstatus/docs/Guidance_on_Infrastructure_SIP_Elements_Multipollutant_FINAL_Sept_2013.pdf), as well as in numerous agency actions including EPA's prior actions on Mississippi infrastructure SIPs such as the action to address the 2012 PM_{2.5} NAAQS. See 81 FR 36848 (June 8, 2016).

²¹ See *Mont. Envtl. Info. Ctr. v. Thomas*, 902 F.3d 971 (9th Cir. 2018).

²² The February 28, 2024, submittal contains changes to other SIP-approved rules that are not addressed in this notice. EPA will act on those rules in a separate rulemaking.

²³ For example, the first appearance of a State regulation is cited in its entirety followed by the citation approved by the Mississippi Administrative Procedures Act for use in the Mississippi Administrative Code (e.g., "Permit Regulations for the Construction and/or Operation of Air Emissions Equipment," 11 Miss. Admin. Code Pt. 2, Ch. 2.). In the remainder of the regulation, citations are the

listed in Rule 5.2.²⁴ The IBR date change has the effect of incorporating PSD-related rule revisions EPA has promulgated since February 17, 2016, through December 27, 2023, discussed in section II.C of this document, which ensures that the most recent version of Appendix W will be used when considering air quality modeling for PSD purposes in Mississippi. Mississippi's February 28, 2024, SIP revision also revises 11 MAC, Part 2, Chapter 2, Rule 2.5(B) to reference the version of Appendix W approved in Chapter 5 (see section IV.A discussion above). Thus, by cross-referencing 11 MAC, Part 2, Chapter 5 for purposes of modeling ambient concentrations of air pollutants in 11 MAC, Part 2, Chapter 2, Rule 2.5(B), the State's regulation ensures that any required modeling of ambient air quality will use the most recent guidelines at Appendix W. EPA proposes to approve Mississippi's February 28, 2024, amendments at Chapter 5, Rule 5.2 respecting the update to the current version of Appendix W. Specifically, Mississippi's proposed changes to Chapter 2, Rule 2.5(B) (see section IV.A of this document) and Chapter 5, Rule 5.2 will have the combined effect of incorporating the latest version of Appendix W, and, if finalized, will satisfy the requirements of the PSD and modeling elements for the 2015 8-hour ozone infrastructure SIP. Thus, EPA is proposing to find that Mississippi has satisfied the requirements of the PSD and modeling elements of section 110(a)(2)(C), (D)(i)(II) (prong 3), (J), and (K) for the 2015 8-hour ozone NAAQS infrastructure SIP and met the commitment associated with the March 1, 2023, conditional approval discussed in section II.A of this document and proposing to convert the conditional approval of these elements of Mississippi's January 25, 2021, infrastructure SIP submission to a full approval.

Mississippi's IBR update also incorporates the 40 CFR 52.21(b)(6) Federal PSD updates promulgated in the May 12, 2016, *Oil and Natural Gas Source Determinations Rule*, which clarifies the meaning of the term "adjacent" for purposes of evaluating whether onshore activities belonging to SIC major group 13 (Oil and Gas Extraction) are considered contiguous

²⁴ The version of Rule 5.2 in the SIP does not incorporate by reference the provisions at 52.21(b)(2)(v) and (b)(3)(iii)(c) that were stayed indefinitely by the Fugitive Emissions Interim Rule (76 FR 17548 (March 30, 2011)). If EPA finalizes this action as proposed, it will retain the text in the explanation column for Rule 5.2 at 40 CFR 52.1270(c).

and adjacent with respect to determining the extent of the stationary source (see section II.C.i of this document). MDEQ's February 28, 2024, SIP submission formally adopts EPA's regulations regarding evaluating onshore oil and natural gas activities for adjacency. The meaning of "adjacency" for onshore activities is addressed in the definition of "building, structure, facility, or installation" term found in 40 CFR 52.21(b)(6) and clarifies PSD applicability for the onshore oil and natural gas industry. This revision is adopted by reference into Mississippi's PSD regulations at 11 MAC Part 2, Chapter 5, Rule 5.2 through the IBR update. EPA proposes to approve Mississippi's revision at Chapter 5, Rule 5.2 regarding the regulatory changes at 40 CFR 52.21(b)(6) promulgated in the *Oil and Natural Gas Source Determinations Rule* because it is consistent with the Federal PSD permitting regulations.

Mississippi's IBR update also incorporates PSD permitting changes at 40 CFR 52.21(a)(2)(iv) promulgated in EPA's November 24, 2020, *Project Emissions Accounting Rule*, regarding the PSD applicability for determining whether a modification at an existing stationary source constitutes a major modification, as defined in 40 CFR 52.21. This regulatory revision was consistent with EPA's interpretation of its pre-PEA regulations, as articulated in EPA guidance issued in the March 13, 2018, EPA memorandum from E. Scott Pruitt to the Regional Administrators titled *Project Emissions Accounting Under the New Source Review Preconstruction Permitting Program*.²⁵ Project emissions accounting allows both increases and decreases resulting from a project to be considered in "Step 1" of the PSD applicability process. Specifically, the *Project Emissions Accounting Rule* finalized clarifications to the Step 1 provisions of the major modification applicability test of the PSD rule at 40 CFR 52.21(a)(2)(iv) that includes changes to 52.21(a)(2)(iv)(f), 40 CFR 52.21(a)(2)(iv)(c), 40 CFR

²⁵ MDEQ has previously approved the use of the 2018 EPA Memo in various projects at existing major stationary sources. For example, project emissions accounting was used to account for decreases due to the permanent shutdown and subsequent replacement of a dryer at the Tronox LLC, Hamilton Facility [Agency Interest No. 8587; Air Permit No. 1840-00035]. An air construction permit was issued on March 31, 2020, which addressed this replacement. As a result of including decreases from the removed dryer in Step 1 of the PSD analysis, the evaluation of contemporaneous increases and decreases was not required because the Step 1 changes were below the significant emissions rates specified in the PSD regulations. This proposed action is not soliciting comments on previous issued final PSD permits.

52.21(a)(2)(iv)(d) as discussed in section II.C.iv of this document. See 85 FR 74890. These changes apply to projects that involve multiple types of emissions units and provide that both emission increases and decreases can be considered in Step 1 of the NSR major modification applicability test in the same manner as they are considered for projects that only involve existing emissions units or only involve new emissions units. These requirements apply when there is a "reasonable possibility" that the project could still result in a significant emissions increase. Lastly, EPA did not make the regulatory changes in the November 24, 2020, final rule mandatory for adoption by State and local air agencies with approved major NSR programs, but Mississippi elected to adopt these changes through the revised IBR date of December 27, 2023. EPA proposes to approve into the Mississippi SIP amendments to 40 CFR 52.21(a)(2)(iv) promulgated in the *Project Emissions Accounting Rule* because these updates are consistent with the Federal PSD permitting regulations.

Mississippi's IBR update also incorporates PSD revisions promulgated in EPA's July 19, 2021, *New Source Review Errors Correction Rule* as discussed above in section II.C.v which corrects minor, inadvertent, and non-substantive errors in 40 CFR parts 51 and 52 that govern NSR permitting programs and updates to regulatory text. Specifically, EPA's rule corrects inadvertent typographical and spelling errors, removes court vacated rule language, removes or updates outdated or incorrect cross references, and conforms certain provisions to changes contained in the 1990 CAA Amendments. Due to the voluminous number of corrections promulgated in EPA's July 19, 2021, please refer to the "Reference Table of New Source Review Error Corrections—Final Rule" compilation of finalized changes at 40 CFR 52.21 in the Docket for this proposal action.²⁶ EPA proposes to approve into the Mississippi SIP amendments to 40 CFR 52.21 promulgated in the *New Source Review Errors Correction Rule* because these updates are minor updates and corrections and are consistent with the Federal PSD permitting regulations.

Mississippi's IBR update also incorporates changes to 40 CFR 52.21 promulgated in the *Permit Rescission Rule* finalized November 7, 2016, which

²⁶ See "Reference Table of New Source Review Error Corrections—Final Rule," Docket ID: EPA-HQ-OAR-2019-0435-0019, for 40 CFR 52.21 (<http://www.regulations.gov/document/EPA-HQ-OAR-2019-0345-0019>).

removes a date restriction that limited the use of the permit rescission provision (*i.e.*, a provision that allows a PSD permit to be cancelled). Specifically, the changes to 40 CFR 52.21 include: (1) revising 40 CFR 52.21(w)(2) to remove the July 30, 1987, date restriction; (2) revising 40 CFR 52.21(w)(3) to change the word “shall” to “may” to make clear that this provision does not create a mandatory duty on the Administrator to grant a rescission request;²⁷ and (3) revising 40 CFR 52.21(w)(1) to appropriately cross reference paragraph (r) and not paragraph (s) of EPA’s PSD regulations.²⁸ This change allows for the rescission of PSD permits in accordance with the PSD criteria for permit rescission without the date restriction for PSD permits issued by EPA, delegated permitting authorities, or by a permitting authority with a SIP-approved NSR program that incorporates 40 CFR 52.21(w). EPA proposes to approve into the Mississippi SIP amendments to 40 CFR 52.21 promulgated in the *Permit Rescission Rule* because these updates are consistent with the Federal PSD permitting regulations.

Lastly, Mississippi’s February 28, 2024, SIP revision makes administrative amendments to Rule 5.2 including removing the term “phrases” that are not incorporated, since the phrases are simply the section headers and not specific phrases used throughout the regulations. EPA is proposing to approve Mississippi’s IBR update at Chapter 5, Rule 5.2 adopting the version of 40 CFR 52.21 PSD permitting regulations in the Mississippi SIP as of December 27, 2023 (with the exception of exclusions established at Rule 5.2)²⁹ for the reasons discussed above in section IV.B.

²⁷ Specifically, EPA proposed to replace the word “shall” with the word “may” in this provision to make clear that the Administrator may deny a permit rescission request if he or she does not concur with the analysis by the permit applicant that 40 CFR 52.21 “would not apply to the source or modification.” See 81 FR 78043.

²⁸ Before the *Permit Rescission Rule* was finalized in 2016, only permits based on rules issued on or before July 30, 1987, and any PSD greenhouse gas permits issued as part of Step 2 of the Tailoring Rule could be rescinded. Removal of the date restriction allows for the rescission of EPA-issued or delegated permitting authorities-issued PSD permits that are no longer needed and clarifies the implementing provisions. See FACT SHEET Rescission of Preconstruction Permits Issued Under the Clean Air Act (https://www.epa.gov/sites/default/files/2017-10/documents/permitrescission_factsheet.pdf).

²⁹ The SIP revision does not propose any changes to these exclusions.

iii. Chapter 5, Rule 5.4, Adoption of Federal Rules for Exclusions From Increment Consumption

Rule 5.4, *Adoption of Federal Rules for Exclusions from Increment Consumption*, adopts by reference 40 CFR 51.166(f) (Exclusions from increment consumption) excluding the phrase “The plan may provide that” and with certain changes listed in Rule 5.4. The February 28, 2024, SIP revision incorporates into the Mississippi the version of 40 CFR 51.166(f) promulgated as of December 27, 2023. No amendments were promulgated for 40 CFR 51.166(f) from the previous incorporation date of February 17, 2017, to the proposed December 27, 2023, IBR date. Rule 5.4 is also amended to remove the adoption by reference of the public participation requirements in 40 CFR 51.166(q) because the State is adopting public participation provisions in Rule 5.7. Additionally, Rule 5.4 adds a clarification for when the term “Administrator,” in the adopted text at 40 CFR 51.166(f), should mean the Mississippi Environmental Quality Permit Board and when the term should continue to refer to the EPA Administrator. Prior to the changes provided in the February 28, 2024, SIP submission, the term continued to refer to the EPA Administrator at 40 CFR 51.166 (f)(1)(v), (f)(4), and (q)(2)(iv) only; however, the current changes remove (q)(2)(iv) from inclusion at Rule 5.4 since the adoption of 40 CFR 51.166(q) was removed from Rule 5.4. Additionally, Rule 5.4 C, D, and E, which define other phrases in 51.166(q)(l) and (q)(2), including, “specified time period,” “reviewing authority,” and “one year” have also been removed because the phrases are simply the section headers and not specific phrases used throughout the regulations. EPA is proposing to approve Mississippi’s February 28, 2024, amendments to 11 MAC Part 2, Chapter. 5, Rule 5.4 because they are consistent with EPA’s PSD permitting regulations.

iv. Chapter 5, Rule 5.7, Public Participation

Mississippi’s February 28, 2024, SIP revision adds new Rule 5.7, *Public Participation*, to 11 MAC, Part 2, Chapter 5. MDEQ had previously incorporated by reference the public participation requirements of 40 CFR 51.166(q) in Rule 5.4. However, Mississippi removed the IBR of 40 CFR 51.166(q) public participation regulations from Rule 5.4 as part the February 28, 2024, SIP submission (see section IV.B.iii of this document) and

instead set out the public participation regulations as a new Rule 5.7. The new Rule 5.7 adds provisions established in EPA’s October 5, 2016, *Public Participation Rule*, which removed the mandatory requirement to provide public notice of a draft permit through publication in a newspaper and, instead, allow for electronic notice (e-notice) of permitting actions via a public website identified by the reviewing authority.³⁰ Thus, Mississippi’s new Rule 5.7 meets the PSD permitting public participation requirements at 40 CFR 51.166(q), including the allowance for e-notice of draft PSD permitting actions via a public website to streamline the notification process for draft permits and establish greater transparency and public engagement for the regulated community and general public in Mississippi.

Rule 5.7 requires e-notice on the MDEQ website, replacing the previous requirement for newspaper publication. This change aligns with the Federal regulations specified in 40 CFR 51.166(q), which permit electronic notification as an acceptable alternative to newspaper publication. EPA’s 2016 Public Participation Rule amended a portion of the PSD Federal regulations at 51.166(q)(2)(ii), (iii), (vi), and (viii) to implement the shift from mandatory newspaper noticing to e-notice for PSD permits. Mississippi’s Rule 5.7 meets the public participation requirements from 40 CFR 51.166(q) in their entirety which includes the e-notice amendments promulgated in the *Public Participation Rule*. Specifically, Rule 5.7 establishes subparagraphs (A) and (B) which are equivalent to the public participation regulations at 40 CFR 51.166(q)(1) and (2)(i) through (viii) (*i.e.*, Federal public participation regulations that were previously incorporated by reference at Rule 5.4). Additionally, Rules 5.7(B)1, (B)2, (B)3, (B)6, and (B)8 also include those changes at 40 CFR 51.166(q)2(ii), (iii), (vi), and (viii) that were promulgated in EPA’s 2016 *Public Participation Rule* respecting (*i.e.*, removal of the mandatory requirement

³⁰ The selected notification method (*i.e.*, either newspaper or website) is known as the “consistent noticing method” and must be used for all permits subject to notice under the NSR or Title V permit programs. EPA leaves discretion to the reviewing authority (*i.e.*, MDEQ) to supplement the consistent noticing method with other methods. If using the public website as the consistent noticing method, the reviewing authority must also provide an electronic copy of the draft permit for review, in addition to the notice itself, and provide instructions regarding how to access the administrative record for the draft permit and request and/or attend a public hearing. This information must be made available on the public website for the duration of the public comment period.

to provide public notice of a draft permit (and certain other program actions) through publication in a newspaper and to instead allow for electronic noticing (“e-notice”). Rules 5.7(A), 5.7(B)4, (B)5, and (B)7 set out the equivalent 40 CFR 51.166(q)(2)(i), (iv), (v), and (vii) public participation regulations that were previously IBR at Rule 5.4 but were not amended in EPA’s *Public Participation Rule*. Below provides a description of the public participation requirements in Rule 5.7:

- Rule 5.7(A) sets out the requirements of 40 CFR 51.166(q)(1) and identifies MDEQ (“the Department”) as the reviewing authority. The rule requires Mississippi to inform applicants of the completeness of their application within a 30-day timeframe indicating either its completeness or any deficiencies. The rule also provides that, in case of deficiencies, the application’s receipt date shall be deemed as the day when all requisite information was received by the Department.

Mississippi’s February 28, 2024, SIP revision simply moves the previously incorporated version of 40 CFR 51.166(q)(1) in Rule 5.4 to Rule 5.7(A).

- Rule 5.7(B) sets out the requirements of 40 CFR 51.166(q)(2) to review and process complete applications within 150 days of receiving a complete permit application.

- Rule 5.7(B)1 sets out the requirements of 40 CFR 51.166(q)(2)(i) that the Department shall make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

- Rule 5.7(B)2 sets out the requirements of 40 CFR 51.166(q)(2)(ii) to make available in at least one location in each region in which the proposed source would be constructed, a copy of related permit materials such as the application and summary documentation used to make preliminary determinations and allows the option to provide said materials on the Department’s website in lieu of a physical location.

- Rule 5.7(B)3 sets out requirements of 40 CFR 51.166(q)(2)(iii) and establishes the Department’s website as the consistent noticing method rather than a newspaper of general circulation. The public notice, draft permit, and information on accessing the administrative record and requesting and/or attending a public hearing, which is contained in the public notice document, will be available on the MDEQ website for the duration of the public comment period. Mississippi will publish notices on the Department’s website, allowing for at

least 30 days for public comment, and may, when it deems appropriate, supplement the e-notice with other noticing methods for individual permits.

- Rule 5.7(B)4 sets out the requirements of 40 CFR 51.166(q)(2)(iv) establishing requirements for the reviewing authority to send a copy of the public notice to the applicant, the EPA Administrator, and other interested officials and agencies. This also includes State or local air pollution control agencies, city and county chief executives, regional land use planning agencies, and any Federal land manager or Indian governing body potentially affected by emissions from the source or modification. Mississippi’s February 28, 2024, SIP revision simply moves the previously incorporated version of 40 CFR 51.166(q)(2)(iv) in Rule 5.4 to Rule 5.7B(4).

- Rule 5.7(B)5 sets out the requirements of 40 CFR 51.166(q)(2)(vi) providing an opportunity for a public hearing where interested individuals can present written or oral comments on the air quality impact of the proposed source, alternatives to it, required control technology, and other appropriate considerations. The SIP revision moves the previously incorporated version of 40 CFR 51.166(q)(1) in Rule 5.4 to Rule 5.7B(5).

- Rule 5.7(B)6 sets out the requirements of 40 CFR 51.166(q)(2)(vi) and requires MDEQ to make available for public inspection, public comments received at a public hearing or during the comment period on the MDEQ website, rather than at a physical location. Specifically, the Department is required to consider all written comments submitted within the specified time frame mentioned in the public notice, as well as any comments received during public hearings when making the final decision on the applications approval. All comments will be made available for public inspection at the same location or website where preconstruction information was provided.

- Rule 5.7(B)7 sets out the requirements at 51.166(q)(2)(vii) that the Department shall make a final determination on whether construction should be approved, approved with conditions, or disapproved after making a preliminary determination under subparagraph B(1). Mississippi’s February 28, 2024, SIP revision simply moves the previously incorporated version of 40 CFR 51.166(q)(2)(vii) in Rule 5.4. to Rule 5.7(B)7.

- Rule 5.7(B)8 sets out the requirements of 40 CFR 51.166(q)(2)(viii) and requires MDEQ to

make the final determination on whether construction should be approved, approved with conditions, or disapproved, available at the same location or on the same MDEQ website MDEQ used for preconstruction information and public comments. Specifically, the Department shall notify the applicant in writing of the final determination and ensure that this notification is accessible for public inspection at the same location or website where the Department made available preconstruction information and public comments relating to the proposed source or modification.

Mississippi’s February 28, 2024, SIP revision sets out at Rule 5.7 the requirements for PSD public participation from 40 CFR 51.166(q) as amended on October 5, 2016, which includes those changes promulgated in the *Public Participation Rule*. As discussed above, Mississippi’s February 28, 2024, SIP revision removes the IBR of the PSD public participation requirements at 40 CFR 51.166(q) and instead sets out these Federal requirements at Rule 5.7 which includes the amendments promulgated in EPA’s 2016 *Public Participation Rule*. EPA is proposing to approve Mississippi’s February 28, 2024, SIP submission because the SIP revision is consistent with the PSD public participation regulations at 40 CFR 51.166(q).

Based on EPA’s analysis of the proposed aforementioned revisions to Mississippi’s PSD permitting regulations at 11 MAC Part 2, Chapter 5, EPA is proposing to approve these changes because the revisions are consistent with the CAA and the PSD program requirements of 40 CFR 51.166 and 52.21.

V. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in section IV of this preamble, EPA is proposing to incorporate by reference Mississippi Rules 11 MAC, Part 2, Chapter 2, Rules 2.5B(1) and B(2), *Application Review*; 11 MAC, Part 2, Chapter 5, Rule 5.1, *Purpose of this regulation*; Rule 5.2, *Adoption of Federal Rules by Reference*;³¹ Rule 5.3, *Definition of term “Administrator”*; Rule 5.4, *Adoption of Federal Rules for*

³¹ Rule 5.2 does not incorporate by reference the provisions at 52.21(b)(2)(v) and (b)(3)(iii)(c) that were stayed indefinitely by the Fugitive Emissions Interim Rule (76 FR 17548 (March 30, 2011)). If EPA finalizes this action as proposed, it will retain the text in the explanation column for Rule 5.2 at 40 CFR 52.1270(c).

Exclusions from Increment Consumption; Rule 5.6, *Applicability*; and Rule 5.7, *Public Participation*, all of which are State effective on February 22, 2024. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Proposed Action

EPA is proposing to approve changes to 11 MAC Part 2, Chapter 2, Rule 2.5B(1) and B(2), *Application Review*; 11 MAC, Part 2, Chapter 5, Rule 5.1, *Purpose of this regulation*; Rule 5.2, *Adoption of Federal Rules by Reference*; Rule 5.3, *Definition of term "Administrator"*; Rule 5.4, *Adoption of Federal Rules for Exclusions from Increment Consumption*; Rule 5.6 *Applicability*; and Rule 5.7, *Public Participation*. In addition, EPA is proposing to convert the conditional approval of the portions of the 2015 8-hour ozone NAAQS iSIP that address the PSD related requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3), and 110(a)(2)(J), and the modeling requirements of 110(a)(2)(K) to a full approval.

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. See 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this 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 14094 (88 FR 21879, April 11, 2023);
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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. In those areas of Indian country, the proposed rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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.”

MDEQ did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this proposed action. Due to the nature of the action being proposed here, this proposed action is expected to have a neutral to positive impact on the air quality of the

affected area. Consideration of EJ is not required as part of this proposed action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for communities with EJ concerns.

List of Subjects in 40 CFR Part 52

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

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

Dated: September 11, 2024.

Jeananne Gettle,

Acting Regional Administrator, Region 4.

[FR Doc. 2024–21007 Filed 9–13–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2023–0301; FRL–10191–03–R3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; 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 August 19, 2024. The current comment period for the proposed rule was scheduled to close on September 18, 2024. The EPA is extending the comment period for the proposed action to September 23, 2024.

DATES: The comment period for the proposed rule published on August 19, 2024, at 89 FR 67018 is extended. Comments must be received on or before September 23, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2023–0301 at www.regulations.gov. Additional instructions to comment can be found in the notice of proposed rulemaking published August 19, 2024, at 89 FR 67018.

FOR FURTHER INFORMATION CONTACT: Adam Yarina, U.S. Environmental Protection Agency, Air & Radiation Division, U.S. Environmental Protection Agency, Region III, Four Penn Center,