

each person required to pay the fee under § 310.8(c) must first pay \$56 for each additional area code of data not initially selected. To obtain access to additional area codes of data during the second six months of the annual period, each person required to pay the fee under § 310.8(c) must first pay \$28 for each additional area code of data not initially selected. The payment of the additional fee will permit the person to access the additional area codes of data for the remainder of the annual period.

\* \* \* \* \*

By direction of the Commission.

**Donald S. Clark,**

Secretary.

[FR Doc. 2011-21992 Filed 8-26-11; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2010-1027; FRL-9457-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Delaware; Infrastructure State Implementation Plan Requirement To Address Interstate Transport for the 2006 24-Hour PM<sub>2.5</sub> NAAQS

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Delaware on September 16, 2009, as supplemented on April 27, 2011. The revision satisfies the Clean Air Act (CAA) infrastructure requirement that each State's plan contain adequate provisions prohibiting its emissions from contributing significantly to nonattainment in, or interfering with maintenance by, any other state with respect to the 2006 24-hour fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS). EPA is approving this revision in accordance with the requirements of the CAA.

**DATES:** *Effective Date:* This final rule is effective on September 28, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2010-1027. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Powers, (215) 814-2308, or by e-mail at [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On January 18, 2011 (76 FR 2853), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval, and in the alternative, proposed disapproval of Delaware's infrastructure SIP submittal intended to address significant contribution to nonattainment or interference with maintenance in another state with respect to the 2006 PM<sub>2.5</sub> NAAQS, as required by section 110(a)(2)(D)(i)(I) of the CAA. The formal SIP revision was submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC) on September 16, 2009. As discussed in EPA's January 18, 2011 NPR (76 FR 2853), DNREC supplemented its September 16, 2009 submittal with a technical analysis submitted to EPA for parallel-processing on December 9, 2010. Since the time of EPA's January 18, 2011 NPR, DNREC took the supplemental technical analysis, for which it has requested parallel-processing, through the public notice and hearing procedures required for SIP revisions by section 110 of the CAA. On April 27, 2011, DNREC submitted the technical analysis to EPA as a formal supplement to its September 16, 2009 submittal. The technical analysis submitted on April 27, 2011 is exactly the same as the technical analysis for which DNREC requested parallel-processing on December 9, 2010, and which was included in the rulemaking docket (EPA-R03-OAR-2010-1027) for EPA's January 18, 2011 NPR (76 FR 2853).

This final action addresses only those portions of Delaware's September 16, 2009 submittal that address the 110(a)(2)(D)(i)(I) requirements relating to significant contribution to

nonattainment or interference with maintenance in another state with respect to the 2006 PM<sub>2.5</sub> NAAQS. EPA has taken separate action on certain other portions of Delaware's September 16, 2009 submittal. (See Docket ID No. EPA-R03-OAR-2010-0158.)

##### II. EPA's Evaluation of the SIP Revision

In the January 18, 2011 NPR (76 FR 2853), EPA proposed to approve, and in the alternative, proposed to disapprove Delaware's SIP revision to address significant contribution to nonattainment or interference with maintenance in another state with respect to the 2006 PM<sub>2.5</sub> NAAQS. The NPR explained that if in the course of reviewing and preparing responses to the comments submitted on the proposed "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone" (75 FR 45210, August 2, 2010, also known as the Transport Rule), EPA's additional modeling and the adjustments made to its technical analyses indicate that the State of Delaware should not be subject to or covered by the final Transport Rule, EPA would take final action to approve DNREC's SIP. Alternatively, if in the course of reviewing and preparing responses to the comments submitted on the proposed Transport Rule, EPA's additional modeling and the adjustments made to its technical analyses indicate that the State of Delaware should be subject to and covered by the final Transport Rule, EPA would take final action to disapprove Delaware's SIP revision for infrastructure element 110(a)(2)(D)(i)(I) for the 2006 PM<sub>2.5</sub> NAAQS. The full explanation and rationale for EPA's proposed action is discussed in the NPR and will not be restated here.

On July 6, 2011, EPA promulgated the Transport Rule, now referred to as the "Cross-State Air Pollution Rule" (CSAPR). EPA's review of the comments submitted on the proposed Transport Rule and the additional modeling and adjustments made to the technical analyses for the final CSAPR indicate that the State of Delaware is meeting its obligations to address the requirements of CAA section 110(a)(2)(D)(i)(I). EPA has, therefore, determined that Delaware is not subject to or covered by the CSAPR. For additional information on the final CSAPR, including the technical support documents and the rationale for EPA's final determination that Delaware does not significantly contribute to any other state's ability to attain or maintain the 2006 PM<sub>2.5</sub> NAAQS, please see Docket ID No. EPA-HQ-OAR-2009-0491 for the Federal Implementation

Plan to Reduce Interstate Transport of Fine Particulate Matter and Ozone.

**III. Final Action**

EPA is approving Delaware's September 16, 2009 SIP revision as supplemented on April 27, 2011. This SIP revision satisfies the CAA infrastructure requirement that each SIP contain adequate provisions prohibiting emissions within the State from contributing significantly to nonattainment in, or interfere with maintenance by, any other state with respect to the 2006 24-hour fine particulate matter (PM<sub>2.5</sub>) NAAQS.

**IV. Statutory and Executive Order Reviews**

*A. General Requirements*

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

*B. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**.

This action is not a "major rule" as defined by 5 U.S.C. 804(2).

*C. Petitions for Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 28, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving Delaware's infrastructure SIP to address the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 PM<sub>2.5</sub> NAAQS may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

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

Dated: August 11, 2011.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

- 1. The authority citation for part 52 continues to read as follows:

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

**Subpart I—Delaware**

- 2. In § 52.420, the table in paragraph (e) is amended by adding the entry for Infrastructure element 110(a)(2)(D)(i)(I) related to interstate transport at the end of the table to read as follows:

**§ 52.420 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

Name of non-regulatory SIP revision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Additional explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Infrastructure element 110(a)(2)(D)(i)(I) related to interstate transport.	Statewide .....	9/16/09; 4/27/11 ....	8/29/11 [Insert page number where the document begins].	

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2011-0412; FRL-9455-3]

**Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These

revisions were proposed in the **Federal Register** on June 24, 2011 and concern oxides of nitrogen (NOx) and particulate matter (PM) emissions from glass melting furnaces. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** *Effective Date:* This rule is effective on September 28, 2011.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2011-0412 for this action. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be

available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Idalia Perez, EPA Region IX, (415) 972-3248, [perez.idalia@epa.gov](mailto:perez.idalia@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to EPA.

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**I. Proposed Action**

On June 24, 2011 (76 FR 37044), EPA proposed to approve the following rule into the California SIP.

Local agency	Rule No.	Rule title	Amended	Submitted
SJVUAPCD .....	4354	Glass Melting Furnaces .....	09/16/10	04/05/11

We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

**II. Public Comments and EPA Responses**

EPA’s proposed action provided a 30-day public comment period. During this period, we received no comments.

**III. EPA Action**

No comments were submitted that change our assessment that the submitted rule complies with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving this rule into the California SIP.

**IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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 Clean Air Act; and
- Does not provide EPA with the discretionary authority to address

disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the