

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

[EPA-R07-OAR-2015-0394; FRL-9936-33-Region 7]

**Approval of Air Quality State Implementation Plans (SIP); State of Iowa; Infrastructure SIP Requirements for the 2008 Lead National Ambient Air Quality Standard (NAAQS)****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a State Implementation Plan (SIP) submission from the State of Iowa addressing the applicable requirements of Clean Air Act (CAA) section 110 for the 2008 National Ambient Air Quality Standards (NAAQS) for Lead (Pb), which requires that each state adopt and submit a SIP to support implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by EPA. These SIPs are commonly referred to as “infrastructure” SIPs. The infrastructure requirements are 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.

EPA is also taking final action to approve a supplemental revision for the SIP to include article 1, section 2 of the Iowa Constitution, and portions of the Iowa Code and the Iowa Administrative Code to codify the relevant state laws as applied to conflict of interest requirements of section 128 of the CAA.

**DATES:** This final rule is effective December 2, 2015.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2015-0394. All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, 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 either electronically at <http://www.regulations.gov> or at U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219 from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Interested persons wanting to examine these documents should make an

appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Heather Hamilton, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, KS 66219; *telephone number:* (913) 551-7039; *email address:* [Hamilton.heather@epa.gov](mailto:Hamilton.heather@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the terms “we,” “us,” or “our” refer to EPA. This section provides additional information by addressing the following:

- I. Background
- II. Summary of SIP Revision
- III. Final Action
- IV. Statutory and Executive Order Review

**I. Background**

On August 14, 2015, (80 FR 48791), EPA published a notice of proposed rulemaking (NPR) for the State of Iowa. The NPR proposed approval of Iowa’s submission that provides the basic elements specified in section 110(a)(2) of the CAA necessary to implement, maintain, and enforce the 2008 Pb NAAQS. The NPR also proposed approval of a supplemental revision to include article 1, section 2 of the Iowa Constitution, and portions of the Iowa Code and the Iowa Administrative Code to codify the relevant state laws as applied to conflict of interest requirements of Sections 110(a)(2)(E) and 128 of the CAA.

**II. Summary of SIP Revision**

On November 4, 2011, EPA received a SIP submission from the state of Iowa that addressed the infrastructure elements specified in section 110(a)(2): (A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). On May 11, 2015, EPA received a supplemental SIP submission from the state of Iowa to include article 1, section 2 of the Iowa Constitution, and portions of the Iowa code and the Iowa Administrative Code to codify the relevant state laws as applied to conflict of interest requirements of Section 128 of the CAA. The rationale for EPA’s proposed action to approve the SIP submissions for specific requirements of section 110(a)(2) of the CAA, and the submission for conflict of interest provisions are explained in the NPR and will not be restated here.

During the public comment period for the NPR one comment was received. The commenter stated that EPA cannot approve the Prevention of Significant

Deterioration provisions unless the Particulate Matter (PM<sub>2.5</sub>) increments have been approved in the SIP. The PM<sub>2.5</sub> increments, found at 567 Iowa Administrative Code, Chapter 33.3(3), were approved by EPA into the Iowa SIP on March 14, 2014. 79 FR 14402.

**III. Final Action**

EPA is approving Iowa’s November 4, 2011, submission addressing the requirements of the CAA sections 110(a)(1) and (2) as applicable to the 2008 Pb NAAQS. Specifically, EPA approves the following infrastructure elements: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M) which are necessary to implement, maintain, and enforce the 2008 Pb NAAQS, as a revision to the Iowa SIP. EPA is also approving Iowa’s May 11, 2015, submission to include article 1, section 2 of the Iowa Constitution, and portions of the Iowa code and the Iowa Administrative Code to codify the relevant state laws as applied to conflict of interest requirements of Sections 110(a)(2)(E) and 128 of the CAA.

**IV. Statutory and Executive Order Review**

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Iowa nonregulatory SIP provision described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

Under the CAA the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, 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 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 Clean Air Act; and
  - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe

has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications 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).

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 4, 2016. 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 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: September 29, 2015.

**Mark Hague,**

*Acting Regional Administrator, Region 7.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart Q—Iowa**

- 2. Amend § 52.820 by adding entries (e)(41) and (42) to read as follows:

**§ 52.820 Identification of plan.**

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(e) \* \* \*

**EPA-APPROVED IOWA NONREGULATORY PROVISIONS**

Name of nonregulatory SIP provision	Applicable geographic area or nonattainment area	State submittal date	EPA Approval date	Explanation
(40) Sections 110(a)(1) and (2) Infrastructure Requirements 2008 Lead NAAQS.	Statewide .....	11/4/11	11/2/15 [ <i>Insert Federal Register citation</i> ].	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). 110(a)(2)(I) is not applicable.
(41) Section 128 Declaration: Conflicts of Interest Provisions; Constitution of the State of Iowa, Article 1, Section 2 Iowa Code: 4.4.(5) 7E.4 Chapter 68B Iowa Administrative Code: 351 IAC 6.11 351 IAC 6.14(2) 351 IAC 6.19 351 IAC 7.1–7.2 567 IAC 1.11(1–9)	Statewide .....	5/11/15	11/2/15 [ <i>Insert Federal Register citation</i> ].	This action addresses the following sections of the Constitution of the State of Iowa, Article 1, section 2; Iowa Code: 4.4.(5), 7E.4, Chapter 68B; Iowa Administrative Code: 351 IAC 6.11 351 IAC 6.14(2) 351 IAC 6.19 351 IAC 7.1–7.2 567 IAC 1.11(1–9).