

§ 52.2220 Identification of plan.

(c) \* \* \*

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TABLE 4—EPA-APPROVED CHATTANOOGA REGULATIONS

State section	Title/subject	Adoption date	EPA approval date	Explanation
*	*	*	*	*
<b>Article II. Section 4—41 Rules, Regulations, Criteria, Standards</b>				
*	*	*	*	*
Section 4—41 Rule 21.	Ambient Air Quality Standards.	1/23/17	7/31/2019, [Insert citation of publication].	With the exception of the portions related to the standard for gaseous fluorides, which are not approved into the SIP.
*	*	*	*	*

\* \* \* \* \*  
 [FR Doc. 2019–16194 Filed 7–30–19; 8:45 am]  
 BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R04–OAR–2018–0759; FRL–9997–40–Region4]

**Air Plan Approval; Kentucky; Interstate Transport (Prongs 1 and 2) for the 2010 1-Hour NO<sub>2</sub> Standard**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet by a letter dated November 16, 2018, for the purpose of addressing the Clean Air Act (CAA or Act) “good neighbor” interstate transport (prongs 1 and 2) infrastructure SIP requirements for the 2010 1-hour Nitrogen Dioxide (NO<sub>2</sub>) National Ambient Air Quality Standard (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, commonly referred to as an “infrastructure SIP.” Specifically, EPA is finalizing approval of Kentucky’s November 16, 2018, SIP revision addressing prongs 1 and 2 to ensure that air emissions in Kentucky do not significantly contribute to nonattainment or interfere with maintenance of the 2010 1-hour NO<sub>2</sub> NAAQS in any other state.

**DATES:** This rule is effective August 30, 2019.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2018–0759. All documents in these dockets are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information 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 [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division (formerly the Air, Pesticides and Toxics Management Division), U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person 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 Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Evan Adams of the 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. Mr. Adams can be reached by phone at (404) 562–9009 or via electronic mail at [adams.evan@epa.gov](mailto:adams.evan@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On January 22, 2010, EPA established a new 1-hour primary NAAQS for NO<sub>2</sub>

at a level of 100 parts per billion (ppb), based on a 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. See 75 FR 6474 (February 9, 2010). This NAAQS is designed to protect against exposure to the entire group of nitrogen oxides (NO<sub>x</sub>). NO<sub>2</sub> is the component of greatest concern and is used as the indicator for the larger group of NO<sub>x</sub>. Emissions that lead to the formation of NO<sub>2</sub> generally also lead to the formation of other NO<sub>x</sub>. Therefore, control measures that reduce NO<sub>2</sub> can generally be expected to reduce population exposures to all gaseous NO<sub>x</sub>, which may reduce the formation of ozone and fine particles, both of which pose significant public health threats. For comprehensive information on the 2010 1-hour NO<sub>2</sub> NAAQS, please refer to the February 9, 2010 (75 FR 6474), **Federal Register** notice.

When EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires states to make SIP submissions to provide for the implementation, maintenance, and enforcement of the NAAQS. This particular type of SIP submission is commonly referred to as an “infrastructure SIP.” These submissions must 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 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 infrastructure SIP submissions and through regional actions on infrastructure submissions. 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 compliance with statutory and regulatory requirements, not for the state's implementation of its SIP. EPA has other authority to address any issues concerning a state's implementation of the regulations that comprise its SIP.

Section 110(a)(2)(D) has two components: 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). Section 110(a)(2)(D)(i) includes four distinct components, commonly referred to as "prongs," that must be addressed in infrastructure SIPs. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (prong 1) and from interfering with maintenance of the NAAQS in another state (prong 2). EPA sometimes refers to prong 1 and prong 2 conjointly as the "good neighbor" provision of the CAA. The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (prong 3) and from interfering with measures to protect visibility in another state (prong 4). Section 110(a)(2)(D)(ii) requires SIPs to include provisions ensuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement.

EPA's most recent infrastructure SIP guidance, the September 13, 2013, "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)," did not explicitly include criteria for how the Agency would evaluate infrastructure SIP submissions intended to address section 110(a)(2)(D)(i)(I). With respect to certain pollutants, such as ozone and particulate matter (PM), EPA has addressed interstate transport in eastern states in the context of regional rulemaking actions that quantify state emission reduction obligations. For NO<sub>2</sub>, EPA has considered available information such as current air quality, emissions data and trends, and regulatory provisions that control source emissions to determine whether emissions from one state interfere with the attainment or maintenance of the NAAQS in another state. EPA's action on Kentucky's CAA section 110(a)(2)(D)(i)(I) interstate transport SIP revision for the 2010 NO<sub>2</sub> NAAQS is informed by these considerations.

In a notice of proposed rulemaking (NPRM) for Kentucky, published on May 16, 2019 (84 FR 22084), EPA proposed to approve the Kentucky SIP submission on the basis that the Commonwealth's SIP adequately addresses prong 1 and prong 2 requirements for the 2010 1-hour NO<sub>2</sub> NAAQS. The details of the Kentucky submission and the rationale for EPA's action are explained in the NPRM. Comments on the proposed rulemaking were due on or before June 17, 2019. EPA did not receive any comments.

## II. Final Action

As described above, EPA is taking final action to approve the infrastructure SIP submission transmitted under cover letter by the Commonwealth of Kentucky on November 16, 2018, addressing prongs 1 and 2 of section 110(a)(2)(D)(i)(I) for the 2010 1-hour NO<sub>2</sub> NAAQS. EPA is approving Kentucky's infrastructure SIP submission because it is consistent with section 110 of the CAA.

## III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. See 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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 September 30, 2019. 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: July 18, 2019.  
**Mary S. Walker,**  
*Regional Administrator, Region 4.*  
 40 CFR part 52 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 S—Kentucky**

■ 2. Section 52.920(e) is amended by adding an entry for “110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour NO<sub>2</sub> NAAQS” at the end of the table to read as follows:

**§ 52.920 Identification of plan.**

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 (e) \* \* \*

**EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS**

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approval date	Explanations
110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour NO <sub>2</sub> NAAQS.	Kentucky .....	11/16/18	7/31/19 [Insert citation of publication].	Addressing Prongs 1 and 2 of section 110(a)(2)(D)(i) only.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R09–OAR–2015–0164; FRL–9997–33–Region 9]

**Revisions to the California State Implementation Plan, Feather River Air Quality Management District; Correction**

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

**ACTION:** Final rule, correcting amendment.

**SUMMARY:** The Environmental Protection Agency (EPA) published a direct final rule in the **Federal Register** on July 8, 2015, that approved revisions to the Feather River Air Quality Management District portion of the California State Implementation Plan (SIP) but did not include all the necessary amendatory language to list all the SIP revisions that were being approved. This document corrects this error.

**DATES:** This final rule is effective on July 31, 2019.

**FOR FURTHER INFORMATION CONTACT:** Kevin Gong, EPA Region IX, (415) 972–3073, [gong.kevin@epa.gov](mailto:gong.kevin@epa.gov).

**SUPPLEMENTARY INFORMATION:** On July 8, 2015 (80 FR 38959), the EPA took direct final action to approve revisions to the Feather River Air Quality Management District (AQMD) portion of the

California SIP.<sup>1</sup> The approval covered one Feather River AQMD rule (Rule 3.8 (“Gasoline Dispensing Facilities”)) and three Reasonably Available Control Technology (RACT) SIP demonstrations from Feather River AQMD: One from 2006 (“2006 RACT SIP”), one from 2009 (“2009 RACT SIP”) and one from 2014 (“2014 RACT SIP”). In our direct final action, we mistakenly codified our approval of Rule 3.8 twice and failed to codify our approval of the 2009 RACT SIP.

On September 8, 2015 (80 FR 53739), we corrected our July 8, 2015 direct final action by replacing one of the listings for our approval of Rule 3.8 with our approval of the 2014 RACT SIP. In our September 8, 2015 action, we also intended to replace the July 8, 2015 listing of the 2014 RACT SIP with the missing approval of the 2009 RACT SIP, but inadvertently failed to do so with the result that our approval of the 2014 RACT SIP is now codified at both 40 CFR 52.220(c)(459) and 40 CFR 52.220(c)(460) and the approval of the 2009 RACT SIP is still missing. In this action, we are revising paragraph (c)(459) to list our approval of the 2009 RACT SIP.

The EPA has determined that this action falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation where public notice and comment procedures are

impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action is unnecessary because the underlying rule for which this correcting amendment has been prepared was already subject to a 30-day comment period. Further, this action is consistent with the purpose and rationale of the final rule for which amendatory instructions are being corrected herein. Because this action does not change the EPA’s analyses or overall actions, no purpose would be served by additional public notice and comment. Consequently, additional public notice and comment are unnecessary.

The EPA also finds that there is good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date of less than 30 days after publication “as otherwise provided by the agency for good cause found and published with the rule.” 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. This action merely corrects incomplete amendatory instructions in a previous rulemaking. For these reasons, the EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

<sup>1</sup> The Feather River AQMD administers air quality management programs in Yuba and Sutter Counties in California.