

the SJVUAPCD 1-hour ozone nonattainment area to meet the requirements for a program no less stringent than that of section 185. Final approval of Rule 3170 and SJVUAPCD's equivalent alternative program also permanently terminates all sanctions and the Federal Implementation Plan (FIP) implications associated with section 185 for the 1-hour ozone NAAQS and previous action (75 FR 1716, January 13, 2010) regarding SJV.

## V. 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 appropriate circuit by October 19, 2012. 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, Volatile organic compounds.

Dated: June 11, 2012.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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 F—California

- 2. Section 52.220 is amended by adding paragraph (c)(412) to read as follows:

### § 52.220 Identification of plan.

\* \* \* \* \*

(412) New regulations were submitted on June 14, 2011 by the Governor's designee.

(i) Incorporation by Reference.

(A) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 3170, "Federally Mandated Ozone Nonattainment Fee," amended on May 19, 2011.

\* \* \* \* \*

[FR Doc. 2012-20268 Filed 8-17-12; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R06-OAR-2008-0633; FRL-9713-8]

### Approval and Promulgation of Air Quality Implementation Plans; Arkansas; Infrastructure Requirements for the 1997 Ozone NAAQS and the 1997 and 2006 PM<sub>2.5</sub> NAAQS and Interstate Transport Requirements for the 1997 Ozone NAAQS and 2006 PM<sub>2.5</sub> NAAQS

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

**ACTION:** Final rule.

**SUMMARY:** EPA is partially approving and partially disapproving submittals from the State of Arkansas pursuant to the Clean Air Act (CAA or the Act) that address certain infrastructure elements specified in the CAA necessary to implement, maintain, and enforce the 1997 8-hour ozone and the 1997 and 2006 fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS or standards). EPA is also making a correction to an attainment status table in its regulations to accurately reflect the redesignation date of Crittenden County, Arkansas to attainment for the 1997 8-hour ozone standard.

**DATES:** This final rule is effective on September 19, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R06-OAR-

2008–0633. All documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov). Although listed in the index, some information is not publicly available, e.g., 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 Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 Freedom of Information Act (FOIA) Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection during official business hours, by appointment, at the Arkansas Department of Environmental Quality, Planning and Air Quality Analysis Branch, 5301 Northshore Drive, North Little Rock, Arkansas 72118.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Riley, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–8542; fax number (214) 665–7263; email address: [riley.jeffrey@epa.gov](mailto:riley.jeffrey@epa.gov).

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

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### I. Background

The background for today’s action is discussed in detail in our February 9, 2012, proposal (77 FR 6711). In that notice, we proposed to partially approve and partially disapprove submittals from the State of Arkansas, pursuant to

the CAA, that address the infrastructure elements specified in the CAA section 110(a)(2), necessary to implement, maintain, and enforce the 1997 8-hour ozone, the 1997 and 2006 PM<sub>2.5</sub> NAAQS. Those submittals are dated December 17, 2007, March 28, 2008, and September 16, 2009, respectively. We noted that those submittals did not include revisions to the SIP, but documented how the current Arkansas SIP already included the required infrastructure elements. Therefore, we proposed to find that the following section 110(a)(2) elements were contained in the current Arkansas SIP and provided the infrastructure for implementing the 1997 8-hour ozone standard: CAA Sections 110(a)(2)(A), (B), (E), (F), (G), (H), (K), (L), (M), and portions of (C), (D)(ii), and (J). EPA also proposed to find that the following section 110(a)(2) elements were contained in the current Arkansas SIP and provided the infrastructure for implementing the 1997 and 2006 PM<sub>2.5</sub> standards: CAA Sections 110(a)(2)(A), (B), (E), (F), (G), (H), (K), (L), and (M). EPA also proposed to find that the current Arkansas SIP does not meet the infrastructure requirements for the 1997 8-hour ozone NAAQS and the 1997 and 2006 PM<sub>2.5</sub> NAAQS at 110(a)(2) for portions of (C), (D)(ii), and (J) because the EPA-approved SIP prevention of significant deterioration (PSD) program does not apply to greenhouse gas (GHG) emitting sources. We also proposed to find that the current Arkansas SIP does not meet the infrastructure requirements for the 1997 and 2006 PM<sub>2.5</sub> NAAQS at 110(a)(2) for (C), (D)(ii), and (J) because Arkansas has not submitted the PSD SIP revision required by EPA’s Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (73 FR 28321, May 16, 2008). Further, for the 1997 8-hour ozone NAAQS, we proposed to partially approve and partially disapprove the provisions of SIP submissions intended to satisfy the section 110(a)(2)(D)(i)(II) infrastructure element pertaining to emissions from sources in Arkansas not interfering with measures required in the SIP of any other State under part C of the CAA to prevent significant deterioration of air quality. For the 2006 PM<sub>2.5</sub> NAAQS, we proposed to disapprove the provisions of SIP submissions intended to satisfy this section 110(a)(2)(D)(i)(II) infrastructure element. Finally, for purposes of the 1997 8-hour ozone NAAQS, EPA proposed to approve four severable portions of SIP revisions to modify the Arkansas PSD SIP to include NO<sub>x</sub> as an ozone precursor.

Our February 9, 2012, proposal provides a detailed description of the submittals and the rationale for EPA’s proposed actions, together with a discussion of the opportunity to comment. The public comment period for these actions closed on March 12, 2012, and we did not receive any comments.

### II. Final Action

We are partially approving and partially disapproving the submittals provided by the State of Arkansas to demonstrate that the Arkansas SIP meets the requirements of Section 110(a)(1) and (2) of the Act for the 1997 ozone and 1997 and 2006 PM<sub>2.5</sub> NAAQS. For the 1997 ozone standard, we are finding that the current Arkansas SIP meets the infrastructure elements listed below:

- Emission limits and other control measures (110(a)(2)(A) of the Act);

- Ambient air quality monitoring/data system (110(a)(2)(B) of the Act);

- Program for enforcement of control measures (110(a)(2)(C) of the Act), except for the portion that addresses GHGs;

- Interstate Transport, pursuant to section 110(a)(2)(D)(ii) of the Act, except for the portion that addresses GHGs;

- Adequate resources (110(a)(2)(E) of the Act);

- Stationary source monitoring system (110(a)(2)(F) of the Act);

- Emergency power (110(a)(2)(G) of the Act);

- Future SIP revisions (110(a)(2)(H) of the Act);

- Consultation with government officials (110(a)(2)(J) of the Act);

- Public notification (110(a)(2)(I) of the Act);

- Prevention of significant deterioration and visibility protection (110(a)(2)(J) of the Act), except for the portion that addresses GHGs;

- Air quality modeling data (110(a)(2)(K) of the Act);

- Permitting fees (110(a)(2)(L) of the Act); and

- Consultation/participation by affected local entities (110(a)(2)(M) of the Act).

For the 1997 ozone standard, we are finding that the current Arkansas SIP does not meet the infrastructure elements listed below:

- Program for enforcement of control measures (110(a)(2)(C) of the Act), only as it relates to GHGs;

- Interstate transport, pursuant to section 110(a)(2)(D)(ii) of the Act, only as it relates to GHGs; and

- Prevention of significant deterioration (110(a)(2)(J) of the Act), only as it relates to GHGs.

We are also approving the Arkansas Interstate Transport SIP provisions that

address the requirement of section 110(a)(2)(D)(i)(II) that emissions from sources in Arkansas do not interfere with measures required in the SIP of any other State under part C of the CAA to prevent significant deterioration of air quality, except as they relate to GHGs for the 1997 ozone NAAQS.

We are disapproving the portion of the Arkansas Interstate Transport SIP provisions that address the requirement of section 110(a)(2)(D)(i)(II), as it relates to GHGs, that emissions from sources in Arkansas do not interfere with measures required in the SIP of any other State under part C of the CAA to prevent significant deterioration of air quality, for the 1997 ozone NAAQS.

For the 1997 and 2006 PM<sub>2.5</sub> standards, we are finding that the current Arkansas SIP meets the infrastructure elements listed below:

Emission limits and other control measures (110(a)(2)(A) of the Act);

Ambient air quality monitoring/data system (110(a)(2)(B) of the Act);

Adequate resources (110(a)(2)(E) of the Act);

Stationary source monitoring system (110(a)(2)(F) of the Act);

Emergency power (110(a)(2)(G) of the Act);

Future SIP revisions (110(a)(2)(H) of the Act);

Consultation with government officials (110(a)(2)(J) of the Act);

Public notification (110(a)(2)(I) of the Act);

Air quality modeling data (110(a)(2)(K) of the Act);

Permitting fees (110(a)(2)(L) of the Act); and

Consultation/participation by affected local entities (110(a)(2)(M) of the Act).

For the 1997 and 2006 PM<sub>2.5</sub> standards, we are finding that the current Arkansas SIP does not address the 110(a)(2) infrastructure elements listed below:

Program for enforcement of control measures (110(a)(2)(C) of the Act);

Interstate Transport, pursuant to section 110(a)(2)(D)(ii) of the Act; and

Prevention of significant deterioration and visibility protection (110(a)(2)(J) of the Act).

We are also disapproving the portion of the Arkansas Interstate Transport SIP that addresses the requirement of section 110(a)(2)(D)(i)(II)—that emissions from sources in Arkansas do not interfere with measures required in the SIP of any other State under part C of the CAA to prevent significant deterioration of air quality—for the 2006 PM<sub>2.5</sub> NAAQS.

Under section 110(c) of the Act, disapproval of a SIP in whole or in part requires EPA to promulgate a federal

implementation plan (FIP) at any time within two years following final disapproval, unless the State submits a plan or plan revision that corrects the deficiency—and the EPA approves the plan or plan revision—before the EPA promulgates such FIP. This two-year period is commonly referred to as the “FIP clock.” Here, based on Arkansas’s failure to submit the required PM<sub>2.5</sub> PSD SIP revision, and because Arkansas cannot issue permits for GHG emissions, we are disapproving for the 1997 and 2006 PM<sub>2.5</sub> standard and partially disapproving for the 1997 ozone NAAQS certain severable elements of the Arkansas infrastructure SIP. Accordingly, EPA is required by law to promulgate a FIP at any time within two years of this final rulemaking, unless Arkansas submits and we approve a new SIP or SIP revisions that correct the deficiencies, or unless EPA has already fulfilled its FIP obligation.

EPA is also approving the following revisions to APCEC Regulation 19, Chapter 9, submitted by the State of Arkansas on February 17, 2010:

1. The substantive change adding NO<sub>x</sub> to the definition of *Major Modification* through incorporation by reference of 40 CFR 52.21(b) and 40 CFR 51.301 as of November 29, 2005.

2. The substantive change adding NO<sub>x</sub> to the definition of *Major Stationary Source* through incorporation by reference of 40 CFR 52.21(b) and 40 CFR 51.301 as of November 29, 2005.

3. The substantive change adding NO<sub>x</sub> as a precursor to the table’s criteria and other pollutants listing for ozone through incorporation by reference of 40 CFR 52.21(b)(23)(i).

4. The substantive change allowing for an exemption with respect to ozone monitoring for a source with a net emissions increase less than 100 tpy of NO<sub>x</sub> through incorporation by reference of 40 CFR 52.21(i)(5)(i).

EPA is taking these actions in accordance with section 110 and part C of the Act and EPA’s regulations and consistent with EPA guidance. We are also making ministerial corrections to the attainment status table in 40 CFR 81.304 to accurately reflect the redesignation date of Crittenden County, Arkansas to attainment for the 1997 8-hour ozone standard. On March 24, 2010, we redesignated the county with an effective date of April 23, 2010 (75 FR 14077).

### 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.

42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to act on State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law.

#### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a “significant regulatory action” under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

#### B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, because this SIP partial approval/partial disapproval under section 110 and subchapter I, part D of the CAA will not in-and-of itself create any new information collection burdens but simply disapproves certain State requirements for inclusion into the SIP. Burden is defined at 5 CFR 1320.3(b).

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. For purposes of assessing the impacts of today’s rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration’s (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today’s rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. This rule does not impose any requirements or create impacts on small entities. This SIP partial approval/partial disapproval under section 110 and subchapter I, part D of the CAA will not in-and-of itself

create any new requirements but simply approves, in part, and disapproves, in part, certain State requirements for inclusion into the SIP. Accordingly, it affords no opportunity for EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. The fact that the CAA prescribes that various consequences (e.g., a FIP) may or will flow from this partial disapproval does not mean that EPA either can or must conduct a regulatory flexibility analysis for this action. Therefore, this action will not have a significant economic impact on a substantial number of small entities.

#### *D. Unfunded Mandates Reform Act*

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. EPA has determined that the action does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This action partially approves and partially disapproves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### *E. Executive Order 13132, Federalism*

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely partially approves and partially disapproves certain State requirements for inclusion into the SIP and does not

alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, Executive Order 13132 does not apply to this action.

#### *F. Executive Order 13175, Coordination With Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because the action EPA is finalizing neither imposes substantial direct compliance costs on tribal governments, nor preempts tribal law. Therefore, the requirements of section 5(b) and 5(c) of the Executive Order do not apply to this rule. Consistent with EPA policy, EPA nonetheless is offering consultation to Tribes regarding this rulemaking action. EPA will respond to relevant comments in the final rulemaking action.

#### *G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This SIP partial approval/disapproval under section 110 and subchapter I, part D of the CAA will not in-and-of itself create any new regulations but simply partially approves and partially disapproves certain State requirements for inclusion into the SIP.

#### *H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution or Use*

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

#### *I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical

standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The EPA believes that this action is not subject to requirements of Section 12(d) of NTTAA because application of those requirements would be inconsistent with the CAA.

#### *J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this action. In reviewing SIP submissions, EPA's role is to approve or disapprove state choices, based on the criteria of the CAA. Accordingly, this action merely partially approves and partially disapproves certain State requirements for inclusion into the SIP under section 110 and subchapter I, part D of the CAA and will not in-and-of itself create any new requirements. Accordingly, it 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.

#### *K. Congressional Review Act*

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).

#### *L. Judicial Review*

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 appropriate circuit by October 19, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purpose 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**

##### *40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

##### *40 CFR Part 81*

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: July 31, 2012.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

40 CFR parts 52 and 81 are 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 E—Arkansas**

■ 2. Section 52.170 is amended as follows:

■ a. In the table in paragraph (c), revise the entries for Reg. 19.903 and Reg. 19.904.

■ b. At the end of the third table in paragraph (e) entitled “EPA-Approved Non-Regulatory Provisions and Quasi-Regulatory Measures in the Arkansas SIP”, add entries for “Infrastructure for the 1997 Ozone NAAQS”, “Infrastructure for the 1997 and 2006 PM<sub>2.5</sub> NAAQS”, and “Interstate transport for the 1997 ozone NAAQS (Noninterference with measures required to prevent significant deterioration of air quality in any other State)”.

The revisions and additions read as follows:

#### **§ 52.170 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

#### **EPA-APPROVED REGULATIONS IN THE ARKANSAS SIP**

State citation	Title/subject area	State submittal/ effective date	EPA approval date	Explanation
* * *	* * *	* * *	* * *	* * *
Reg. 19.903 .....	Definitions .....	02/03/2005	04/12/2007 (72 FR 18394).	The addition of NO <sub>x</sub> to the definitions of Major Modification and Major Stationary Source submitted on 2/17/2010 is approved 8/20/2012. [Insert FR page number where document begins].
Reg. 19.904 .....	Adoption of Regulations	02/03/2005	04/12/2007 (72 FR 18394).	The following revisions submitted on 2/17/2010 are approved: (1) Addition of 40 tons per year of NO <sub>x</sub> to the definition of “significant”, and (2) The ozone monitoring exemption for a source with a net emissions increase less than 100 tons per year of NO <sub>x</sub> . 8/20/2012 [Insert FR page number where document begins].
* * *	* * *	* * *	* * *	* * *

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

#### **EPA-APPROVED NON-REGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE ARKANSAS SIP**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* * *	* * *	* * *	* * *	* * *
Infrastructure for the 1997 Ozone NAAQS.	Statewide .....	12/17/2007 3/28/2008	8/20/2012 [Insert FR page number where document begins].	Approval for CAA elements 110(a)(2)(A), (B), (E), (F), (G), (H), (K), (L), and (M). Approval for CAA elements 110(a)(2)(C), (D)(i)(II) (interfere with measures in any other state to prevent significant deterioration of air quality), (D)(ii), and (J) for the 1997 ozone NAAQS, except as it relates to Greenhouse Gas (GHG) emissions.

## EPA-APPROVED NON-REGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE ARKANSAS SIP—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Infrastructure for the 1997 and 2006 PM <sub>2.5</sub> NAAQS.	Statewide .....	3/28/2008 9/16/2009	8/20/2012 ..... [Insert FR page number where document begins].	Approval for CAA elements 110(a)(2)(A), (B), (E), (F), (G), (H), (K), (L), and (M).
Interstate transport for the 1997 ozone NAAQS (Noninterference with measures required to prevent significant deterioration of air quality in any other State).	Statewide .....	4/5/2011	8/20/2012 ..... [Insert FR page number where document begins].	Approved except as it relates to GHGs.

■ 3. Section 52.172 is amended by designating the existing text as paragraph (a) and adding paragraphs (b), (c), and (d) to read as follows:

**§ 52.172 Approval status.**

\* \* \* \* \*

(b) 1997 8-hour ozone NAAQS: The SIPs submitted December 17, 2007 and March 28, 2008 are partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C), (D)(i)(II) (interfere with measures in any other state to prevent significant deterioration of air quality), (D)(ii), and (J), only as it relates to Greenhouse Gas emissions.

(c) 1997 PM<sub>2.5</sub> NAAQS: The SIP submitted March 28, 2008 is disapproved for CAA elements 110(a)(2)(C), (D)(ii), and (J).

(d) 2006 PM<sub>2.5</sub> NAAQS: The SIPs submitted March 28, 2008 and September 16, 2009 are disapproved for CAA elements 110(a)(2)(C), (D)(i)(II) (interfere with measures in any other state to prevent significant deterioration of air quality), (D)(ii), and (J).

**PART 81—[AMENDED]**

■ 4. The authority citation for part 81 continues to read as follows:

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

**Subpart C—Section 107 Attainment Status Designations**

■ 5. Section 81.304 is amended:

■ a. By revising the entry for entitled for “Memphis TN—AR: (AQCR Metropolitan Memphis Interstate) Crittenden County” in the table entitled “Arkansas—1997 8-Hour Ozone NAAQS (Primary and Secondary)”.

■ b. By revising footnote 2 in the table entitled “Arkansas—1997 8-Hour Ozone NAAQS (Primary and Secondary)”.

The revisions read as follows:

**§ 81.304 Arkansas.**

\* \* \* \* \*

**ARKANSAS—1997 8-HOUR OZONE NAAQS (PRIMARY AND SECONDARY)**

Designated area	Designation <sup>a</sup>		Category/classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Memphis TN—AR: (AQCR Metropolitan Memphis Interstate) Crittenden County.	.....	Attainment .....	( <sup>2</sup> )	*
* * * * *	*	*	*	*

<sup>a</sup> Includes Indian Country located in each county or area, except as otherwise specified.

<sup>1</sup> This date is June 15, 2004, unless otherwise noted.

<sup>2</sup> Effective April 23, 2010.

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[EPA–HQ–SFUND–1983–0002; FRL–9718–4]

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Hooker (Hyde Park) Superfund Site**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 2 is publishing a

direct final Notice of Deletion of the Hooker (Hyde Park) Superfund Site (Site), located in Niagara Falls, New York, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of New York, through the Department of Environmental Conservation, because EPA has determined that all appropriate