

Columbia. Whenever any person has failed to comply with a preliminary order of reinstatement, or a final order, including one approving a settlement agreement, issued under section 18C of the FLSA, a person on whose behalf the order was issued may file a civil action seeking enforcement of the order in the appropriate United States district court.

**§ 1984.114 District court jurisdiction of retaliation complaints.**

(a) The complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States, which will have jurisdiction over such an action without regard to the amount in controversy, either:

(1) Within 90 days after receiving a written determination under § 1984.105(a) provided that there has been no final decision of the Secretary; or

(2) If there has been no final decision of the Secretary within 210 days of the filing of the complaint.

(3) At the request of either party, the action shall be tried by the court with a jury.

(b) A proceeding under paragraph (a) of this section shall be governed by the same legal burdens of proof specified in § 1984.109. The court shall have jurisdiction to grant all relief necessary to make the employee whole, including injunctive relief and compensatory damages, including:

(1) Reinstatement with the same seniority status that the employee would have had, but for the discharge or retaliation;

(2) The amount of back pay, with interest; and

(3) Compensation for any special damages sustained as a result of the discharge or retaliation, including litigation costs, expert witness fees, and reasonable attorney fees.

(c) Within seven days after filing a complaint in federal court, a complainant must file with the Assistant Secretary, the ALJ, or the ARB, depending on where the proceeding is pending, a copy of the file-stamped complaint. In all cases, a copy of the complaint also must be served on the OSHA official who issued the findings and/or preliminary order, the Assistant Secretary, and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor.

**§ 1984.115 Special circumstances; waiver of rules.**

In special circumstances not contemplated by the provisions of this part, or for good cause shown, the ALJ or the ARB on review may, upon

application, after three-days notice to all parties, waive any rule or issue such orders that justice or the administration of section 18C of the FLSA requires.

[FR Doc. 2016–24559 Filed 10–12–16; 8:45 am]

**BILLING CODE 4510–26–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA–R08–OAR–2016–0424; FRL–9953–92–Region 8]**

**Approval and Promulgation of Air Quality Implementation Plans; South Dakota; Revisions to the Permitting Rules**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve State Implementation Plan (SIP) revisions submitted by the State of South Dakota on October 23, 2015 and July 29, 2013 related to South Dakota's Air Pollution Control Program. The October 23, 2015 submittal revises certain definitions and dates of incorporation by reference and contains new, amended and renumbered rules. In this rulemaking, we are taking final action on all portions of the October 23, 2015 submittal, except for those portions of the submittal which do not belong in the SIP. This action is being taken under section 110 of the Clean Air Act (CAA).

**DATES:** This final rule is effective on November 14, 2016.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2016–0424. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., 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 electronically through <http://www.regulations.gov>, or please contact the person identified in the “For Further Information Contact” section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Kevin Leone, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado

80202–1129, (303) 312–6227, [leone.kevin@epa.gov](mailto:leone.kevin@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. What is the EPA approving?**

The EPA is approving all revisions as submitted by the State of South Dakota on October 23, 2015, with the exception of the revisions that we are not acting on, as outlined in section III of our proposed rulemaking published on August 8, 2016 (81 FR 52388). We are taking final action to approve the following revisions: (1) 74:36:01:01 (*Definitions*) - 74:36:01:01(8), 74:36:01:01(29), 74:36:01:01(67), 74:36:01:01(73), 74:36:01:05, and 74:36:01:20 ; 74:36:02 (*Ambient Air Quality*)—74:36:02:02, 74:36:02:03, 74:36:02:04 and 74:36:02:05; 74:36:03 (*Air Quality Episodes*)—74:36:03:01 and 74:36:03:02; 74:36:04 (*Operating Permits for Minor Sources*)—74:36:04:04, 74:36:04:03 and 74:36:04:21.01; 74:36:09 (*Prevention of Significant Deterioration*)—74:36:09:02, 74:36:09:03, 74:36:09:02(7), 74:36:09:02(8) and 74:36:09:02(9); 74:36:10 (*New Source Review*)—74:36:10:02, 74:36:10:03.01, 74:36:10:05, 74:36:10:07 and 74:36:10:08; 74:36:11 (*Performance Testing*)—74:36:11:01; 74:36:12 (*Control of Visible Emissions*)—74:36:12:01 and 74:36:12:03; 74:36:18 (*Regulations for State Facilities in the Rapid City Area*)—74:36:18:10; 74:36:20 (*Construction Permits for New Sources or Modifications*)—74:36:20:05; 74:36:01:01(73) (*Subject to Regulation*); and the deletion of 74:36:04:03.01 (*Minor Source Operating Permit Variance*).

We provided a detailed explanation of the bases for our proposal. See 81 FR 52388. We invited comment on all aspects of our proposal and provided a 30-day comment period. The comment period ended on September 8, 2016.

In this action, we are responding to the comments we received and taking final rulemaking action on the rules from the State's July 29, 2013 and October 23, 2015, submittals.

**II. Brief Discussion of Statutory and Regulatory Requirements**

The changes we are taking final action to approve are consistent with the CAA and EPA regulations. Specifically:

1. CAA section 110(a)(2)(C), requires each state plan to include “a program to provide for the . . . regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that the National Ambient Air Quality Standards [NAAQS] are achieved, including a permit program as

required in parts C and D of this subchapter.”

2. CAA section 165, lays out the requirements for obtaining a permit that must be included in a state’s SIP-approved permit program. South Dakota’s Air Pollution Control Program imposes these requirements on sources, and the State’s proposed plan clearly satisfies the requirements of these statutory provisions.

3. CAA section 110(a)(2)(A), requires that SIPs contain enforceable emissions limitations and other control measures. Under section CAA section 110(a)(2), the enforceability requirement in section 110(a)(2)(A) applies to all plans submitted by a state. Chapter 6, section 13 creates enforceable obligations for sources by removing phrases such as “the plan shall provide” and “the plan may provide.”

4. CAA section 110(i), (with certain limited exceptions) prohibits states from modifying SIP requirements for stationary sources except through the SIP revision process. By eliminating unspecified procedures that were referenced in the May 10, 2011 submittal, the November 6, 2015 submittal addresses this issue.

In addition, the CAA (section 110(a)(2)(C)) and 40 CFR 51.160 require states to have legally enforceable procedures to prevent construction or modification of a source if it would violate any SIP control strategies or interfere with attainment or maintenance of the NAAQS. Such minor New Source Review (NSR) programs are for pollutants from stationary sources that do not require prevention of significant deterioration (PSD) or nonattainment NSR permits. States may customize the requirements of the minor NSR program as long as their program meets minimum requirements.

Section 110(l) of the CAA states: “[e]ach revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision to a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this chapter.”

The states’ obligation to comply with each of the NAAQS is considered as “any applicable requirement(s) concerning attainment.” A demonstration is necessary to show that this SIP revision will not interfere with attainment or maintenance of the NAAQS, including those for ozone, particulate matter, carbon monoxide

(CO), sulfur dioxide (SO<sub>2</sub>), lead, nitrogen oxides (NO<sub>x</sub>) or any other requirement of the Act. South Dakota’s demonstration of noninterference (see docket), provides sufficient basis that new revisions to ARSD 74:36 will not interfere with attainment, reasonable further progress (RFP), or any other applicable requirement of the CAA. Further details can be found in our proposed rulemaking.

### III. Response to Comments

We received one comment during the public comment period. This comment was not related to the EPA’s proposed rulemaking for South Dakota’s permitting program changes which was published on August 8, 2016. As such, we are not providing a response to this comment.

### IV. Final Action

As outlined in our proposed rulemaking, the EPA finds that the addition of new, revised and removed rules to ARSD 74:36 will not interfere with attainment or maintenance of any of the NAAQS in the State of South Dakota and will not interfere with any other applicable requirement of the Act or the EPA regulations as outlined in section II of this rulemaking (see proposed rulemaking for detailed rational); and thus, are approvable under CAA section 110(l). Therefore, we are taking final action to approve South Dakota’s revisions as submitted on October 23, 2015. We are not taking action on South Dakota’s July 29, 2013 submittal because it was superseded.

In our final rule published in the **Federal Register** on February 16, 2016 (81 FR 7706) we inadvertently used an incorrect approval date in the updates to the South Dakota regulatory table. The EPA is taking final action to correct this error with this action. The IBR material for our February 16, 2016 action is contained within this docket.

### V. Incorporation by Reference

In this rule, the EPA is taking final action to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is taking final action to incorporate by reference the Administrative Rules of South Dakota pertaining to their permitting rules as outlined in section I. The EPA has made, and will continue to make, these documents generally available electronically through <http://www.regulations.gov> and/or at the EPA Region 8 Office (please contact the person identified in the “For Further

Information Contact” section of this preamble for more information).

### VI. 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, the 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 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 (Public Law 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 the 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, 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 (CRA), 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. The 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 December 12, 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 CAA 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, Particulate matter, Reporting and recordkeeping requirements, Volatile Organic Compounds.

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

Dated: September 26, 2016.

**Richard D. Buhl,**

*Acting Regional Administrator, Region 8.*

40 CFR part 52 is amended as follows:

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

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

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

#### Subpart QQ—South Dakota

■ 2. In § 52.2170, the table in paragraph (c) is amended by revising entries “74:36:01:01”, “74:36:01:05”, “74:36:01:10”, “74:36:01:20”; “74:36:02:02”, “74:36:02:03”, “74:36:02:04”, “74:36:02:05”; “74:36:03:01”, “74:36:03:02”; “74:36:04:03”, “74:36:04:04”, “74:36:04:21”; “74:36:09:02”, “74:36:09:03”; “74:36:10:02”, “74:36:10:03.01”, “74:36:10:05” “74:36:10:06” “74:36:10:07” “74:36:10:08”; “74:36:11:01”; “74:36:12:01”, “74:36:12:03”; “74:36:13:02”, “74:36:13:03”, “74:36:13:04”, “74:36:13:06”, “74:36:13:07”, “74:36:13:08”; “74:36:18:10”; “74:36:20:02”, “74:36:20:05”; “74:36:21:02”, “74:36:21:04”, “74:36:21:05”, and “74:36:21:09” to read as follows:

#### § 52.2170 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation, date	Comments
*	*	*	*	*	*
<b>74:36:01. Definitions</b>					
74:36:01:01 .....	Definitions .....	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	Except for 74:36:01:01.(73).
* .....	*	*	*	*	*
74:36:01:05 .....	Applicable requirements of the Clean Air Act defined.	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
* .....	*	*	*	*	*
74:36:01:10 .....	Modification defined .....	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
* .....	*	*	*	*	*
74:36:01:20 .....	Physical change in or change in the method of operation defined.	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
* .....	*	*	*	*	*
<b>74:36:02. Ambient Air Quality</b>					
* .....	*	*	*	*	*
74:36:02:02 .....	Ambient air quality standards.	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
74:36:02:03 .....	Methods of sampling and analysis.	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
74:36:02:04 .....	Ambient air monitoring network.	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation, date	Comments
74:36:02:05 .....	Air quality monitoring requirements.	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
<b>74:36:03. Air Quality Episodes</b>					
74:36:03:01 .....	Air pollution emergency episode.	.....	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
74:36:03:02 .....	Episode emergency contingency plan.	.....	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
<b>74:36:04. Operating Permits for Minor Sources</b>					
* .....	* .....	* .....	* .....	* .....	* .....
74:36:04:03 .....	Emission unit exemptions	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
74:36:04:04 .....	Standard for issuance of a minor source operating permit.	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
* .....	* .....	* .....	* .....	* .....	* .....
74:36:04:21 .....	Permit modifications .....	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
* .....	* .....	* .....	* .....	* .....	* .....
<b>74:36:09. Prevention of Significant Deterioration</b>					
* .....	* .....	* .....	* .....	* .....	* .....
74:36:09:02 .....	Prevention of significant deterioration.	.....	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	Except for 74:36:09:02.(10).
74:36:09:03 .....	Public participation .....	.....	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
<b>74:36:10. New Source Review</b>					
* .....	* .....	* .....	* .....	* .....	* .....
74:36:10:02 .....	Definitions .....	.....	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
74:36:10:03.01 .....	New source review preconstruction permit required.	.....	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
74:36:10:05 .....	New source review preconstruction permit.	.....	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
74:36:10:06 .....	Causing or contributing to a violation of any national ambient air quality standard.	.....	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
74:36:10:07 .....	Determining credit for emission offsets.	.....	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
74:36:10:08 .....	Projected actual emissions	.....	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
* .....	* .....	* .....	* .....	* .....	* .....
<b>74:36:11. Performance Testing</b>					
74:36:11:01 .....	Stack performance testing or other testing methods.	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
* .....	* .....	* .....	* .....	* .....	* .....
<b>74:36:12. Control of Visible Emissions</b>					
* .....	* .....	* .....	* .....	* .....	* .....
74:36:12:01 .....	Restrictions on visible emissions.	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation, date	Comments
*	*	*	*	*	*
74:36:12:03 .....	Exceptions granted to alfalfa pelletizers or dehydrators.	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
<b>74:36:13. Continuous Emission Monitoring Systems</b>					
*	*	*	*	*	*
74:36:13:02 .....	Minimum performance specifications for all continuous emission monitoring systems.	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
74:36:13:03 .....	Reporting requirements ....	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
74:36:13:04 .....	Notice to department of exceedance.	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
*	*	*	*	*	*
74:36:13:06 .....	Compliance certification ....	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
74:36:13:07 .....	Credible evidence .....	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
74:36:13:08 .....	Compliance assurance monitoring.	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
*	*	*	*	*	*
<b>74:36:18. Regulations for State Facilities in the Rapid City Area</b>					
*	*	*	*	*	*
74:36:18:10 .....	Visible emission limit for construction and continuous operation activities.	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
*	*	*	*	*	*
<b>74:36:20. Construction Permits for New Sources or Modifications</b>					
*	*	*	*	*	*
74:36:20:02 .....	Construction permit required.	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
*	*	*	*	*	*
74:36:20:05 .....	Standard for issuance of construction permit.	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
*	*	*	*	*	*
<b>74:36:21. Regional Haze Program</b>					
*	*	*	*	*	*
74:36:21:02 .....	Definitions .....	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
*	*	*	*	*	*
74:36:21:04 .....	Visibility impact analysis ...	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
74:36:21:05 .....	BART determination .....	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
*	*	*	*	*	*
74:36:21:09 .....	Monitoring, recordkeeping, and reporting.	10/13/2015	11/14/2016	[Insert <b>Federal Register</b> citation], 10/13/2016.	
*	*	*	*	*	*

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[FR Doc. 2016-24648 Filed 10-12-16; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52****[EPA-R01-OAR-2008-0486; EPA-R01-OAR-2008-0223; EPA-R01-OAR-2008-0447; EPA-R01-OAR-2009-0358; FRL-9953-85-Region 1]****Approval and Promulgation of Air Quality Implementation Plans; Maine, New Hampshire, Rhode Island, and Vermont; Interstate Transport of Air Pollution****AGENCY:** Environmental Protection Agency.**ACTION:** Final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions submitted by the Maine Department of Environmental Protection (ME DEP), the New Hampshire Department of Environmental Services (NH DES), the Rhode Island Department of Environmental Management (RI DEM) and the Vermont Department of Environmental Conservation (VT DEC). These SIP revisions address provisions of the Clean Air Act that require each state to submit a SIP to address emissions that may adversely affect another state's air quality through interstate transport. The EPA has concluded that all four States have adequate provisions to prohibit in-state emissions activities from significantly contributing to the nonattainment, or interfering with the maintenance, of the 2008 ozone National Ambient Air Quality Standards (NAAQS) in any other state. The intended effect of this action is to approve the SIP revisions submitted by Maine, New Hampshire, Rhode Island, and Vermont. This action is being taken under the Clean Air Act.

**DATES:** This rule is effective on November 14, 2016.

**ADDRESSES:** EPA has established separate dockets for this action under Docket Identification No.'s EPA-R01-OAR-2008-0486 for Maine, EPA-R01-OAR-2008-0223 for New Hampshire, EPA-R01-OAR-2008-0447 for Rhode Island, and EPA-R01-OAR-2009-0358 for Vermont. All documents in the docket are listed on the <http://www.regulations.gov> Web site, although some information, such as confidential business information or other information whose disclosure is restricted by statute is not publically available. 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 at <http://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact 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 legal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Richard P. Burkhart, Air Quality Planning Unit, Air Programs Branch (Mail Code OEP05-02), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts, 02109-3912; (617) 918-1664; [burkhart.richard@epa.gov](mailto:burkhart.richard@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. Background
- II. Public Comments
- III. Final Action
- IV. Statutory and Executive Order Reviews

**I. Background**

This rulemaking approves SIP submissions from the ME DEP, the NH DES, the RI DEM, and the VT DEC. The SIP revisions were submitted on the following dates: October 26, 2015 (Maine); November 17, 2015 (New Hampshire); June 23, 2015 (Rhode Island) and November 2, 2015 (Vermont). These SIP submissions address the requirements of Clean Air Act (CAA) section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS.<sup>1</sup>

On August 23, 2016 (81 FR 57519), EPA published a notice of proposed rulemaking (NPR) proposing approval of these four SIP submissions. The specific details of each state's SIP submission and the rationale for EPA's approval of each SIP submission are discussed in the NPR and will not be restated here.

<sup>1</sup> We note that while the SIP revisions submitted by Maine, New Hampshire, and Rhode Island address only the transport elements of CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS, Vermont's submittal addresses all of the infrastructure elements of CAA section 110(a)(2) for the 2008 ozone NAAQS. Today's action, however, only addresses the transport elements of Vermont's submittal.

**II. Public Comments**

EPA did not receive any comments in response to the NPR.

**III. Final Action**

EPA is approving the SIP revisions submitted by the states on the following dates as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS: October 26, 2015 (Maine); November 7, 2015 (New Hampshire); June 23, 2015 (Rhode Island); and November 2, 2015 (Vermont). EPA has reviewed these SIP revisions and has found that they satisfy the relevant CAA requirements.

**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 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