

INFORMATION COLLECTION REQUEST  
SUPPORTING STATEMENT

for

REVISIONS TO APPENDIX P  
TO 40 CFR PART 51

EPA ICR Number 2590.01

Prepared by:

State and Local Programs Group  
Air Quality Policy Division  
Office of Air Quality Planning and Standards  
Office of Air and Radiation  
United States Environmental Protection Agency  
Research Triangle Park, North Carolina 27711

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## **EXECUTIVE SUMMARY**

This document, titled “Information Collection Request Supporting Statement for Revisions to Appendix P to 40 CFR Part 51,” is part of an initial, rule-related information collection request (ICR) package (“Proposed Rule ICR”) that is assigned EPA Tracking No. 2590.01. No OMB Control Number has been assigned for the proposed new collection under this Proposed Rule ICR. The ICR requests approval of a proposed new collection of information, to be conducted by the U.S. Environmental Protection Agency (EPA), that would potentially affect 56 respondents (56 state air agencies). To comply with the subject rule’s requirements as proposed, states may choose to (but would not be required to) prepare and submit state implementation plan (SIP) revisions to the EPA. The regulatory burden under the proposed new collection is attributed to states’ preparation and submission of SIP revisions, a type of reporting burden. The estimated regulatory burden on states is 9,240 hours at a labor cost of \$547,200 totaled over a 3-year collection period.

## 1. IDENTIFICATION OF THE INFORMATION COLLECTION

### 1(a) Title of the Information Collection

This document is part of an initial, rule-related information collection request (ICR) package (“Proposed Rule ICR”) that is assigned EPA Tracking No. 2590.01. The Proposed Rule ICR requests approval of a proposed new collection of information titled: **Revisions to Appendix P to 40 CFR Part 51**.

### 1(b) Short Characterization/Abstract

Under the Clean Air Act (CAA), the states and the U.S. Environmental Protection Agency (EPA) each have certain authorities and responsibilities. Each state must have a state implementation plan (SIP) that provides for the implementation, maintenance, and enforcement of the national ambient air quality standards (NAAQS), and the EPA must assure that SIPs satisfy the CAA requirements. These authorities and responsibilities are further described in this document’s section 2(a), Need/Authority for the Collection.

The EPA promulgated regulations at Part 51, “Requirements for Preparation, Adoption, and Submittal of Implementation Plans,” that specify the minimum requirements that each state must include in its SIP. State and local air pollution control agencies are the main users of the Part 51 regulations, which are referred to in brief as the EPA’s SIP preparation regulations.

Appendix P to Part 51 (cited from 40 CFR 51.214) sets forth minimum continuous emission monitoring and reporting requirements that each SIP must include for sources among four source categories. These four “Appendix P” source categories are:

1. Fossil fuel-fired steam generators;
2. Fluid bed catalytic cracking unit catalyst regenerators (at petroleum refineries);
3. Sulfuric acid plants; and
4. Nitric acid plants.

The information collection being addressed in this document corresponds to a proposed rule revising Appendix P and titled, “Revisions to Appendix P to 40 CFR Part 51.” The EPA notes that the subject rule, by generally relaxing a “minimum reporting frequency” specification for SIPs from quarterly to semiannually, would be a revision only of the *minimum* requirement, and so the rule would not require that any state change the *actual* reporting frequency requirement in its SIP that applies to Appendix P sources. Therefore, to comply with the subject rule’s requirements, each state may choose to prepare and submit a SIP revision but would not be required to do so. For purposes of the Proposed Rule ICR (as described in section 3 of this

document), the EPA conservatively assumes that every state would make a single SIP submission within 3 years after the rule becomes effective, to update their SIP consistent with the regulatory changes.

Each state would make its SIP submission to its designated EPA Regional Office. For a more detailed description of the submission process, see this document's section 5(b), Collection Methodology and Management.

The proposed collection of information being addressed in this document would impose a burden of the reporting type. The Proposed Rule ICR corresponds to the proposal of a rule that would solicit voluntary SIP revisions from states. The collection resulting from the rule would impose a burden on such states to prepare SIP revisions that are consistent with the subject rule and to submit them to the EPA for approval. The collection would be used both by the states and by the EPA toward fulfilling SIP requirements pursuant to the CAA (as described in section 2 of this document). As summarized in section 6 of this document, the estimated regulatory burden on states is 9,240 hours at a labor cost of \$547,200 totaled over the 3-year collection period for which OMB's clearance is requested.

## **2. NEED FOR AND USE OF THE COLLECTION**

### **2(a) Need/Authority for the Collection**

In general, any reporting requirement imposed on non-Federal respondents by the EPA will require an ICR. When an ICR is approved, the Office of Management and Budget (OMB) assigns a control number to indicate that the information collection has been cleared for a specified period of time (not to exceed 3 years). The Code of Federal Regulations is updated periodically (see 40 CFR 9.1) to identify current ICRs and their OMB control numbers.

The Clean Air Act (CAA) establishes a framework for state-federal partnership based on the concept of "cooperative federalism," and the states and the EPA are each granted certain authorities and given certain responsibilities with respect to implementing the CAA's requirements. States develop, implement, and enforce their own regulatory programs. The EPA oversees state compliance with federal standards and may enforce directly if necessary. Through this design, pollution control is achieved with equity among the states.

About the *states'* authorities and responsibilities:

- Pursuant to CAA section 107(a), the states have primary responsibility for assuring attainment of the NAAQS within their borders. Under CAA section 110(a)(1), each state has a duty to develop and submit a SIP that provides for the attainment, maintenance, and enforcement of the NAAQS, as well as for meeting many other CAA requirements and objectives.<sup>1</sup> The specific procedural and substantive requirements that states must meet for SIPs are set forth in section 110(a)(1) and section 110(a)(2) and in other more specific requirements throughout the CAA (*e.g.*, the attainment plan requirements for each of the NAAQS as specified in part D).

About the *EPA's* authorities and responsibilities:

- The EPA has the statutory authority and responsibility to assure the states, through their SIPs, meet the requirements of the CAA, such as by interpreting the basic requirements of CAA sections 110(a)(2)(F)(ii) and (iii) and by reviewing SIPs for compliance with those requirements. The EPA does not require states to adopt any particular emission limitation or other specific control measure in their SIPs. Rather, in an overseer role, the EPA directs the states to address the statutory requirements that all SIPs must meet. In that role, the EPA has promulgated regulations at Part 51, “Requirements for Preparation, Adoption, and Submittal of Implementation Plans,” which specify the minimum requirements that each SIP must meet. State and local air pollution control agencies are main users of the Part 51 regulations, referred to in brief as the EPA’s SIP preparation regulations.
- CAA section 110(a)(2)(F) mandates that each SIP require, as may be prescribed by the Administrator, (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (iii) correlation of such reports by the State agency with any emission limitations or standards established under the CAA, which reports shall be available at reasonable times for public inspection. The EPA promulgated the original emission monitoring requirements under 40 CFR Part 51 to “more fully implement[]” CAA sections 110(a)(2)(F)(ii) and (iii).<sup>2</sup>
- The SIP review process is by nature an ongoing one, for the states and for the EPA. Pursuant to CAA section 110, states are required to reexamine and potentially to revise their SIP provisions, for instance whenever the EPA promulgates a new or revised NAAQS. Regulations applicable to states toward implementing their CAA requirements

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<sup>1</sup> As CAA section 110(a)(2)(E) allows, a state may authorize and rely on a local or regional government, agency, or instrumentality to carry out the SIP or a portion of the SIP within its jurisdiction. As a result, some SIP provisions apply to specific portions of a state. Thus, in certain states, submission of a SIP revision may involve rulemaking in more than one jurisdiction.

<sup>2</sup> “Requirements for the Preparation, Adoption and Submittal of Implementation Plans: Emission Monitoring of Stationary Sources,” 40 FR 46240 (October 6, 1975).

are periodically amended, and states need to revise their SIPs accordingly. It is not uncommon for a state to make a SIP submission that includes provisions needed to address more than one regulatory amendment. From time to time, as a state determines a need to update its SIP in order to continue to meet CAA requirements, the state will submit for the EPA's approval a SIP revision that also satisfies the EPA's Part 51 requirements for SIPs. The EPA is required to evaluate and take action on all such SIP submissions.

Related to the Proposed Rule ICR, the EPA has proposed a rule that amends the EPA's SIP preparation regulations under 40 CFR Part 51. As proposed, the subject rule neither requires that any state make a SIP revision nor specifies a due date for submission of SIP revisions associated with the rule. The subject rule would change regulatory requirements with which all SIPs must comply only to the extent it is relaxing a minimum requirement. Thus, a state's SIP revision to comply with the subject rule would be voluntary, not mandatory. Each state may choose whether to revise its SIP (and relax an actual requirement among SIP provisions) or instead leave its SIP unchanged (and continue to apply the existing requirement). To provide a conservatively high burden estimate, the EPA assumes that within 3 years after the rule becomes effective, *all* states would choose to prepare and submit SIP revisions to reflect the relaxation in the minimum requirement. Whether a given state makes explicit that its submission is made in response to the subject rule may depend on how many other, unrelated SIP changes the state has chosen to include in the same submission.

A state may have multiple motivations and purposes when undertaking a given SIP revision. Thus, a question EPA considered in deciding to prepare the Proposed Rule ICR was whether states' SIP revision activities, when Appendix P-related, would constitute a collection of information conducted by the EPA. If so, the collection of information would require an ICR to address the reporting burden that it would impose on states (to prepare the Appendix P-related SIP revisions and submit them to the EPA for approval).

In determining that the reporting burden on states may be attributed to the subject rule—and therefore that a new collection would require OMB clearance (approval for a collection period not to exceed 3 years) through an ICR—the EPA considered motivation and compliance as factors, as explained below.

- First, consider compliance: If it were unlikely that the state could comply with its CAA requirements unless the SIP were revised, it would be reasonable to conclude that the SIP revision was necessary to the state's compliance with CAA requirements. However, the subject Appendix P rule does not point to any change in CAA requirements, and so it is likely that, even in light of the subject rule, all states would continue to comply with their CAA requirements whether or not they revised their SIPs. At least for this particular information collection, it is also likely that all states would continue to comply with the SIP regulations promulgated by the EPA whether or not they revised their SIPs.
- Next, consider motivation: In this case, there is no particular triggering event that creates a new obligation for states to make SIP revisions in order to comply with either CAA

requirements or the subject rule (revisions to Appendix P). Nevertheless, recognizing that a state is less likely<sup>3</sup> to prepare and submit a SIP revision relaxing the actual requirement in the absence of a relaxation of the minimum requirement in the SIP preparation regulations, it would not be unreasonable to conclude that the subject rule was the state's motivation for revising its SIP.

Accordingly, the EPA determined that the proposed new collection of information, comprising voluntary SIP submissions that reflect and comply with the subject rule, would impose a burden on states. While the EPA should not be viewed as necessarily imposing reporting requirements on states, it would not be unreasonable to take the view that the EPA nevertheless would do so, through the subject rule. Neither is it unreasonable to take a conservative view that the EPA would be imposing the reporting requirements on all states, given that it would be nearly impossible to correctly predict how many states might choose to submit a SIP revision as a result of the subject rule.

The EPA prepared this document, titled "Information Collection Request Supporting Statement for Revisions to Appendix P to 40 CFR Part 51," to fulfill federal agency requirements under the Paperwork Reduction Act of 1995 (PRA). As a federal agency, the EPA must determine, report, and periodically update the estimated regulatory burden associated with the subject rule, once it is promulgated, because the subject rule involves collection of information from the public. The EPA is unaware of any existing ICRs, either current or expired, that cover recordkeeping and reporting requirements associated with the subject rule under Part 51. See section 3(a) of this document for description of existing ICRs that cover other SIP-related requirements. The proposed information collection that is the subject of this document concerns the minimum requirements that each state must include in its SIP. Because this is an initial ICR rather than a renewal ICR, the 3-year collection period for which OMB's clearance is requested would start on the date specified by OMB in its notice of action on the request.

Referencing the need and authority for this collection:

- In [Appendix A](#) to this document, see selected excerpt of the Clean Air Act, namely: section 110(a).
- In [Appendix B](#) to this document, see selected excerpts of the EPA's SIP regulations under 40 CFR Part 51, namely: section 51.214; and Appendix P to Part 51 as most recently amended August 30, 2016.

## 2(b) Practical Utility/Users of the Data

The EPA's role in implementation of the NAAQS through SIPs, pursuant to 40 CFR Parts 51 and 52, is centered around the concept of "cooperative federalism," sharing responsibility with state and local air agencies. Pursuant to CAA section 110, states are responsible for ensuring on

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<sup>3</sup> While a state may not revise its SIP requirements to a level of stringency *below* that of Appendix P's minimum requirement, the state may choose to revise it down *to* the level of stringency of the minimum requirement.

an ongoing basis that their SIPs are consistent with requirements of the CAA and for ensuring sources' compliance with the SIP requirements.

This information collection concerns the subject rule and the one-time SIP revisions that state respondents would prepare and submit to the EPA for approval. The collection would be used both by state respondents and by the EPA, over the 3-year period for which OMB's clearance is requested, as described below:

- **State respondents.** Each state air agency will review the reporting frequency requirements in its existing SIP to: (i) ensure that the SIP meets the minimum requirements for reporting frequency applicable to Appendix P source categories; and (ii) determine the extent to which the state will revise its SIP in a manner consistent with the change in Appendix P minimum requirements. For purposes of this document, the EPA conservatively assumes that every state will elect to prepare and submit (to its designated EPA Regional Office) a single SIP revision that includes an Appendix P-related provision.
- **The EPA.** Regional Office program personnel of the EPA will review one SIP submission that includes an Appendix P-related provision from each state. The EPA's role in the SIP review process involves evaluation of each submitted provision to ensure that the provision serves the state in implementing and enforcing the CAA. Among criteria against which the EPA evaluates SIP submissions are the minimum requirements specified under Part 51. Provisions that meet CAA requirements will be approved by the EPA into the SIP. The approval of each state's SIP and SIP revisions is recorded under 40 CFR Part 52.

### **3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA**

#### **3(a) Nonduplication**

Among the EPA's SIP preparation regulations, Appendix P to Part 51 was promulgated in 1975, with a requirement that each state adopt minimum specifications for Appendix P sources by October 6, 1976.<sup>4</sup> For purposes of this document, the EPA assumes that all states already have SIPs that address Part 51 requirements for Appendix P sources. The subject rule as proposed, by changing one minimum specification for SIPs, does solicit SIP revisions from states that choose to reflect that change (a relaxation in reporting frequency) in their SIPs. However, the subject rule would not require any duplication of effort, such as to require a SIP revision for reapproval of unchanged Appendix P-related requirements that already satisfy the minimum specifications.

As described in greater detail under section 2(a) of this document, states' SIP revision activities are typically numerous and ongoing. The EPA examined numerous existing information

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<sup>4</sup> 40 FR 46240 at 46246/3.



collections but identified none that appear to address burden associated with SIP revisions to address the subject rule's Appendix P change. Examined information collections that specifically involve SIP submissions include those listed below (in reverse chronological order according to the upload date reported on the OMB website for ICRs, <https://www.reginfo.gov/public/do/PRAMain>).

1. “Prevention of Significant Deterioration and Nonattainment New Source Review,” renewal ICR, OMB Control No. 20600003, EPA Tracking No. 1230.32. Per Supporting Statement uploaded 2/24/17, the estimated burden is primarily associated with activities such as submittal and processing of NSR permit applications and issuance of preconstruction permits. For activities associated with SIP submissions, the identified ICR attributes 40 hours for each of 58 SIP revisions to burden on states (Table 62) and 5 hours for each of 58 SIP reviews to burden on the EPA (Table 63).
2. “PM<sub>2.5</sub> National Ambient Air Quality Standards State Implementation Plan Requirements Rule,” renewal ICR, OMB Control No. 20600611, EPA Tracking No. 2258.04. Per Supporting Statement uploaded 8/24/16, the estimated burden is primarily associated with developing and submitting SIPs to attain the PM<sub>2.5</sub> NAAQS. The identified ICR, in Table 7, specific to the 2012 NAAQS, attributes 126,000 hours to total incremental burden on states and 13,860 hours to total incremental burden on the EPA. The identified ICR, in Table 8, specific to the 1997 and 2006 NAAQS, attributes 145,800 hours to total incremental burden on states and 16,038 hours to total incremental burden on the EPA.
3. “Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements,” renewal ICR, OMB Control No. 20600695, EPA Tracking No. 2347.02. Per Supporting Statement uploaded 8/16/16, the estimated burden is primarily associated with meeting attainment demonstration requirements and with “reasonable further progress” (RFP) and “reasonably available control technology” (RACT) SIP submissions, to attain and maintain the 2008 8-hour ozone NAAQS. For those activities (including but not limited to the SIP submissions), the identified ICR in Table 7 attributes 120,000 hours to total incremental burden on states and 24,200 hours to total incremental burden on the EPA.
4. “Regional Haze Regulations,” renewal ICR, OMB Control No. 20600421, EPA Tracking No. 1813.09. Per Supporting Statement uploaded 2/26/16, the estimated burden is primarily associated with developing interim progress reports and with developing and submitting periodic comprehensive SIP revisions as required by the regional haze rule. For activities associated with the periodic comprehensive SIP submissions, the identified ICR attributes 500 hours to per-plan burden on states (Table 6.5) and 400 hours to per-plan burden on the implementing federal agencies (including the EPA; Table 6.4).
5. “8-hour Ozone National Ambient Air Quality Standard Implementation Rule,” renewal ICR, OMB Control No. 20600594, EPA Tracking No. 2236.04. Per Supporting Statement uploaded 11/12/13, the estimated burden is primarily associated with meeting attainment demonstration requirements and with “reasonable further progress” (RFP) and “reasonably available control technology” (RACT) SIP submissions, to attain and maintain the 8-hour ozone NAAQS, accounting for the transition from implementing the

1997 standard to implementing the 2008 standard. For those activities (including but not limited to the SIP submissions), the identified ICR in Table 7 attributes 35,000 hours to total incremental burden on states and 3,850 hours to total incremental burden on the EPA.

Based on its examination, the EPA concludes that the SIP revisions that would be solicited by the subject rule are not available from other sources and thus that the information requested under this ICR is unique and does not duplicate other SIP requirements.

### 3(b) Public Notice Required Prior to ICR Submission to OMB

Because the Proposed Rule ICR is a request for clearance for a proposed initial collection rather than for renewal of clearance for an existing collection, the EPA is soliciting public comment on the ICR as part of the same notice in which the EPA proposes to revise the subject rule. EPA will address any comments received in the ICR for the subsequent final rule.

### 3(c) Consultations

As specified in the OMB's regulation at 5 CFR 1320.8(d)(1), an agency should consult with potential respondents and other members of the public prior to submitting an ICR to OMB for approval.

### 3(d) Effects of Less Frequent Collection

In general, the proposed new information collection involves a single SIP revision by each state over the requested 3-year collection period, so this document does not address potential effects of less frequent collection.

Although the ICR burden estimate is based on an assumption that every state would elect to revise its SIP to address reporting frequency for Appendix P sources, the EPA notes that the actual collection may involve a lesser number of Appendix P-related SIP revisions. The reason for the potential difference is that even in light of the subject rule's change in minimum requirements for SIPs, any given state may (as is allowed) elect to retain its existing SIP requirements, such as to require that sources located in the state report continuous monitoring system-related information on a more frequent basis than the minimum specified for SIPs under Part 51.

### 3(e) General Guidelines

The EPA is adhering to OMB's general guidelines for information collections. The proposed new collection would not require any characteristic of the collection of information that warrants the EPA's justification (such as listed under 5 CFR Part 1320, "Controlling Paperwork Burdens on the Public," at 5 CFR 1320.5). For instance, this information collection would not require that any respondent:

- Report information to the Agency more often than quarterly;
- Prepare a written response to a collection of information in fewer than 30 days after receipt of a request;
- Submit more than an original and two copies of any document; or
- Retain records for more than 3 years.

### 3(f) Confidentiality

The EPA proposed to determine that the requested information collection (SIP submissions) would not include any confidential information. In accordance with 40 CFR 51.116, “Data availability,” each state must retain and make available for public inspection all detailed data and calculations used in the preparation of its SIP and SIP revisions.

### 3(g) Sensitive Questions

The consideration of sensitive questions (*i.e.*, sexual, religious, personal or other private matters) is not applicable to the Part 51 SIP preparation regulations. The information gathered for purposes of states’ SIP submissions and the EPA’s review of SIP submissions does not include personal information about any owner or operator.

## 4. THE RESPONDENTS AND THE INFORMATION REQUESTED

### 4(a) Respondents/NAICS Codes

Under CAA section 110(a)(1), each state has a duty to develop and submit a SIP.<sup>5</sup> As of the date of this document, no Indian tribes have chosen to be treated as states with respect to compliance with Appendix P to Part 51.<sup>6</sup> Thus, the universe of respondents for the Proposed Rule ICR comprises 56 states (and no tribes).

According to the North American Industry Classification System (NAICS), the respondents are classified under 2017 NAICS code 924110, which represents the “Administration of Air and Water Resource and Solid Waste Management Programs” industry.<sup>7</sup> As used throughout this document, the term “state” refers to any of the following entities (listed alphabetically):

<sup>5</sup> Where a state has delegated implementation of any plan provision to a local or regional government, agency, or instrumentality, the state itself has responsibility for ensuring adequate implementation of such plan provision, as specified under CAA section 110(a)(2)(E).

<sup>6</sup> Requirements under CAA section 110 may also apply, as provided in CAA section 110(o) and as appropriate under the Tribal Authority Rule at 40 CFR Part 49, to an Indian tribe that receives a determination of eligibility for treatment as a state for purposes of administering a tribal air quality management program. See “Indian Tribes: Air Quality Planning and Management,” final rule published February 12, 1998 (63 FR 7254).

<sup>7</sup> NAICS is the standard used by federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. NAICS, developed under the auspices of the OMB, was adopted in 1997 to replace the Standard Industrial Classification (SIC) system. See <http://www.census.gov/naics>.

1. Alabama
2. Alaska
3. American Samoa
4. Arizona
5. Arkansas
6. California
7. Colorado
8. Connecticut
9. Delaware
10. District of Columbia
11. Florida
12. Georgia
13. Guam
14. Hawaii
15. Idaho
16. Illinois
17. Indiana
18. Iowa
19. Kansas
20. Kentucky
21. Louisiana
22. Maine
23. Maryland
24. Massachusetts
25. Michigan
26. Minnesota
27. Mississippi
28. Missouri
29. Montana
30. Nebraska
31. Nevada
32. New Hampshire
33. New Jersey
34. New Mexico
35. New York
36. North Carolina
37. North Dakota
38. Northern Mariana Islands
39. Ohio
40. Oklahoma
41. Oregon
42. Pennsylvania
43. Puerto Rico
44. Rhode Island
45. South Carolina
46. South Dakota
47. Tennessee
48. Texas
49. Utah
50. Vermont
51. Virgin Islands
52. Virginia
53. Washington
54. West Virginia
55. Wisconsin
56. Wyoming

## 4(b) Information Requested

As specified in the EPA's SIP preparation regulations at 40 CFR 51.214, each state must have a SIP that applies, at a minimum, the requirements specified in Appendix P. For purposes of this document, the EPA assumes that all states already have SIPs that address Part 51 requirements for Appendix P sources. However, the subject rule as proposed, by changing one minimum specification for SIPs, does solicit SIP revisions from states that choose to reflect that change (a relaxation in reporting frequency) in their SIPs. Accordingly, the EPA assumes that this information collection would include submissions of SIP revisions for the EPA's approval from each of 56 states.

Identified below are data items, including any recordkeeping requirements, and respondent activities that the EPA anticipates in connection with this proposed information collection.

### **4(b)(i) Data items, including recordkeeping requirements**

In this Proposed Rule ICR, 56 SIP revisions represent the data items proposed to be collected. As described in greater detail under section 2(a) of this document, states' SIP revision activities are typically numerous and ongoing. For each state, many recordkeeping activities associated with SIP revisions are undertaken collectively and considered to be undertaken independent of the subject rule. This Proposed Rule ICR specifically addresses a recordkeeping burden of the reporting type, for states' preparation and submission of SIP revisions related to the Appendix P rulemaking. Being part of each state's "customary and usual business practice," the recordkeeping burden associated with SIP revisions more generally is therefore not being further addressed in this ICR.

### **4(b)(ii) Respondent activities**

Under the requested information collection, states as the respondents would prepare and submit SIP revisions that are consistent with the subject rule. Each state's reporting activity, being preparation and submission of a single SIP revision, is likely to involve the following subtasks:

- Upon deciding to undertake the SIP revision, propose to amend the relevant provision(s) in the state regulations and rules, and adopt the amendment at the state level (as required by CAA section 110(l), "Plan Revisions");
- develop a draft submission of the SIP revision, and solicit public comment on the proposed SIP revision through notice and hearing procedures (as set out under 40 CFR 51.102, "Public hearings");
- receive preliminary review by the EPA (if the state requests review, through the appropriate EPA Regional Office staff) prior to making an official submission (as set out under 40 CFR 51.103, "Submission of plans, preliminary review of plans"); and

- officially submit the SIP revision to the EPA Administrator for approval, through the EPA Regional Office designated for that state.

For each such SIP revision, to complete the respondent’s reporting activity, the EPA estimates an annual reporting burden of 55 hours per year, for a total reporting burden of 165 hours over the requested 3-year collection period. As explained in section 2(a) of this document, states revise their SIPs from time to time, to address various requirements, and they are already familiar with the EPA’s procedural requirements (see Subpart F of 40 CFR Part 51) that address these activities.

For this information collection in particular, there is no specified date by which such SIP revisions must be submitted to the EPA. To comply with the subject rule, “Revisions to Appendix P to 40 CFR Part 51,” each state would have the option to retain its existing Appendix P-related SIP provisions rather than revise its SIP. Nevertheless, for purposes of the Proposed Rule ICR, the EPA assumes that every state would make a SIP submission within the requested 3-year collection period.

## **5. THE INFORMATION COLLECTED—AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT**

### **5(a) Agency Activities**

Under the requested information collection, each state would prepare a SIP revision and submit it to the EPA, as the sponsoring federal agency, for approval by the EPA Administrator. The corresponding activity by the EPA would be that of taking final action on the submitted SIP revision. In completing that activity, the EPA would likely perform the following subtasks:

- Provide preliminary review of the state’s presubmission materials prior to receipt of the official submission (if requested by the state, as set out under 40 CFR 51.103, “Submission of plans, preliminary review of plans”);
- receive the officially submitted SIP revision, and determine that the submission is complete (as required by CAA section 110(k)(1), and according to Appendix V to 40 CFR Part 51, “Criteria for determining the completeness of plan submissions”);
- provide timely review of the submitted SIP revision, as required by CAA section 110(k)(2), to ensure that it satisfies CAA requirements for SIPs;
- issue a public notice in the *Federal Register*, within 6 months of the completeness determination, of the EPA’s proposed approval of the SIP revision, soliciting public comment and providing opportunity for a public hearing;
- develop responses to public comments received on the proposal, as appropriate; and

- issue a public notice in the *Federal Register* of the EPA Administrator’s final approval of the SIP revision, including response to significant public comments.

For each such SIP revision, to complete the EPA’s activity, the EPA estimates an annual burden of 11 hours per year, for a total burden of 33 hours (which equates to 20 percent of its hour estimate for respondent activities) over the requested 3-year collection period. The EPA’s subtasks leading to final rulemaking action on each SIP revision would be undertaken in accordance with SIP requirements of CAA section 110 and the EPA’s SIP preparation regulations under 40 CFR Part 51. As set out under 40 CFR 51.105, “Approval of plan,” the submitted SIP revision would not be considered part of the applicable SIP until such revision has been approved by the EPA Administrator in accordance with Part 51.

### 5(b) Collection Methodology and Management

Each state would make its SIP submission, whether in hard copy or electronically, to its designated EPA Regional Office. The EPA’s SIP preparation regulations include requirements concerning format (hard copies, electronic versions) at 40 CFR 51.103. The means of submission is generally according to arrangement between each of the ten EPA Regional Offices and the states it serves.

Prior to 2015, states typically made their SIP submissions in printed form, by mail (USPS) to the appropriate EPA Regional Office. However, on February 3, 2015, the U.S. Environmental Protection Agency notified states of the option to instead make their SIP submissions electronically, using a web-based system accessible through the EPA’s Central Data Exchange website.<sup>8</sup> The State Planning Electric Collaboration System (SPeCS) for SIPs, publicly accessible, enables submission, review, and tracking of SIPs. The EPA’s preferred way to receive a SIP submission and associated information is, in fact, through the state’s use of SPeCS for SIPs.

Each of the ten EPA Regional Offices would receive, review, and take rulemaking action on the SIP submissions comprising this proposed collection. There is no need for the EPA to maintain complete files of data or calculations used in the preparation of the SIP revisions, because the states retain such information in accordance with 40 CFR 51.116, “Data availability.”

### 5(c) Small Entity Flexibility

An agency must certify that its proposed collection of information reduces, to the extent practicable and appropriate, the burden on persons who shall provide information to or for the agency. Particularly in reducing burden for “small entities” as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)), the agency must use techniques such as those listed under 5 CFR 1320, “Controlling Paperwork Burdens on the Public,” in 5 CFR 1320.9(c).

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<sup>8</sup> The “eSIP” electronic SIP submission system announced in 2015 was subsequently integrated with the more comprehensive and still-developing “SPeCS for SIPs.” For more detailed information about how to use SPeCS for SIPs, see the EPA webpage at <https://www.epa.gov/air-quality-implementation-plans/submit-sips-online>.

With respect to this ICR, the EPA proposes to certify that the subject rule would not have a significant economic impact on a substantial number of small entities. In fact, the subject rule as proposed would not impose any requirements on small entities.

#### 5(d) Collection Schedule

For this information collection, there is no specified date by which such SIP revisions must be submitted to the EPA. As explained in this document under section 4(b)(ii), the EPA assumes that one-third of the respondents would make their SIP submissions in each year of the requested 3-year collection period.

### **6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION**

When developing an ICR, the sponsoring federal agency must consider the burden of all activities not incurred by persons in their normal course of activities. Typical ICR burden activities include reviewing instructions, maintaining records, completing paperwork, gathering information, and reporting information. The agency must also consider nonlabor costs associated with the information collection activities, such as capital costs and “operating and maintenance” (O&M) costs.

As used in this document, the term “burden” means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. Burden is described more fully in this document under section 6(g) “Burden Statement,” and it is also defined in OMB’s regulations at 5 CFR 1320.3(b)(1).

Under section 6 of this document, the EPA presents its estimates of burden and cost associated with the proposed information collection’s activities over the requested 3-year period of the collection. The starting-point estimate is the burden (in hours) for each respondent (a state) to develop and submit a single SIP revision that is consistent with the subject rule, “Revisions to Appendix P to 40 CFR Part 51.” See this document’s section 6(a). From that starting point, respondent burden hours, the EPA has also estimated the respondent labor cost. See this document’s section 6(b).

Although the focus of the PRA is on the respondent burden, the agency must also account for its own burden hours and labor cost as the sponsoring federal agency for the collection. Accordingly, this document also includes estimates of the EPA’s burden hours and labor cost. See this document’s section 6(c).

The EPA estimated no capital costs or “operating and maintenance” costs associated with the proposed information collection, for either the respondents or the agency. See this document’s section 6(d).



For the proposed information collection, the EPA’s “bottom line” estimates of total annual burden hours and cost, tabulated separately for the respondents and the agency itself, are presented in this document’s section 6(e).

## 6(a) Estimating Respondent Burden

Under the requested information collection, states as the respondents would prepare and submit SIP revisions that are consistent with the subject rule, “Revisions to Appendix P to 40 CFR Part 51.” This would be a reporting task, with a burden in hours and labor cost. The EPA’s estimate of respondent burden starts with an estimated reporting burden of 165 hours for each respondent over the requested 3-year collection period, or 55 hours per year, to prepare and submit a single SIP revision that is consistent with the subject rule.

The typical subtasks comprising the respondents’ single activity of preparing and submitting SIP revisions are listed in this document under section 4(b)(ii), “Respondent activities.” As is explained in section 4, the EPA assumes for purposes of this ICR that all 56 respondents identified in section 4(a) would make their SIP submissions within the 3-year collection period for which OMB’s clearance is requested. To estimate respondent burden on an *annual* basis, therefore, the EPA attributes only 55 hours (representing one-third of 165 hours) of activity to each respondent for each year of the requested 3-year collection period.

## 6(b) Estimating Respondent Costs

### 6(b)(i) *Estimating Labor Costs*

With an ICR’s burden hour estimates in place, the sponsoring federal agency must apply an appropriate labor rate in order to estimate the labor cost of those burden hours. Therefore, the agency must assume a mix of labor categories (*e.g.*, legal, managerial, technical, clerical) for each respondent activity.

To estimate the labor cost of respondent burden hours for the proposed information collection, the EPA is assuming that the respondents’ single activity (preparing and submitting a SIP revision) would be completed entirely by state agency personnel employed in a professional capacity and categorized as technical labor. Accordingly, to estimate the respondent labor cost, the EPA applied a labor rate of \$59.22 per hour to the respondent burden hour estimate. This labor rate is drawn from employer costs reported by the Bureau of Labor Statistics (BLS) for December 2017.<sup>9</sup> It represents the cost per hour worked for a “State and local government worker” in the “Management, professional, and related” occupational group. Of the \$59.22 cost

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<sup>9</sup> Total compensation, as a cost per hour worked, is reported by the U.S. Department of Labor, Bureau of Labor Statistics. According to the “Employer Costs for Employee Compensation–December 2017” news release, the rate for state and local government workers in the “Management, professional, and related” occupational group is \$59.22, as accessed on March 29, 2018, through the BLS website at <https://www.bls.gov/news.release/ecec.t04.htm>. Refer to “Table 4. Employer costs per hour worked for employee compensation and costs as a percent of total compensation: State and local government workers, by occupational and industry group, December 2017.”

per hour (total compensation), wages and salaries account for \$38.30; the other \$20.92 is the total of benefit costs (paid leave, supplemental pay, insurance, retirement and savings, and legally required benefits).

### **6(b)(ii) *Estimating Capital Costs and “Operating and Maintenance” Costs***

When developing an ICR, an agency will estimate the capital costs and “operating and maintenance” (O&M) costs associated with an information collection only if they were incurred for the purpose of collecting information as required by EPA. Nonlabor-related costs (either capital costs or O&M costs) should not be included in the ICR if they are attributed to respondent activities of a “usual and customary” nature.

Under the requested information collection, the EPA assumes that the burden on each state as a respondent would be exclusively labor-related, associated with the reporting task of preparing and submitting a SIP revision. Costs to acquire goods such as computers, machinery, and equipment are examples of capital costs. Costs for file storage, photocopying, and postage are examples of O&M costs. However, the EPA assumes that such capital and O&M costs, even when associated with SIP revisions, are part of each state’s “customary and usual business practice.” For purposes of this ICR, therefore, the EPA attributes no capital costs or O&M costs to the respondents.

### **6(b)(iii) *Capital/Start-up vs. Operating and Maintenance (O&M) Costs***

When developing an ICR, an agency must consider both capital/start-up costs and O&M costs in estimating nonlabor-related costs. One-time capital/start-up costs typically include any produced physical goods needed to provide the necessary information. In addition to the actual acquisition of start-up capital, one-time activities associated with the production of capital also should be included. O&M costs are defined by the PRA as “the recurring dollar amount of cost associated with O&M or purchasing services.” Costs for the general upkeep of start-up capital equipment and costs to purchase contractor or auditing services are examples of O&M costs.

For purposes of this ICR, however, the EPA assumes that the burden on each state as a respondent would be exclusively labor-related. Therefore, the EPA attributes no capital/start-up or O&M costs to the respondents.

### **6(b)(iii) *Annualizing Capital Costs***

Typically, annualized capital cost would be derived from a discounted net present value of the stream of capital costs that would occur over either the length of the collection period or the life of the equipment, whichever is shorter.

For purposes of this ICR, however, the EPA assumes that the burden on each state as a respondent would be exclusively labor-related. Therefore this document includes no estimate for annualized capital costs.

## 6(c) Estimating Agency Burden and Cost

As the sponsoring federal agency for an information collection, an agency must account for its own burden hours and labor cost.

Under the requested information collection, each state would prepare a SIP revision and submit it to the designated EPA Regional Office for that state for approval by the EPA Administrator. The EPA's corresponding activity would be to take final action on the submission, with the SIP revision's approval being the goal. The EPA's estimate of agency burden is 33 hours for each respondent SIP revision over the requested 3-year collection period, or 11 hours per year, to take final action on a single submitted SIP revision.

The typical subtasks undertaken by the EPA to complete this single activity are listed in this document under section 5(a), "Agency Activities." As is explained in section 4, the EPA assumes for purposes of this ICR that all 56 respondents identified in section 4(a) would make their SIP submissions within the 3 years over which the ICR requests clearance. Accordingly, for purposes of this ICR, the EPA assumes that it would take final action on one-third of the expected 56 submissions in each of those 3 years. To estimate agency burden on an *annual* basis, therefore, the EPA attributes only 11 hours (representing one-third of 33 hours) of activity to the agency for each year of the requested 3-year collection period.

The EPA's estimate of agency burden starts with an assumption that the EPA Regional Office staff would perform 1 hour of activity for every 5 hours of activity performed by the respondent on an Appendix P-affected SIP revision. Calculated from the estimate of 160 burden hours for each respondent's SIP revision, the EPA estimates 32 burden hours for each EPA action on the SIP revision.

To estimate the labor cost of agency burden hours for the proposed information collection, the EPA is assuming that the activity of taking final action on the submission would be completed entirely by EPA Regional Office personnel classified as technical labor at Grade 12, Step 5, under the federal government's General Schedule classification and pay system.<sup>10</sup> The EPA is applying a labor rate of \$55.26 per hour to the estimated agency burden hours for this ICR. This rate is calculated from the hourly base rate of \$34.54 in the General Schedule Salary Tables for 2018, multiplied by the standard "benefits multiplication factor" of 1.6.

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<sup>10</sup> Administered by the U.S. Office of Personnel Management, the General Schedule (GS) classification and pay system covers the majority of civilian white-collar Federal employees in professional, technical, administrative, and clerical positions. The hourly basic rate for each grade and step is found in the "Salary Table 2018GS" accessible online from <https://www.opm.gov/policy-data-oversight/pay-leave/pay-systems/general-schedule/>.

## 6(d) Estimating the Respondent Universe and Total Burden and Costs

For the purpose of estimating burden in this Proposed Rule ICR, the EPA has identified the respondent universe as follows.

States. The EPA expects that 56 states would prepare and submit a SIP revision that includes an Appendix P-related provision.

Tribes. As of the date of this document, no Indian tribes have chosen to be treated as states with respect to compliance with Appendix P to Part 51.

Industrial sources. As proposed, the subject rule, in revising Appendix P to 40 CFR Part 51, would solicit only SIP submissions from states; there is no anticipated information collection burden on industrial sources.

## 6(e) Bottom Line Burden Hours and Cost Tables

### 6(e)(i) Respondent Tally

According to the EPA's estimate, the total respondent burden associated with the EPA's revisions to Appendix P to 40 CFR Part 51 can be attributed to a single reporting activity, in which each of 56 states prepares and submits a SIP revision that includes Appendix P-related provisions. As shown in Table 61 below, the total respondent burden is estimated to be 3,080 hours per year and \$182,400 per year of the requested 3-year clearance period.

**Table 61. Bottom Line Annual Respondent Burden Hours and Cost**

Information Collection Activity	Respondent Hours and Costs, Per Respondent					Total Respondent Hours and Costs		
	Tech. Labor Rate/Hour	Respondent Hours/Year	Labor Cost/Year	Capital/Startup Cost	O&M Cost	No. Respondents	Total Hours/Year	Total Cost/Year
Prepare and submit SIP revision	\$59.22	55	\$3,257	\$0	\$0	56	3,080	\$182,400
Total	\$59.22	55	\$3,257	\$0	\$0	56	3,080	\$182,400

### 6(e)(ii) The Agency Tally

According to the EPA's estimate, the total agency burden associated with the EPA's revisions to Appendix P to 40 CFR Part 51 can be attributed to a single activity, in which EPA Regional Offices take final action on 56 states' submitted SIP revisions that include Appendix P-related provisions. As shown in Table 62, the total agency burden is estimated to be 616 hours per year and \$34,040 per year of the requested 3-year clearance period.

**Table 62. Bottom Line Annual Agency Burden Hours and Cost**

Information Collection Activity	Agency Hours and Costs, Per Respondent					Total Agency Hours and Costs		
	Tech. Labor Rate/Hr	Agency Hr/Yr	Labor Cost/Yr	Capital/Startup Cost	O&M Cost	No. Respondents	Total Hr/Yr	Total Cost/Yr
Take final action on submitted SIP revision	\$55.26	11	\$608	\$0	\$0	56	616	\$34,040
Total	\$55.26	11	\$608	\$0	\$0	56	616	\$34,040

**6(e)(iii) Variations in the Annual Bottom Line**

The annual burden on state respondents collectively is not expected to change significantly from year to year over the 3 years covered by the initial ICR. The subject rule’s minimum requirements apply to every state independent of the number of sources to which the state’s Appendix P-related SIP may apply. As this document’s section 4(b)(ii) describes, for this information collection in particular, there is no specified date by which the solicited SIP revisions must be submitted to the EPA. For purposes of this ICR, the EPA assumes that all respondents would make their SIP submissions within the requested 3-year collection period.

**6(f) Reasons for Change in Burden**

The new burden included in this ICR results from a proposed rule that revises Appendix P to 40 CFR Part 51, which relaxes the “minimum reporting frequency” specification for SIPs from quarterly to semiannually. For those states that chose to do so, this ICR addresses the burden to prepare and submit a SIP revision that is consistent with the provisions of the proposed rule.

**6(g) Burden Statement**

For states preparing and submitting SIP revisions that are consistent with Appendix P to 40 CFR Part 51 as revised in the subject rule, the public reporting burden is estimated on a per-respondent basis as a one-time activity at 165 hours to be completed within the requested 3-year collection period. The burden estimate expressed as a per-respondent annual average is 55 hours (representing one-third of 165 hours). This estimate includes time for adopting amendments to relevant provisions in the state regulations and rules, soliciting public comment on a proposed SIP revision through notice and hearing procedures, receiving preliminary review by the EPA, and officially submitting the SIP revision to the EPA for approval.

**Burden** means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the

time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, the EPA has established a public docket for this ICR under Docket ID Number EPAHQOAR20180633, which is available for online viewing at [www.regulations.gov](http://www.regulations.gov), or in-person viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 5661744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 5661742. An electronic version of the public docket is available at [www.regulations.gov](http://www.regulations.gov). This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPAHQOAR20180633 in any correspondence.

**APPENDIX A**

**Section 110(a) of the Clean Air Act**

## Clean Air Act Section 110(a) excerpted as 42 U.S.C. 7410(a):

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TITLE 42—THE PUBLIC HEALTH AND WELFARE

§ 7410

(I) in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D (relating to nonattainment areas);

(J) meet the applicable requirements of section 7421 of this title (relating to consultation), section 7427 of this title (relating to public notification), and part C (relating to prevention of significant deterioration of air quality and visibility protection);

(K) provide for—

(i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and

(ii) the submission, upon request, of data related to such air quality modeling to the Administrator;

(L) require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this chapter, a fee sufficient to cover—

(i) the reasonable costs of reviewing and acting upon any application for such a permit, and

(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action),

until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under subchapter V; and

(M) provide for consultation and participation by local political subdivisions affected by the plan.

(3)(A) Repealed. Pub. L. 101-549, title I, §101(d)(1), Nov. 15, 1990, 104 Stat. 2409.

(B) As soon as practicable, the Administrator shall, consistent with the purposes of this chapter and the Energy Supply and Environmental Coordination Act of 1974 [15 U.S.C. 791 et seq.], review each State's applicable implementation plans and report to the State on whether such plans can be revised in relation to fuel burning stationary sources (or persons supplying fuel to such sources) without interfering with the attainment and maintenance of any national ambient air quality standard within the period permitted in this section. If the Administrator determines that any such plan can be revised, he shall notify the State that a plan revision may be submitted by the State. Any plan revision which is submitted by the State shall, after public notice and opportunity for public hearing, be approved by the Administrator if the revision relates only to fuel burning stationary sources (or persons supplying fuel to such sources), and the plan as revised complies with paragraph (2) of this subsection. The Administrator shall approve or disapprove any revision no later than three months after its submission.

(C) Neither the State, in the case of a plan (or portion thereof) approved under this subsection,

nor the Administrator, in the case of a plan (or portion thereof) promulgated under subsection (c) of this section, shall be required to revise an applicable implementation plan because one or more exemptions under section 7418 of this title (relating to Federal facilities), enforcement orders under section 7413(d)<sup>1</sup> of this title, suspensions under subsection (f) or (g) of this section (relating to temporary energy or economic authority), orders under section 7419 of this title (relating to primary nonferrous smelters), or extensions of compliance in decrees entered under section 7413(e)<sup>1</sup> of this title (relating to iron- and steel-producing operations) have been granted, if such plan would have met the requirements of this section if no such exemptions, orders, or extensions had been granted.

(4) Repealed. Pub. L. 101-549, title I, §101(d)(2), Nov. 15, 1990, 104 Stat. 2409.

(5)(A)(i) Any State may include in a State implementation plan, but the Administrator may not require as a condition of approval of such plan under this section, any indirect source review program. The Administrator may approve and enforce, as part of an applicable implementation plan, an indirect source review program which the State chooses to adopt and submit as part of its plan.

(ii) Except as provided in subparagraph (B), no plan promulgated by the Administrator shall include any indirect source review program for any air quality control region, or portion thereof.

(iii) Any State may revise an applicable implementation plan approved under this subsection to suspend or revoke any such program included in such plan, provided that such plan meets the requirements of this section.

(B) The Administrator shall have the authority to promulgate, implement and enforce regulations under subsection (c) of this section respecting indirect source review programs which apply only to federally assisted highways, airports, and other major federally assisted indirect sources and federally owned or operated indirect sources.

(C) For purposes of this paragraph, the term "indirect source" means a facility, building, structure, installation, real property, road, or highway which attracts, or may attract, mobile sources of pollution. Such term includes parking lots, parking garages, and other facilities subject to any measure for management of parking supply (within the meaning of subsection (c)(2)(D)(ii) of this section), including regulation of existing off-street parking but such term does not include new or existing on-street parking. Direct emissions sources or facilities at, within, or associated with, any indirect source shall not be deemed indirect sources for the purpose of this paragraph.

(D) For purposes of this paragraph the term "indirect source review program" means the facility-by-facility review of indirect sources of air pollution, including such measures as are necessary to assure, or assist in assuring, that a new or modified indirect source will not attract mobile sources of air pollution, the emissions from which would cause or contribute to air pollution concentrations—

<sup>1</sup> See References in Text note below.



(i) exceeding any national primary ambient air quality standard for a mobile source-related air pollutant after the primary standard attainment date, or

(ii) preventing maintenance of any such standard after such date.

(E) For purposes of this paragraph and paragraph (2)(B), the term "transportation control measure" does not include any measure which is an "indirect source review program".

(6) No State plan shall be treated as meeting the requirements of this section unless such plan provides that in the case of any source which uses a supplemental, or intermittent control system for purposes of meeting the requirements of an order under section 7413(d)<sup>1</sup> of this title or section 7419 of this title (relating to primary nonferrous smelter orders), the owner or operator of such source may not temporarily reduce the pay of any employee by reason of the use of such supplemental or intermittent or other dispersion dependent control system.

**(b) Extension of period for submission of plans**

The Administrator may, wherever he determines necessary, extend the period for submission of any plan or portion thereof which implements a national secondary ambient air quality standard for a period not to exceed 18 months from the date otherwise required for submission of such plan.

**(c) Preparation and publication by Administrator of proposed regulations setting forth implementation plan; transportation regulations study and report; parking surcharge; suspension authority; plan implementation**

(1) The Administrator shall promulgate a Federal implementation plan at any time within 2 years after the Administrator—

(A) finds that a State has failed to make a required submission or finds that the plan or plan revision submitted by the State does not satisfy the minimum criteria established under subsection (k)(1)(A) of this section, or

(B) disapproves a State implementation plan submission in whole or in part,

unless the State corrects the deficiency, and the Administrator approves the plan or plan revision, before the Administrator promulgates such Federal implementation plan.

(2)(A) Repealed. Pub. L. 101-549, title I, § 101(d)(3)(A), Nov. 15, 1990, 104 Stat. 2409.

(B) No parking surcharge regulation may be required by the Administrator under paragraph (1) of this subsection as a part of an applicable implementation plan. All parking surcharge regulations previously required by the Administrator shall be void upon June 22, 1974. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an applicable implementation plan. The Administrator may not condition approval of any implementation plan submitted by a State on such plan's including a parking surcharge regulation.

(C) Repealed. Pub. L. 101-549, title I, § 101(d)(3)(B), Nov. 15, 1990, 104 Stat. 2409.

(D) For purposes of this paragraph—

(i) The term "parking surcharge regulation" means a regulation imposing or requiring the

imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles.

(ii) The term "management of parking supply" shall include any requirement providing that any new facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations.

(iii) The term "preferential bus/carpool lane" shall include any requirement for the setting aside of one or more lanes of a street or highway on a permanent or temporary basis for the exclusive use of buses or carpools, or both.

(E) No standard, plan, or requirement, relating to management of parking supply or preferential bus/carpool lanes shall be promulgated after June 22, 1974, by the Administrator pursuant to this section, unless such promulgation has been subjected to at least one public hearing which has been held in the area affected and for which reasonable notice has been given in such area. If substantial changes are made following public hearings, one or more additional hearings shall be held in such area after such notice.

(3) Upon application of the chief executive officer of any general purpose unit of local government, if the Administrator determines that such unit has adequate authority under State or local law, the Administrator may delegate to such unit the authority to implement and enforce within the jurisdiction of such unit any part of a plan promulgated under this subsection. Nothing in this paragraph shall prevent the Administrator from implementing or enforcing any applicable provision of a plan promulgated under this subsection.

(4) Repealed. Pub. L. 101-549, title I, § 101(d)(3)(C), Nov. 15, 1990, 104 Stat. 2409.

(5)(A) Any measure in an applicable implementation plan which requires a toll or other charge for the use of a bridge located entirely within one city shall be eliminated from such plan by the Administrator upon application by the Governor of the State, which application shall include a certification by the Governor that he will revise such plan in accordance with subparagraph (B).

(B) In the case of any applicable implementation plan with respect to which a measure has been eliminated under subparagraph (A), such plan shall, not later than one year after August 7, 1977, be revised to include comprehensive measures to:

(i) establish, expand, or improve public transportation measures to meet basic transportation needs, as expeditiously as is practicable; and

(ii) implement transportation control measures necessary to attain and maintain national ambient air quality standards,

and such revised plan shall, for the purpose of implementing such comprehensive public transportation measures, include requirements to use (insofar as is necessary) Federal grants, State or local funds, or any combination of such grants and funds as may be consistent with the terms of the legislation providing such grants and

**APPENDIX B:**

**Selected Excerpts of the EPA's SIP Preparation Regulations Under 40 CFR Part 51**

## 40 CFR §51.214 excerpted, unchanged:

eCFR — Code of Federal Regulations

[https://www.ecfr.gov/cgi-bin/text-idx?SID=7f44b0197de9297a39eddf932218bc9&mc=true&node=se40.2.51\\_1214&rgn=div8](https://www.ecfr.gov/cgi-bin/text-idx?SID=7f44b0197de9297a39eddf932218bc9&mc=true&node=se40.2.51_1214&rgn=div8)

### eCFR — Code of Federal Regulations

#### Electronic Code of Federal Regulations

e CFR data is current as of February 9, 2018

[Browse Previous](#)

Title 40: Protection of Environment

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

Subpart K—Source Surveillance

#### §51.214 Continuous emission monitoring.

(a) The plan must contain legally enforceable procedures to

(1) Require stationary sources subject to emission standards as part of an applicable plan to install, calibrate, maintain, and operate equipment for continuously monitoring and recording emissions; and

(2) Provide other information as specified in appendix P of this part.

(b) The procedures must—

(1) Identify the types of sources, by source category and capacity, that must install the equipment; and

(2) Identify for each source category the pollutants which must be monitored.

(c) The procedures must, as a minimum, require the types of sources set forth in appendix P of this part to meet the applicable requirements set forth therein.

(d)(1) The procedures must contain provisions that require the owner or operator of each source subject to continuous emission monitoring and recording requirements to maintain a file of all pertinent information for at least two years following the date of collection of that information.

(2) The information must include emission measurements, continuous monitoring system performance testing measurements, performance evaluations, calibration checks, and adjustments and maintenance performed on such monitoring systems and other reports and records required by appendix P of this part.

(e) The procedures must require the source owner or operator to submit information relating to emissions and operation of the emission monitors to the State to the extent described in appendix P at least as frequently as described therein.

(f)(1) The procedures must provide that sources subject to the requirements of paragraph (c) of this section must have installed all necessary equipment and shall have begun monitoring and recording within 18 months after either

(i) The approval of a State plan requiring monitoring for that source; or

(ii) Promulgation by the Agency of monitoring requirements for that source.

(2) The State may grant reasonable extensions of this period to sources that—

(i) Have made good faith efforts to purchase, install, and begin the monitoring and recording of emission data; and

(ii) Have been unable to complete the installation within the period.

## Appendix P to 40 CFR Part 51 excerpted, as most recently amended August 30, 2016:

eCFR — Code of Federal Regulations

<https://www.ecfr.gov/cgi-bin/text-idx?SID=677713a8c600bb17ec212b0...>

### eCFR — Code of Federal Regulations

#### Electronic Code of Federal Regulations

eCFR — Code of Federal Regulations

<https://www.ecfr.gov/cgi-bin/text-idx?SID=677713a8c600bb17ec212b0...>

2.1.1.2 Oil or a mixture of gas and oil are the only fuels burned and the source is able to comply with the applicable particulate matter and opacity regulations without utilization of particulate matter collection equipment, and where the source has never been found, through any administrative or judicial proceedings, to be in violation of any visible emission standard of the applicable plan.

2.1.2 A continuous monitoring system for the measurement of sulfur dioxide which meets the performance specifications of paragraph 3.1.3 of this appendix shall be installed, calibrated, maintained, and operated on any fossil fuel-fired steam generator of greater than 250 million BTU per hour heat input which has installed sulfur dioxide pollutant control equipment.

2.1.3 A continuous monitoring system for the measurement of nitrogen oxides which meets the performance specification of paragraph 3.1.2 of this appendix shall be installed, calibrated, maintained, and operated on fossil fuel-fired steam generators of greater than 1000 million BTU per hour heat input when such facility is located in an Air Quality Control Region where the Administrator has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the national standards, unless the source owner or operator demonstrates during source compliance tests as required by the State that such a source emits nitrogen oxides at levels 30 percent or more below the emission standard within the applicable plan.

2.1.4 A continuous monitoring system for the measurement of the percent oxygen or carbon dioxide which meets the performance specifications of paragraphs 3.1.4 or 3.1.5 of this appendix shall be installed, calibrated, operated, and maintained on fossil fuel-fired steam generators where measurements of oxygen or carbon dioxide in the flue gas are required to convert either sulfur dioxide or nitrogen oxides continuous emission monitoring data, or both, to units of the emission standard within the applicable plan.

2.2 Nitric acid plants. Each nitric acid plant of greater than 300 tons per day production capacity, the production capacity being expressed as 100 percent acid, located in an Air Quality Control Region where the Administrator has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the national standard shall install, calibrate, maintain, and operate a continuous monitoring system for the measurement of nitrogen oxides which meets the performance specifications of paragraph 3.1.2 for each nitric acid producing facility within such plant.

2.3 Sulfuric acid plants. Each Sulfuric acid plant of greater than 300 tons per day production capacity, the production being expressed as 100 percent acid, shall install, calibrate, maintain and operate a continuous monitoring system for the measurement of sulfur dioxide which meets the performance specifications of paragraph 3.1.3 for each sulfuric acid producing facility within such plant.

2.4 Fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries. Each catalyst regenerator for fluid bed catalytic cracking units of greater than 20,000 barrels per day fresh feed capacity shall install, calibrate, maintain, and operate a continuous monitoring system for the measurement of opacity which meets the performance specifications of paragraph 3.1.1.

3.0 Minimum specifications. All State plans shall require owners or operators of monitoring equipment installed to comply with this appendix, except as provided in paragraph 3.2, to demonstrate compliance with the following performance specifications.

3.1 Performance specifications. The performance specifications set forth in appendix B of part 60 are incorporated herein by reference, and shall be used by States to determine acceptability of monitoring equipment installed pursuant to this appendix except that (1) where reference is made to the "Administrator" in appendix B, part 60, the term State should be inserted for the purpose of this appendix (e.g., in Performance Specification 1, 1.2, " \* \* \* monitoring systems subject to approval by the Administrator," should be interpreted as, " \* \* \* monitoring systems subject to approval by the State"), and (2) where reference is made to the "Reference Method" in appendix B, part 60, the State may allow the use of either the State approved reference method or the Federally approved reference method as published in part 60 of this chapter. The Performance Specifications to be used with each type of monitoring system are listed below.

3.1.1 Continuous monitoring systems for measuring opacity shall comply with Performance Specification 1.

3.1.2 Continuous monitoring systems for measuring nitrogen oxides shall comply with Performance Specification 2.

3.1.3 Continuous monitoring systems for measuring sulfur dioxide shall comply with Performance Specification 2.

3.1.4 Continuous monitoring systems for measuring oxygen shall comply with Performance Specification 3.

3.1.5 Continuous monitoring systems for measuring carbon dioxide shall comply with Performance Specification 3.

3.2 Exemptions. Any source which has purchased an emission monitoring system(s) prior to September 11, 1974, may be exempt from meeting such test procedures prescribed in appendix B of part 60 for a period not to exceed five years from plan approval or promulgation.

3.3 Calibration Gases. For nitrogen oxides monitoring systems installed on fossil fuel-fired steam generators, the pollutant gas used to prepare calibration gas mixtures (section 6.1, Performance Specification 2, appendix B, part 60 of this chapter) shall be nitric oxide (NO). For nitrogen oxides monitoring systems installed on nitric acid plants, the pollutant gas used to prepare calibration gas mixtures (section 6.1, Performance Specification 2, appendix B, part 60 of this chapter) shall be nitrogen dioxide (NO<sub>2</sub>). These gases shall also be used for daily checks under paragraph 3.7 of this appendix as applicable. For sulfur dioxide monitoring systems installed on fossil fuel-fired steam generators or sulfuric acid plants, the pollutant gas used to prepare calibration gas mixtures (section 6.1, Performance Specification 2, appendix B, part 60 of this chapter) shall be sulfur dioxide (SO<sub>2</sub>). Span and zero gases should be traceable to National Bureau of Standards reference gases whenever these reference gases are available. Every 6 months from date of manufacture, span and zero gases shall be reanalyzed by conducting triplicate analyses using the reference methods in appendix A, part 60 of this chapter as follows: for SO<sub>2</sub>, use Reference Method 6; for nitrogen oxides, use Reference Method 7; and for carbon dioxide or oxygen, use Reference Method 3. The gases may be analyzed at less frequent intervals if longer shelf lives are guaranteed by the manufacturer.

- 3.4 Cycling times. Cycling times include the total time a monitoring system requires to sample, analyze and record an emission measurement.
- 3.4.1 Continuous monitoring systems for measuring opacity shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 10-second period.
- 3.4.2 Continuous monitoring systems for measuring oxides of nitrogen, carbon dioxide, oxygen, or sulfur dioxide shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.
- 3.5 Monitor location. State plans shall require all continuous monitoring systems or monitoring devices to be installed such that representative measurements of emissions or process parameters (i.e., oxygen, or carbon dioxide) from the affected facility are obtained. Additional guidance for location of continuous monitoring systems to obtain representative samples are contained in the applicable Performance Specifications of appendix B of part 60 of this chapter.
- 3.6 Combined effluents. When the effluents from two or more affected facilities of similar design and operating characteristics are combined before being released to the atmosphere, the State plan may allow monitoring systems to be installed on the combined effluent. When the affected facilities are not of similar design and operating characteristics, or when the effluent from one affected facility is released to the atmosphere through more than one point, the State should establish alternate procedures to implement the intent of these requirements.
- 3.7 Zero and drift. State plans shall require owners or operators of all continuous monitoring systems installed in accordance with the requirements of this appendix to record the zero and span drift in accordance with the method prescribed by the manufacturer of such instruments; to subject the instruments to the manufacturer's recommended zero and span check at least once daily unless the manufacturer has recommended adjustments at shorter intervals, in which case such recommendations shall be followed; to adjust the zero and span whenever the 24-hour zero drift or 24-hour calibration drift limits of the applicable performance specifications in appendix B of part 60 are exceeded; and to adjust continuous monitoring systems referenced by paragraph 3.2 of this appendix whenever the 24-hour zero drift or 24-hour calibration drift exceed 10 percent of the emission standard.
- 3.8 Span. Instrument span should be approximately 200 per cent of the expected instrument data display output corresponding to the emission standard for the source.
- 3.9 Alternative procedures and requirements. In cases where States wish to utilize different, but equivalent, procedures and requirements for continuous monitoring systems, the State plan must provide a description of such alternative procedures for approval by the Administrator. Some examples of situations that may require alternatives follow:
- 3.9.1 Alternative monitoring requirements to accommodate continuous monitoring systems that require corrections for stack moisture conditions (e.g., an instrument measuring steam generator SO<sub>2</sub> emissions on a wet basis could be used with an instrument measuring oxygen concentration on a dry basis if acceptable methods of measuring stack moisture conditions are used to allow accurate adjustments of the measured SO<sub>2</sub> concentration to dry basis.)
- 3.9.2 Alternative locations for installing continuous monitoring systems or monitoring devices when the owner or operator can demonstrate that installation at alternative locations will enable accurate and representative measurements.
- 3.9.3 Alternative procedures for performing calibration checks (e.g., some instruments may demonstrate superior drift characteristics that require checking at less frequent intervals).
- 3.9.4 Alternative monitoring requirements when the effluent from one affected facility or the combined effluent from two or more identical affected facilities is released to the atmosphere through more than one point (e.g., an extractive, gaseous monitoring system used at several points may be approved if the procedures recommended are suitable for generating accurate emission averages).
- 3.9.5 Alternative continuous monitoring systems that do not meet the spectral response requirements in Performance Specification 1, appendix B of part 60, but adequately demonstrate a definite and consistent relationship between their measurements and the opacity measurements of a system complying with the requirements in Performance Specification 1. The State may require that such demonstration be performed for each affected facility.
- 4.0 Minimum data requirements. The following paragraphs set forth the minimum data reporting requirements necessary to comply with §51.214(d) and (e).
- 4.1 The State plan shall require owners or operators of facilities required to install continuous monitoring systems to submit a written report of excess emissions for each calendar quarter and the nature and cause of the excess emissions, if known. The averaging period used for data reporting should be established by the State to correspond to the averaging period specified in the emission test method used to determine compliance with an emission standard for the pollutant/source category in question. The required report shall include, as a minimum, the data stipulated in this appendix.
- 4.2 For opacity measurements, the summary shall consist of the magnitude in actual percent opacity of all one-minute (or such other time period deemed appropriate by the State) averages of opacity greater than the opacity standard in the applicable plan for each hour of operation of the facility. Average values may be obtained by integration over the averaging period or by arithmetically averaging a minimum of four equally spaced, instantaneous opacity measurements per minute. Any time period exempted shall be considered before determining the excess averages of opacity (e.g., whenever a regulation allows two minutes of opacity measurements in excess of the standard, the State shall require the source to report all opacity averages, in any one hour, in excess of the standard, minus the two-minute exemption). If more than one opacity standard applies, excess emissions data must be submitted in relation to all such standards.

4.3 For gaseous measurements the summary shall consist of emission averages, in the units of the applicable standard, for each averaging period during which the applicable standard was exceeded.

4.4 The date and time identifying each period during which the continuous monitoring system was inoperative, except for zero and span checks, and the nature of system repairs or adjustments shall be reported. The State may require proof of continuous monitoring system performance whenever system repairs or adjustments have been made.

4.5 When no excess emissions have occurred and the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be included in the report.

4.6 The State plan shall require owners or operators of affected facilities to maintain a file of all information reported in the quarterly summaries, and all other data collected either by the continuous monitoring system or as necessary to convert monitoring data to the units of the applicable standard for a minimum of two years from the date of collection of such data or submission of such summaries.

5.0 Data Reduction. The State plan shall require owners or operators of affected facilities to use the following procedures for converting monitoring data to units of the standard where necessary.

5.1 For fossil fuel-fired steam generators the following procedures shall be used to convert gaseous emission monitoring data in parts per million to g/million cal (lb/million BTU) where necessary:

5.1.1 When the owner or operator of a fossil fuel-fired steam generator elects under paragraph 2.1.4 of this appendix to measure oxygen in the flue gases, the measurements of the pollutant concentration and oxygen concentration shall each be on a dry basis and the following conversion procedure used:

$$E = CF [20.9/20.9 - \%O_2]$$

5.1.2 When the owner or operator elects under paragraph 2.1.4 of this appendix to measure carbon dioxide in the flue gases, the measurement of the pollutant concentration and the carbon dioxide concentration shall each be on a consistent basis (wet or dry) and the following conversion procedure used:

$$E = CFc (100 / \%CO_2)$$

5.1.3 The values used in the equations under paragraph 5.1 are derived as follows:

$E$  = pollutant emission, g/million cal (lb/million BTU),

$C$  = pollutant concentration, g/dscm (lb/dscf), determined by multiplying the average concentration (ppm) for each hourly period by  $4.16 \times 10^{-5}$  M g/dscm per ppm ( $2.64 \times 10^{-9}$  M lb/dscf per ppm) where  $M$  = pollutant molecular weight, g/g-mole (lb/lb-mole).  $M = 64$  for sulfur dioxide and 46 for oxides of nitrogen.

$\%O_2$ ,  $\%CO_2$  = Oxygen or carbon dioxide volume (expressed as percent) determined with equipment specified under paragraphs 3.1.4 and 3.1.5 of this appendix.

5.2 For sulfuric acid plants the owner or operator shall:

5.2.1 establish a conversion factor three times daily according to the procedures to §60.84(b) of this chapter;

5.2.2 multiply the conversion factor by the average sulfur dioxide concentration in the flue gases to obtain average sulfur dioxide emissions in Kg/metric ton (lb/short ton); and

5.2.3 report the average sulfur dioxide emission for each averaging period in excess of the applicable emission standard in the quarterly summary.

5.3 For nitric acid plants the owner or operator shall:

5.3.1 establish a conversion factor according to the procedures of §60.73(b) of this chapter;

5.3.2 multiply the conversion factor by the average nitrogen oxides concentration in the flue gases to obtain the nitrogen oxides emissions in the units of the applicable standard;

5.3.3 report the average nitrogen oxides emission for each averaging period in excess of the applicable emission standard, in the quarterly summary.

5.4 Any State may allow data reporting or reduction procedures varying from those set forth in this appendix if the owner or operator of a source shows to the satisfaction of the State that his procedures are at least as accurate as those in this appendix. Such procedures may include but are not limited to, the following:

5.4.1 Alternative procedures for computing emission averages that do not require integration of data (e.g., some facilities may demonstrate that the variability of their emissions is sufficiently small to allow accurate reduction of data based upon computing averages from equally spaced data points over the averaging period).

5.4.2 Alternative methods of converting pollutant concentration measurements to the units of the emission standards.

6.0 Special Consideration. The State plan may provide for approval, on a case-by-case basis, of alternative monitoring requirements different from the provisions of parts 1 through 5 of this appendix if the provisions of this appendix (i.e., the installation of a continuous emission monitoring

system) cannot be implemented by a source due to physical plant limitations or extreme economic reasons. To make use of this provision, States must include in their plan specific criteria for determining those physical limitations or extreme economic situations to be considered by the State. In such cases, when the State exempts any source subject to this appendix by use of this provision from installing continuous emission monitoring systems, the State shall set forth alternative emission monitoring and reporting requirements (e.g., periodic manual stack tests) to satisfy the intent of these regulations. Examples of such special cases include, but are not limited to, the following:

6.1 Alternative monitoring requirements may be prescribed when installation of a continuous monitoring system or monitoring device specified by this appendix would not provide accurate determinations of emissions (e.g., condensed, uncombined water vapor may prevent an accurate determination of opacity using commercially available continuous monitoring systems).

6.2 Alternative monitoring requirements may be prescribed when the affected facility is infrequently operated (e.g., some affected facilities may operate less than one month per year).

6.3 Alternative monitoring requirements may be prescribed when the State determines that the requirements of this appendix would impose an extreme economic burden on the source owner or operator.

6.4 Alternative monitoring requirements may be prescribed when the State determines that monitoring systems prescribed by this appendix cannot be installed due to physical limitations at the facility.

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