November 8, 2023

MEMORANDUM

TO: Docket ID No. EPA-HQ-OAR-2021-0527

FROM: Michelle Bergin, Physical Scientist, U.S. EPA

SUBJECT: Redline/Strikeout for amendments to 40 CFR 60 Subpart Ba: Adoption and Submittal of State Plans for Designated Facilities

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The attachments to this memorandum, for the convenience of interested parties, present the edits to incorporate amendments to 40 CFR 60 Subpart Ba (subpart Ba) and to 40 CFR 60 Subpart A provided in the final rule "Adoption and Submittal of State Plans for Designated Facilities: Implementing Regulations Under Clean Air Act Section 111(d)".

Attachment 1: 40 CFR 60 Subpart Ba regulatory text with amendments in redline/strikeout

Attachment 2: 40 CFR 60 Subpart A regulatory text with amendments in redline/strikeout

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Attachment 1:
40 CFR 60 Subpart Ba regulatory text with amendments in redline/strikeout

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Title 40 → Chapter I → Subchapter C → Part 60→ Subpart Ba

Title 40: Protection of Environment
PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Subpart Ba—Adoption and Submittal of State Plans for Designated Facilities

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Contents

SOURCE: 84 FR 32575, July 8, 2019, unless otherwise noted.

§60.20a Applicability.

(a) The provisions of this subpart apply upon publication of a final emission guideline under §60.22a(a) ~~if implementation of such final guideline is ongoing as of f or~~ if the ~~final~~ guideline is published in the *Federal Register* after July 8, 2019.

(1) Each emission guideline promulgated under this part is subject to the requirements of this subpart, except that each emission guideline may include specific provisions in addition to or that supersede requirements of this subpart. Each emission guideline must identify explicitly any provision of this subpart that is superseded.

(2) Terms used throughout this part are defined in §60.21a or in the Clean Air Act (Act) as amended in 1990, except that emission guidelines promulgated as individual subparts of this part may include specific definitions in addition to or that supersede definitions in §60.21a.

(b) No standard of performance or other requirement established under this part shall be interpreted, construed, or applied to diminish or replace the requirements of a more stringent emission limitation or other applicable requirement established by the Administrator pursuant to other authority of the Act (section 112, Part C or D, or any other authority of this Act), or a standard issued under State authority.

§60.21a Definitions.

Terms used but not defined in this subpart shall have the meaning given them in the Act and in subpart A of this part:

(a) *Designated pollutant* means any air pollutant, the emissions of which are subject to a standard of performance for new stationary sources, but for which air quality criteria have not been issued and that is not included on a list published under section 108(a) or section 112(b)(1)(A) of the Act.

(b) *Designated facility* means any existing facility (see §60.2) which emits a designated pollutant and which would be subject to a standard of performance for that pollutant if the existing facility were an affected facility (see §60.2).

(c) *Plan* means a plan under section 111(d) of the Act which establishes standards of performance for designated pollutants from designated facilities and provides for the implementation and enforcement of such standards of performance.

(d) *Applicable plan* means the plan, or most recent revision thereof, which has been approved under §60.27a(b) or promulgated under §60.27a(d).

(e) *Emission guideline* means a guideline set forth in ~~subpart C of~~ this part, with the exception of emission guidelines set forth pursuant to section 129 of the Clean Air Act, or in a final guideline document published under §60.22a(a), which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any non-air quality health and environmental impact and energy requirements) the Administrator has determined has been adequately demonstrated for designated facilities.

(f) *Standard of performance* means a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated, including~~, but not limited to~~ a legally enforceable regulation setting forth an allowable rate, quantity, or concentration ~~or limit~~ of emissions into the atmosphere, or prescribing a design, equipment, work practice, or operational standard, or combination thereof.

(g) *Compliance schedule* means a legally enforceable schedule specifying a date or dates by which a source or category of sources must comply with specific standards of performance contained in a plan or with any increments of progress to achieve such compliance.

(h) *Increments of progress* means steps to achieve compliance which must be taken by an owner or operator of a designated facility, including:

(1) Submittal of a final control plan for the designated facility to the appropriate air pollution control agency;

(2) Awarding of contracts for emission control systems or for process modifications, or issuance of orders for the purchase of component parts to accomplish emission control or process modification;

(3) Initiation of on-site construction or installation of emission control equipment or process change;

(4) Completion of on-site construction or installation of emission control equipment or process change; and

(5) Final compliance.

(i) *Region* means an air quality control region designated under section 107 of the Act and described in part 81 of this chapter.

(j) *Local agency* means any local governmental agency.

(k) *Meaningful engagement* means the timely engagement with pertinent stakeholders and/or their representatives in the plan development or plan revision process. Such engagement should not be disproportionate in favor of certain stakeholders and should be informed by available best practices.

(l) *Pertinent stakeholders* include, but are not limited to, industry, small businesses, and communities most affected by and/or vulnerable to the impacts of the plan or plan revision.

§60.22a Publication of emission guidelines.

(a) Concurrently upon or after proposal of standards of performance for the control of a designated pollutant from affected facilities, the Administrator will publish a draft emission guideline containing information pertinent to control of the designated pollutant from designated facilities. Notice of the availability of the draft emission guideline will be published in the FEDERAL REGISTER and public comments on its contents will be invited. After consideration of public comments and upon or after promulgation of standards of performance for control of a designated pollutant from affected facilities, a final emission guideline will be published and notice of its availability will be published in the FEDERAL REGISTER.

(b) Emission guidelines published under this section will provide information for the development of State plans, such as:

(1) Information concerning known or suspected endangerment of public health or welfare caused, or contributed to, by the designated pollutant.

(2) A description of systems of emission reduction which, in the judgment of the Administrator, have been adequately demonstrated.

(3) Information on the degree of emission limitation which is achievable with each system, together with information on the costs, nonair quality health and environmental effects, and energy requirements of applying each system to designated facilities.

(4) Incremental periods of time normally expected to be necessary for the design, installation, and startup of identified control systems.

(5) The degree of emission limitation achievable through the application of the best system of emission reduction (considering the cost of such achieving reduction and any nonair quality health and environmental impact and energy requirements) that has been adequately demonstrated for designated facilities, and the time within which compliance with standards of performance can be achieved. The Administrator may specify different degrees of emission limitation or compliance times or both for different sizes, types, and classes of designated

facilities when costs of control, physical limitations, geographical location, or similar factors make subcategorization appropriate.

(6) Such other available information as the Administrator determines may contribute to the formulation of State plans.

(c) The emission guidelines and compliance times referred to in paragraph (b)(5) of this section will be proposed for comment upon publication of the draft guideline document, and after consideration of comments will be promulgated in ~~subpart C of~~ this part with such modifications as may be appropriate.

§60.23a Adoption and submittal of State plans; public hearings.

(a)(1) Unless otherwise specified in the applicable subpart, within ~~three years~~ eighteen months after ~~notice of the availability~~ publication in the *Federal Register* of a final emission guideline ~~is published~~ under §60.22a(a), each State shall adopt and submit to the Administrator~~, in accordance with §60.4,~~ a plan for the control of the designated pollutant to which the emission guideline applies. The submission of such plan shall be made in electronic format according to §60.23a(a)(3) or as specified in an applicable emission guideline.

(2) At any time, each State may adopt and submit to the Administrator any plan revision necessary to meet the requirements of this subpart or an applicable subpart of this part.

(3) States must submit to the Administrator any plan or plan revision using the State Planning Electronic Collaboration System (SPeCS), which can be accessed through the EPA's Central Data Exchange (CDX) (https://cdx.epa.gov/) or through an analogous electronic reporting tool provided by the EPA for the submission of any plan required by this subpart. Do not use SPeCS to submit confidential business information (CBI). Anything submitted using SPeCS cannot later be claimed to be CBI. The State must confer with the Regional Office for the procedures to submit CBI information. All CBI must be clearly marked as CBI.

(b) If no designated facility is located within a State, the State shall submit a letter of certification to that effect to the Administrator within the time specified in paragraph (a) of this section. Such certification shall exempt the State from the requirements of this subpart for that designated pollutant. The State must submit the letter using the SPeCS, or through an analogous electronic reporting tool provided by the EPA for the submission of any plan required by this subpart.

(c) The State shall, prior to the adoption of any plan or revision thereof, conduct one or more public hearings within the State on such plan or plan revision in accordance with the provisions under this section.

(d) Any hearing required by paragraph (c) of this section shall be held only after reasonable notice. Notice shall be given at least 30 days prior to the date of such hearing and shall include:

(1) Notification to the public by prominently advertising the date, time, and place of such hearing in each region affected. This requirement may be satisfied by advertisement on the internet;

(2) Availability, at the time of public announcement, of each proposed plan or revision thereof for public inspection in at least one location in each region to which it will apply. This requirement may be satisfied by posting each proposed plan or revision on the internet;

(3) Notification to the Administrator;

(4) Notification to each local air pollution control agency in each region to which the plan or revision will apply; and

(5) In the case of an interstate region, notification to any other State included in the region.

(e) The State may cancel the public hearing through a method it identifies if no request for a public hearing is received during the 30 day notification period under paragraph (d) of this section and the original notice announcing the 30 day notification period states that if no request for a public hearing is received the hearing will be cancelled; identifies the method and time for announcing that the hearing has been cancelled; and provides a contact phone number for the public to call to find out if the hearing has been cancelled.

(f) The State shall prepare and retain, for a minimum of 2 years, a record of each hearing for inspection by any interested party. The record shall contain, as a minimum, a list of witnesses together with the text of each presentation.

(g) The State shall submit with the plan or revision:

(1) Certification that each hearing required by paragraph (c) of this section was held in accordance with the notice required by paragraph (d) of this section; and

(2) A list of witnesses and their organizational affiliations, if any, appearing at the hearing and a brief written summary of each presentation or written submission.

(h) Upon written application by a State agency (through the appropriate Regional Office), the Administrator may approve State procedures designed to insure public participation in the matters for which hearings are required and public notification of the opportunity to participate if, in the judgment of the Administrator, the procedures, although different from the requirements of this subpart, in fact provide for adequate notice to and participation of the public. The Administrator may impose such conditions on his approval as he deems necessary. Procedures approved under this section shall be deemed to satisfy the requirements of this subpart regarding procedures for public hearings.

(i) The State must submit, with the plan or revision, documentation of meaningful engagement including a list of identified pertinent stakeholders and/or their representatives, a summary of the engagement conducted, a summary of stakeholder input received, and a

description of how stakeholder input was considered in the development of the plan or plan revisions.

§60.24a Standards of performance and compliance schedules.

(a) Each plan shall include standards of performance and compliance schedules.

(b) Standards of performance shall ~~either be based~~be in the form of an ~~on~~ allowable rate, quantity, or concentration ~~or limit~~ of emissions, except when it is not feasible to prescribe or enforce such a standard of performance. The EPA shall identify such cases in the emission guidelines issued under §60.22a. Where standards of performance prescribing design, equipment, work practice, or operational standards, or combination thereof are established, the plan shall, to the degree possible, set forth the emission reductions achievable by implementation of such standards, and may permit compliance by the use of equipment determined by the State to be equivalent to that prescribed.

(1) Test methods and procedures for determining compliance with the standards of performance shall be specified in the plan. Methods other than those specified in appendix A to this part or an applicable subpart of this part may be specified in the plan if shown to be equivalent or alternative methods as defined in §60.2.

(2) Standards of performance shall apply to all designated facilities within the State. A plan may contain standards of performance adopted by local jurisdictions provided that the standards are enforceable by the State.

(c) Except as provided in paragraph (e) of this section, standards of performance shall be no less stringent than the corresponding emission guideline(s) specified in ~~subpart C of~~ this part, and final compliance shall be required as expeditiously as practicable, but no later than the compliance times specified in an applicable subpart of this part.

(d) Any compliance schedule extending more than ~~24~~ twenty months from the date required for submittal of the plan must include legally enforceable increments of progress to achieve compliance for each designated facility or category of facilities. Unless otherwise specified in the applicable ~~subpart~~emission guideline, increments of progress must include, where practicable, each increment of progress specified in §60.21a(h) and must include such additional increments of progress as may be necessary to permit close and effective supervision of progress toward final compliance.

(e)(1) ~~In applying~~The State may apply a standard of performance to a particular designated facility that is less stringent than or has a compliance schedule longer than otherwise required by an applicable emission guideline ~~or a compliance time that is longer than otherwise required by an applicable emission guideline,~~ taking into consideration that facility's remaining useful life and other factors~~, the State may take into consideration factors, such as the remaining useful life of such source~~, provided that the State demonstrates with respect to each such facility (or class of such facilities) that the facility cannot reasonably achieve the degree of emission limitation determined by the EPA based on:

(i) Unreasonable cost of control resulting from plant age, location, or basic process design;

(ii) Physical impossibility or technical infeasibility of installing necessary control equipment; or

(iii) Other factors specific to the facility ~~(or class of facilities) that make application of a less stringent standard or final compliance time significantly more reasonable~~.

(2) For the purpose of this subsection, the State must demonstrate that there are fundamental differences between the information specific to a facility (or class of such facilities) and the information EPA considered in determining the degree of emission limitation achievable through application of the best system of emission reduction or the compliance schedule that make achieving such degree of emission limitation or meeting such compliance schedule unreasonable for that facility.

(f) If the State makes the required demonstration in paragraph (e) of this section, the plan may apply a standard of performance that is less stringent than required by an applicable emission guideline.

(1) The standard of performance applied under this paragraph must be no less stringent (or have a compliance schedule no longer) than is necessary to address the fundamental differences identified under paragraph (e). To the extent necessary to determine a standard of performance satisfying that criteria, the State must evaluate the systems of emission reduction identified in the applicable emission guideline using the factors and evaluation metrics EPA considered in assessing those systems, including technical feasibility, the amount of emission reductions, the cost of achieving such reductions, any nonair quality health and environmental impacts, and energy requirements. The States may also consider, as justified, other factors specific to the facility that were the basis of the demonstration under paragraph (e) as well as other systems of emission reduction in addition to those EPA considered in the applicable emission guideline.

(2) A standard of performance under paragraph (f) of this section must be in the form as required by the applicable emission guideline.

(g) Where a State applies a standard of performance pursuant to paragraph (f) of this section on the basis of an operating condition(s) within the designated facility's control, such as remaining useful life or restricted capacity, the plan must include such operating condition(s) as an enforceable requirement. The plan must also include requirements to provide for the implementation and enforcement of the operating condition(s), such as requirements for monitoring, reporting, and recordkeeping.

(h) A less stringent standard of performance must meet all other applicable requirements, including in this subpart and in any applicable emission guideline.

(i) Nothing in this subpart shall be construed to preclude any State or political subdivision thereof from adopting or enforcing, as part of the plan:

(1) Standards of performance more stringent than emission guidelines specified in ~~subpart C of~~ this part ~~or in applicable emission guidelines~~; or

(2) Compliance schedules requiring final compliance at earlier times than those specified ~~in subpart C of this part or~~ in applicable emission guidelines.

§60.25a Emission inventories, source surveillance, reports.

(a) Each plan shall include an inventory of all designated facilities, including emission data for the designated pollutants and any additional information related to emissions as specified in ~~appendix D to this part~~the applicable emission guideline. Such data shall be summarized in the plan, and emission rates of designated pollutants from designated facilities shall be correlated with applicable standards of performance. As used in this subpart, "correlated" means presented in such a manner as to show the relationship between measured or estimated amounts of emissions and the amounts of such emissions allowable under applicable standards of performance.

(b) Each plan shall provide for monitoring the status of compliance with applicable standards of performance. Each plan shall, as a minimum, provide for:

(1) Legally enforceable procedures for requiring owners or operators of designated facilities to maintain records and periodically report to the State information on the nature and amount of emissions from such facilities, and/or such other information as may be necessary to enable the State to determine whether such facilities are in compliance with applicable portions of the plan. Submission of electronic documents shall comply with the requirements of 40 CFR part 3 (Electronic reporting).

(2) Periodic inspection and, when applicable, testing of designated facilities.

(c) Each plan shall provide that information obtained by the State under paragraph (b) of this section shall be correlated with applicable standards of performance (see §60.25a(a)) and made available to the general public.

(d) The provisions referred to in paragraphs (b) and (c) of this section shall be specifically identified. Copies of such provisions shall be submitted with the plan unless:

(1) They have been approved as portions of a preceding plan submitted under this subpart or as portions of an implementation plan submitted under section 110 of the Act; and

(2) The State demonstrates:

(i) That the provisions are applicable to the designated pollutant(s) for which the plan is submitted, and

(ii) That the requirements of §60.26a are met.

(e) The State shall submit reports on progress in plan enforcement to the Administrator on an annual (calendar year) basis, commencing with the first full report period after approval of a plan or after promulgation of a plan by the Administrator. Information required under this paragraph must be included in the annual report required by §51.321 of this chapter.

(f) Each progress report shall include:

(1) Enforcement actions initiated against designated facilities during the reporting period, under any standard of performance or compliance schedule of the plan.

(2) Identification of the achievement of any increment of progress required by the applicable plan during the reporting period.

(3) Identification of designated facilities that have ceased operation during the reporting period.

(4) Submission of emission inventory data as described in paragraph (a) of this section for designated facilities that were not in operation at the time of plan development but began operation during the reporting period.

(5) Submission of additional data as necessary to update the information submitted under paragraph (a) of this section or in previous progress reports.

(6) Submission of copies of technical reports on all performance testing on designated facilities conducted under paragraph (b)(2) of this section, complete with concurrently recorded process data.

§60.26a Legal authority.

(a) Each plan or plan revision shall show that the State has legal authority to carry out the plan or plan revision, including authority to:

(1) Adopt standards of performance and compliance schedules applicable to designated facilities.

(2) Enforce applicable laws, regulations, standards, and compliance schedules, and seek injunctive relief.

(3) Obtain information necessary to determine whether designated facilities are in compliance with applicable laws, regulations, standards, and compliance schedules, including authority to require recordkeeping and to make inspections and conduct tests of designated facilities.

(4) Require owners or operators of designated facilities to install, maintain, and use emission monitoring devices and to make periodic reports to the State on the nature and amounts

of emissions from such facilities; also authority for the State to make such data available to the public as reported and as correlated with applicable standards of performance.

(b) The provisions of law or regulations which the State determines provide the authorities required by this section shall be specifically identified. Copies of such laws or regulations shall be submitted with the plan unless:

(1) They have been approved as portions of a preceding plan submitted under this subpart or as portions of an implementation plan submitted under section 110 of the Act; and

(2) The State demonstrates that the laws or regulations are applicable to the designated pollutant(s) for which the plan is submitted.

(c) The plan shall show that the legal authorities specified in this section are available to the State at the time of submission of the plan. Legal authority adequate to meet the requirements of paragraphs (a)(3) and (4) of this section may be delegated to the State under section 114 of the Act.

(d) A State governmental agency other than the State air pollution control agency may be assigned responsibility for carrying out a portion of a plan if the plan demonstrates to the Administrator's satisfaction that the State governmental agency has the legal authority necessary to carry out that portion of the plan.

(e) The State may authorize a local agency to carry out a plan, or portion thereof, within the local agency's jurisdiction if the plan demonstrates to the Administrator's satisfaction that the local agency has the legal authority necessary to implement the plan or portion thereof, and that the authorization does not relieve the State of responsibility under the Act for carrying out the plan or portion thereof.

§60.27a Actions by the Administrator.

(a) The Administrator may, whenever he determines necessary, ~~shorten~~ amend the period for submission of any plan or plan revision or portion thereof.

(b) After determination that a plan or plan revision is complete per the requirements of §60.27a(g), the Administrator will take action on the plan or revision. The Administrator will, within twelve months of finding that a plan or plan revision is complete, approve or disapprove such plan or revision or each portion thereof.

(1) Full and Partial approval and disapproval. In the case of any plan or plan revision on which the Administrator is required to act under paragraph (b) of this section, the Administrator shall approve such plan or plan revision as a whole if it meets all of the applicable requirements of this subpart. If a portion of the plan or plan revision meets all the applicable requirements of this subpart, the Administrator may approve the plan or plan revision in part and disapprove in part. The plan or plan revision shall not be treated as meeting the requirements of this chapter

until the Administrator approves the entire plan or revision as complying with the applicable requirements of this subpart.

(2) Conditional approval. The Administrator may approve a plan or plan revision based on a commitment of the State to adopt and submit to the Administrator specific enforceable measures by a date certain, but not later than twelve months after the date of conditional approval of the plan or plan revision. Any such conditional approval shall be treated as a disapproval if the State fails to comply with such commitment.

(c) The Administrator will promulgate, through notice-and-comment rulemaking, a federal plan, or portion thereof, at any time within ~~two years~~twelve months after ~~the Administrator~~:

(1) The State fails to submit a plan or plan revision within the time prescribed ~~Finds that a State fails to submit a required plan or plan revision or finds that the plan or plan revision~~or the State has failed to ~~does not~~ satisfy the minimum criteria under paragraph (g) of this section as of the time prescribed in paragraph (g)(1); or

(2) The Administrator ~~D~~disapproves the required State plan or plan revision or any portion thereof, as unsatisfactory because the applicable requirements of this subpart or an applicable ~~subpart~~ emission guideline under this part have not been met.

(d) The Administrator will promulgate a final federal plan, or portion thereof, as described in paragraph (c) of this section unless the State corrects the deficiency, and the Administrator approves the plan or plan revision, before the Administrator promulgates such federal plan.

(e)(1) Except as provided in paragraph (e)(2) of this section, a federal plan promulgated by the Administrator under this section will prescribe standards of performance of the same stringency as the corresponding emission guideline(s) specified in the final emission guideline published under §60.22a(a) and will require compliance with such standards as expeditiously as practicable but no later than the times specified in the emission guideline.

(2) Upon application by the owner or operator of a designated facility to which regulations proposed and promulgated under this section will apply, the Administrator may provide for the application of less stringent standards of performance or longer compliance schedules than those otherwise required by this section in accordance with the criteria specified in §60.24a(e).

(f) Prior to promulgation of a federal plan under paragraph (d) of this section, the Administrator will conduct meaningful engagement with pertinent stakeholders and/or their representatives and provide the opportunity for at least one public hearing in either:

(1) Each State that failed to submit a required complete plan or plan revision, or whose required plan or plan revision is disapproved by the Administrator; or

(2) Washington, DC or an alternate location specified in the FEDERAL REGISTER.

(g) Each plan or plan revision that is submitted to the Administrator shall be reviewed for completeness as described in paragraphs (g)(1) through (3) of this section.

(1) *General.* Within 60 days of the Administrator's receipt of a state submission, ~~but no later than 6 months after the date, if any, by which a State is required to submit the plan or revision,~~ the Administrator shall determine whether the minimum criteria for completeness have been met for a plan submission or revision. Any plan or plan revision that a State submits to the EPA, and that has not been determined by the EPA ~~by the date 6~~within 60 days after the ~~state plan submission deadline or~~ Administrator's receipt of a state submission ~~, after receipt of the submission~~ to have failed to meet the minimum criteria, shall on that date be deemed by operation of law to meet such minimum criteria. Where the Administrator determines that a plan submission does not meet the minimum criteria of this paragraph, the State will be treated as not having made the submission and the requirements of §60.27a regarding promulgation of a federal plan shall apply.

(2) *Administrative criteria.* In order to be deemed complete, a State plan must contain each of the following administrative criteria:

(i) A formal letter of submittal from the Governor or her designee requesting EPA approval of the plan or revision thereof;

(ii) Evidence that the State has adopted the plan in the state code or body of regulations; or issued the permit, order, consent agreement (hereafter "document") in final form. That evidence must include the date of adoption or final issuance as well as the effective date of the plan, if different from the adoption/issuance date;

(iii) Evidence that the State has the necessary legal authority under state law to adopt and implement the plan;

(iv) A copy of the actual regulation, or document submitted for approval and incorporation by reference into the plan, including indication of the changes made (such as redline/strikethrough) to the existing approved plan, where applicable. The submittal must be a copy of the official state regulation or document signed, stamped and dated by the appropriate state official indicating that it is fully enforceable by the State. The effective date of the regulation or document must, whenever possible, be indicated in the document itself. The State's electronic copy must be an exact duplicate of the hard copy. If the regulation/document provided by the State for approval and incorporation by reference into the plan is a copy of an existing publication, the State submission should, whenever possible, include a copy of the publication cover page and table of contents;

(v) Evidence that the State followed all of the procedural requirements of the state's laws and constitution in conducting and completing the adoption and issuance of the plan;

(vi) Evidence that public notice was given of the proposed change with procedures consistent with the requirements of §60.23a, including the date of publication of such notice;

(vii) Certification that public hearing(s) were held in accordance with the information provided in the public notice and the State's laws and constitution, if applicable and consistent with the public hearing requirements in §60.23a;

(viii) Compilation of public comments and the State's response thereto; and

(ix) Documentation of meaningful engagement, including a list of pertinent stakeholders and/or their representatives, a summary of the engagement conducted, a summary of stakeholder input received, and a description of how stakeholder input was considered in the development of the plan or plan revisions.

(~~i~~x) Such other criteria for completeness as may be specified by the Administrator under the applicable emission guidelines.

(3) *Technical criteria.* In order to be deemed complete, a State plan must contain each of the following technical criteria:

(i) Description of the plan approach and geographic scope;

(ii) Identification of each designated facility, identification of standards of performance for the designated facilities, and monitoring, recordkeeping and reporting requirements that will determine compliance by each designated facility;

(iii) Identification of compliance schedules and/or increments of progress;

(iv) Demonstration that the State plan submittal is projected to achieve emissions performance under the applicable emission guidelines;

(v) Documentation of state recordkeeping and reporting requirements to determine the performance of the plan as a whole; and

(vi) Demonstration that each emission standard is quantifiable, non-duplicative, permanent, verifiable, and enforceable.

(h) Parallel processing. A State may submit a plan requesting parallel processing prior to adoption and to completion of public outreach and engagement by the State in order to expedite review and to provide an opportunity for the State to consider EPA comments prior to submission of a final plan for final review and action. Under these circumstances and at the discretion of the EPA, the following exceptions to the completeness criteria under (g)(2) of this section apply to plans submitted explicitly for parallel processing:

(1) The letter required by paragraph (g)(2)(i) of this section must request that EPA propose approval of the proposed plan by parallel processing;

(2) In lieu of paragraph (g)(2)(ii) of this section, the State must submit a schedule for final adoption or issuance of the plan;

(3) In lieu of paragraph (g)(2)(iv) of this section, the plan must include a copy of the proposed/draft regulation or document, including indication of the proposed changes to be made to the existing approved plan, where applicable;

(4) In lieu of (g)(2)(ix) of this section, the plan must include documentation of the engagement conducted prior to the parallel processing submittal and of any planned additional meaningful engagement to be conducted prior to adoption of the final plan; and

(5) The requirements of paragraphs (g)(2)(v) through (viii) of this section do not apply to plans submitted for parallel processing. The exceptions granted in the preceding sentence apply only to EPA's determination of proposed action and all requirements of paragraph (g)(2) of this section must be met prior to publication of EPA's final determination of plan approvability.

(i) Calls for plan revisions. Whenever the Administrator finds that the applicable plan is substantially inadequate to meet the requirements of the applicable emission guidelines, to provide for the implementation of the applicable requirements, or to otherwise comply with any applicable requirement of this subpart or the Clean Air Act, the Administrator shall require the State to revise the plan as necessary to correct such inadequacies. The Administrator must notify the State of the inadequacies and such plan revisions shall be submitted to the Administrator within twelve months or as determined by the Administrator. Such findings and notice must be public.

(1) Any finding under this paragraph shall, to the extent the Administrator deems appropriate, subject the State to the requirements of this part to which the State was subject when it developed and submitted the plan for which such finding was made, except that the Administrator may adjust any dates applicable under such requirements as appropriate.

(2) If the Administrator makes this finding on the basis that a State is failing to implement an approved plan, or part of an approved plan, the State may submit a demonstration to the Administrator it is adequately implementing the requirements of the approved state plan in lieu of submitting a plan revision. Such demonstration must be submitted by the deadline established under paragraph (i) of this section.

(j) Error corrections. Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or portion thereof) was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.

§60.28a Plan revisions by the State.

(a) Any significant revision to a state plan shall be adopted by such State after reasonable notice, ~~and~~ public hearing, and meaningful engagement. For plan revisions required in response to a revised emission guideline, such plan revisions shall be submitted to the Administrator within ~~three years~~fifteen months, or ~~shorter if required~~as determined by the Administrator, after ~~notice of the availability~~ publication in the *Federal Register* of a final revised emission guideline

~~is published~~ under §60.22a. All plan revisions must be submitted in accordance with the procedures and requirements applicable to development and submission of the original plan.

(b) A revision of a plan, or any portion thereof, shall not be considered part of an applicable plan until approved by the Administrator in accordance with this subpart.

§60.29a Plan revisions by the Administrator.

After notice and opportunity for public hearing in each affected State, and meaningful engagement for any significant revision, the Administrator may revise any provision of an applicable federal plan if:

(a) The provision was promulgated by the Administrator; and

(b) The plan, as revised, will be consistent with the Act and with the requirements of this subpart.

Attachment 2:
40 CFR 60 Subpart A regulatory text with amendments in redline/strikeout

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Title 40 → Chapter I → Subchapter C → Part 60→ Subpart A

Title 40: Protection of Environment
PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Subpart A—General Provisions

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§60.1 Applicability.

(a) Except as provided in subparts B, Ba, and C, the provisions of this part apply to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication in this part of any standard (or, if earlier, the date of publication of any proposed standard) applicable to that facility.