



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R06-OAR-2013-0464; FRL-9947-36-Region 6]**

**Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Interstate Transport of Air Pollution for the 2008 Ozone National Ambient Air Quality Standards**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to disapprove the portion of a Louisiana State Implementation Plan (SIP) submittal pertaining to interstate transport of air pollution which will significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone National Ambient Air Quality Standards (NAAQS) in other states. Disapproval will establish a 2-year deadline for the EPA to promulgate a Federal Implementation Plan (FIP) for Louisiana to address the Clean Air Act (CAA) interstate transport requirements pertaining to significant contribution to nonattainment and interference with maintenance of the 2008 ozone NAAQS in other states, unless we approve a SIP that meets these requirements. Disapproval does not start a mandatory sanctions clock for Louisiana.

**DATES:** Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2013-0464, at <http://www.regulations.gov> or via email to [fuerst.sherry@epa.gov](mailto:fuerst.sherry@epa.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not

submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact Sherry Fuerst 214-665-6454, [fuerst.sherry@epa.gov](mailto:fuerst.sherry@epa.gov). For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

*Docket:* The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI).

**FOR FURTHER INFORMATION CONTACT:** Sherry Fuerst 214-665-6454, [fuerst.sherry@epa.gov](mailto:fuerst.sherry@epa.gov). To inspect the hard copy materials, please schedule an appointment with Ms. Fuerst or Mr. Bill Deese at 214-665-7253.

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” and “our” means the EPA.

## **I. Background**

On March 12, 2008, the EPA revised the levels of the primary and secondary 8-hour ozone NAAQS from 0.08 parts per million (ppm) to 0.075 ppm (73 FR 16436). The CAA

requires states to submit, within three years after promulgation of a new or revised standard, SIPs meeting the applicable “infrastructure” elements of sections 110(a)(1) and (2). One of these applicable infrastructure elements, CAA section 110(a)(2)(D)(i), requires SIPs to contain “good neighbor” provisions to prohibit certain adverse air quality effects on neighboring states due to interstate transport of pollution. There are four sub-elements within CAA section 110(a)(2)(D)(i). This action reviews how the first two sub-elements of the good neighbor provisions, at CAA section 110(a)(2)(D)(i)(I) were addressed in an infrastructure SIP submission from Louisiana for the 2008 ozone NAAQS. These sub-elements require that each SIP for a new or revised standard contain adequate provisions to prohibit any emissions activity within the State from emitting air pollutants that will “contribute significantly to nonattainment” or “interfere with maintenance” of the applicable air quality standard in any other state.

Ozone is not emitted directly into the air, but is created by chemical reactions between oxides of nitrogen (NO<sub>x</sub>) and volatile organic compounds (VOCs) in the presence of sunlight. Emissions from electric utilities and industrial facilities, motor vehicles, gasoline vapors, and chemical solvents are some of the major sources of NO<sub>x</sub> and VOCs. Because ground-level ozone formation increases with temperature and sunlight, ozone levels are generally higher during the summer. Increased temperature also increases emissions of VOCs and can indirectly increase NO<sub>x</sub> emissions.<sup>1</sup>

We have addressed the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) with respect to ozone in several past regulatory actions. The NO<sub>x</sub> SIP Call, promulgated in 1998, addressed the good neighbor provision for the 1979 1-hour ozone NAAQS

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<sup>1</sup> Cross-State Air Pollution Rule (CSAPR) Update for the 2008 Ozone NAAQS, 80 FR 75706, 75711 (December 3, 2015).

and the 1997 8-hour ozone NAAQS.<sup>2</sup> The rule required 22 states and the District of Columbia to amend their SIPs and limit NO<sub>x</sub> emissions that contribute to ozone nonattainment. The Clean Air Interstate Rule (CAIR), promulgated in 2005, addressed both the 1997 fine particulate matter (PM<sub>2.5</sub>) and ozone standards under the good neighbor provision and required SIP revisions in 28 states and the District of Columbia to limit NO<sub>x</sub> and SO<sub>2</sub> emissions that contribute to nonattainment of those standards.<sup>3</sup> CAIR was remanded to us by the D.C. Circuit in *North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir. 2008), *modified on reh'g*, 550 F.3d 1176. In response to the remand of CAIR, we promulgated the Cross State Air Pollution Rule (CSAPR) on July 6, 2011, to address CAA section 110(a)(2)(D)(i)(I) in the eastern<sup>4</sup> portion of the United States.<sup>5</sup> With respect to ozone, CSAPR limited ozone season NO<sub>x</sub> emissions from electric generating units (EGUs). CSAPR addressed interstate transport as to the 1997 8-hour ozone NAAQS, the 1997 annual PM<sub>2.5</sub> NAAQS and the 2006 24-hour PM<sub>2.5</sub> NAAQS, but did not address the 2008 8-hour ozone standard.

## **II. Louisiana SIP Revision Addressing Interstate Transport of Air Pollution for the 2008 Ozone NAAQS**

On June 4, 2013, Louisiana provided us with a SIP submittal addressing CAA section 110(a)(2) “infrastructure” requirements for the 2008 ozone NAAQS. This action concerns the portion of the SIP submittal pertaining to the CAA section 110(a)(2)(D)(i)(I) requirement to address the interstate transport of air pollution which will significantly contribute to nonattainment or interference with maintenance of the 2008 ozone NAAQS in other states. We

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<sup>2</sup> NO<sub>x</sub> SIP Call, 63 FR 57371 (October 27, 1998).

<sup>3</sup> Clean Air Interstate Rule (CAIR), 70 FR 25172 (May 12, 2005).

<sup>4</sup> When we discuss the eastern United States we mean the contiguous U.S. states excluding the 11 western states of Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming.

<sup>5</sup> Cross-State Air Pollution Rule (CSAPR), 76 FR 48208 (August 8, 2011).

proposed approval on other portions of the State's submittal relating to CAA section 110(a)(2) elements A, B, C, D(i)(II), D(ii), E, F, G, H, J, K, L, and M in a separate action signed on May 18, 2016.

In its SIP submittal, Louisiana provided an "Infrastructure Checklist" for the 2008 ozone NAAQS and stated that the submittal substantiates that the State has adequate provisions to prohibit air pollutant emissions from within the State that significantly contribute to nonattainment or interfere with maintenance of the NAAQS in another state. The checklist states that the Louisiana Department of Environmental Quality (LDEQ) submitted and we approved CAIR SIPs for both sulfur dioxide and NO<sub>x</sub> emissions, citing 72 FR 39741 (July 20, 2007) and 72 FR 55064 (September 28, 2007).<sup>6</sup> The checklist also notes that the controls installed to comply with CAIR are required by State law at Louisiana Administrative Code (LAC) 33:III.905 to be "used and diligently maintained." The checklist also provided narrative on the D.C. Circuit's 2012 decision in *EME Homer City Generation, L.P. v. EPA* which vacated CSAPR and the November 19, 2012, memorandum explaining the continued implementation of CAIR until a replacement rule could be implemented.

Louisiana's SIP submittal included a response to comments document which, among other things, summarized and responded to February 15, 2013, comments from us on what was then the State's proposed SIP revision. In our comments on the proposed SIP revision, we noted that the information LDEQ provided was based upon the old 1997 8-hour ozone NAAQS requirements and was therefore not sufficient to support a conclusion that the State's ozone emissions do not contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS. In its response, Louisiana disagreed, and accordingly chose not to revise its proposed

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<sup>6</sup> CAIR found that sulfur dioxide and NO<sub>x</sub> emission limits were needed in Louisiana to address interstate transport of air pollution for the 1997 PM<sub>2.5</sub> and 1997 ozone NAAQS (70 FR 25162, May 12, 2005).

SIP revision or provide any additional support for its conclusions. Instead, Louisiana contended in its response to comments that, “the information based on the 1997 8-hour ozone NAAQS requirements is relevant . . . through the CAIR NO<sub>x</sub> program in that it demonstrates the state’s most recent efforts in maintaining the 8-hour ozone NAAQS and to alleviate transport pollutants.” A copy of the Louisiana SIP submittal, which includes our February 15, 2013, comment letter and the State’s response to comments, may be accessed online at <http://www.regulations.gov>, Docket No. EPA-R06-OAR-2013-0464.

### **III. The EPA’s Evaluation**

As noted above, we informed Louisiana in our February 15, 2013, comment letter that the information provided in the SIP submittal would not itself be sufficient to conclude that the State has adequate provisions to prohibit air pollutant emissions from within the State that significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in other states. However, the SIP submittal provided by Louisiana cited the State’s approved CAIR SIP as support for its conclusion that the State satisfied its section 110(a)(2)(D)(i)(I) obligation with respect to the 2008 ozone NAAQS.

First, CAIR was invalidated by the D.C. Circuit in *North Carolina v. EPA*, 531 F.3d 896 (2008). The D.C. Circuit held, among other things, that the CAIR rule did not “achieve[] something measureable toward the goal of prohibiting sources within the State from contributing to nonattainment or interfering with maintenance in any other State.” *Id.* at 908; *see also, e.g., id.* at 916 (EPA is not exercising its authority to make measureable progress towards the goals of section 110(a)(2)(D)(i)(I) because the emission budgets were insufficiently related to the statutory mandate). In promulgating CSAPR, we corrected our prior approvals of states’ CAIR SIPs, including Louisiana’s approved CAIR SIPs, “to rescind any statements that the SIP

submissions either satisfy or relieve the state of the obligation to submit a SIP to satisfy the requirements of section 110(a)(2)(D)(i)(I) with respect to the 1997 ozone and/or 1997 PM<sub>2.5</sub> NAAQS or any statements that EPA's approval of the SIP submissions either relieve EPA of the obligation to promulgate a FIP or remove EPA's authority to promulgate a FIP.” 76 FR 48208, 48220. In reviewing CSAPR, the D.C. Circuit concluded that our correction of the prior CAIR approvals was appropriate, explaining “when our decision in *North Carolina* deemed CAIR to be an invalid effort to implement the requirements of the good neighbor provision, that ruling meant that the initial approval of the CAIR SIPs was in error at the time it was done.” *EME Homer City Generation, L.P v. EPA*, 795 F.3d 118, 133 (D.C. Cir. 2015). Therefore, the D.C. Circuit has clearly concluded that states cannot rely on CAIR or previously approved CAIR SIPs to satisfy the requirements of section 110(a)(2)(D)(i)(I).

Even if Louisiana could rely on its CAIR SIPs, as we stated in our comment letter, the modeling and rulemaking conducted for both CAIR and CSAPR addressed the *1997 ozone NAAQS*, not the more stringent 2008 ozone NAAQS at issue in this action. EPA-approved rules implementing a prior, less stringent NAAQS are not adequate on their own to support a demonstration regarding the impacts of in-state emissions on air quality in other states with respect to the 2008 ozone NAAQS.<sup>7</sup> Additionally, although we approved the Louisiana abbreviated SIP implementing the CAIR NO<sub>x</sub> trading program, neither the states nor the EPA are currently implementing the ozone-season NO<sub>x</sub> trading program promulgated in CAIR, as it has been replaced by CSAPR. Moreover, although the State cites to a State regulation requiring that already-installed controls be “used” and “maintained,” the State does not provide any

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<sup>7</sup> Louisiana’s citation to our July 20, 2007 action approving Louisiana’s CAIR sulfur dioxide SIP revision is particularly inapplicable. 72 FR 39741. Sulfur dioxide is not a precursor or pollutant that contributes to ozone formation, and therefore, the implementation of any control requirements to address sulfur dioxide emissions is irrelevant to our analysis of the State’s control requirements to address the 2008 ozone NAAQS.

explanation as to whether the sources are subject to specific emissions limitations or how the use of the controls will impact downwind air quality.

Finally, it is no longer appropriate for Louisiana to rely on the D.C. Circuit decision vacating CSAPR as a basis for concluding that its SIP is adequate. Although the D.C. Circuit initially held that states did not have an obligation to make a SIP submission addressing section 110(a)(2)(D)(i)(I) until we first quantified a state's emission reduction obligation, *see EME Homer City*, 696 F.3d 7, on April 29, 2014, the Supreme Court reversed this decision and remanded the case to the D.C. Circuit for further proceedings. *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014). The Supreme Court explained that “nothing in the statute places EPA under an obligation to provide specific metrics to States before they undertake to fulfill their good neighbor obligations.” *Id.* at 1601.

Because the Louisiana submittal addressed by this action concerns states' interstate transport obligations for a different and more stringent standard (the 2008 ozone NAAQS), it is not sufficient to merely cite as evidence of compliance that these older programs have been implemented by the states or the EPA.<sup>8</sup> The submittal lacks any technical analysis evaluating or demonstrating whether emissions in each state impact air quality in other states with respect to the 2008 ozone NAAQS. As such, the submittal does not provide us with a basis to agree with the conclusion that the State already has adequate provisions in the SIP to address CAA section 110(a)(2)(D)(i)(I) requirements for the 2008 ozone NAAQS. Thus, we propose to find that the Louisiana submittal is not adequate as it did not evaluate whether emissions from the State

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<sup>8</sup> This is particularly true where, as here, Louisiana has failed to include any analysis of the downwind impacts of emissions originating within their borders. *See, e.g., Westar Energy Inc. v. EPA*, 608 Fed. Appx. 1, 3-4 (D.C. Cir. 2015).

significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in other states.

Although the Louisiana submittal contains no data or analysis to support their conclusion with respect to section 110(a)(2)(D)(i)(I) for the 2008 8-hour ozone standard, we recently shared new technical information with states to facilitate efforts to address interstate transport requirements for the 2008 ozone NAAQS. Such technical information provides further support to our determination that Louisiana is projected to significantly contribute to nonattainment and interfere with maintenance of the 2008 ozone NAAQS in other states. We developed this technical information following the same approach used to evaluate interstate transport in CSAPR in order to support the recently proposed Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS, (80 FR 75706, December 3, 2015) (“CSAPR Update Rule”).

In CSAPR, we used detailed air quality analyses to determine whether an eastern state’s contribution to downwind air quality problems was at or above specific thresholds. If a state’s contribution did not exceed the specified air quality screening threshold, the state was not considered “linked” to identified downwind nonattainment and maintenance receptors and was, therefore, not considered to significantly contribute to nonattainment or interfere with maintenance of the standard in those downwind areas. If a state exceeded that threshold, the state’s emissions were further evaluated, taking into account both air quality and cost considerations, to determine what, if any, emissions reductions might be necessary. For the reasons stated below, we believe it is appropriate to use the same approach we used in CSAPR to establish an air quality screening threshold for the evaluation of interstate transport requirements for the 2008 ozone standard.

In CSAPR, we proposed an air quality screening threshold of one percent of the applicable NAAQS and requested comment on whether one percent was appropriate. We evaluated the comments received and ultimately determined that one percent was an appropriately low threshold because there were important, even if relatively small, contributions to identified nonattainment and maintenance receptors from multiple upwind states. In response to commenters who advocated a higher or lower threshold than one percent, we compiled the contribution modeling results for CSAPR to analyze the impact of different possible thresholds for the eastern United States. Our analysis showed that the one percent threshold captures a high percentage of the total pollution transport affecting downwind states, while the use of higher thresholds would exclude increasingly larger percentages of total transport. For example, at a five percent threshold, the majority of interstate pollution transport affecting downwind receptors would be excluded. In addition, we determined that it was important to use a relatively lower one percent threshold because there are adverse health impacts associated with ambient ozone even at low levels. We also determined that a lower threshold such as 0.5 percent would result in relatively modest increases in the overall percentages of fine particulate matter and ozone pollution transport captured relative to the amounts captured at the one-percent level. We determined that a “0.5 percent threshold could lead to emission reduction responsibilities in additional states that individually have a very small impact on those receptors — an indicator that emission controls in those states are likely to have a smaller air quality impact at the downwind receptor. We are not convinced that selecting a threshold below one percent is necessary or desirable.”

In the final CSAPR, we determined that one percent was a reasonable choice considering the combined downwind impact of multiple upwind states in the eastern United States, the health

effects of low levels of fine particulate matter and ozone pollution, and the previous use of a one percent threshold in CAIR. We used a single “bright line” air quality threshold equal to one percent of the 1997 8-hour ozone standard, or 0.08 ppm. The projected contribution from each state was averaged over multiple days with projected high modeled ozone, and then compared to the one percent threshold. We concluded that this approach for setting and applying the air quality threshold for ozone was appropriate because it provided a robust metric, was consistent with the approach for fine particulate matter used in CSAPR, and because it took into account, and would be applicable to, any future ozone standards below 0.08 ppm. We have subsequently proposed to use the same threshold for purposes of evaluating interstate transport with respect to the 2008 ozone standard in the CSAPR Update Rule.

In 2015 we (1) provided notice of data availability (NODA) for the updated ozone transport modeling for the 2008 ozone NAAQS for public review and comment (80 FR 46271, August 4, 2015), and (2) proposed the CSAPR Update Rule to address interstate transport with respect to the 2008 ozone NAAQS (80 FR 75706, December 3, 2015). The proposed CSAPR Update Rule would further restrict ozone season NO<sub>x</sub> emissions from EGUs in 23 states, including Louisiana, beginning in the 2017 ozone season.

The modeling data released in this NODA was also used to support the proposed CSAPR Update Rule. The moderate area attainment date for the 2008 ozone standard is July 11, 2018. In order to demonstrate attainment by this attainment deadline, states will use 2015 through 2017 ambient ozone data. Therefore, we proposed that 2017 is an appropriate future year to model for the purpose of examining interstate transport for the 2008 ozone NAAQS. We used photochemical air quality modeling to project ozone concentrations at air quality monitoring sites to 2017 and estimated state-by-state ozone contributions to those 2017 concentrations. This

modeling used the Comprehensive Air Quality Model with Extensions (CAMx version 6.11) to model the 2011 base year, and the 2017 future base case emissions scenarios to identify projected nonattainment and maintenance sites with respect to the 2008 ozone NAAQS in 2017. We used nationwide state-level ozone source apportionment modeling (CAMx Ozone Source Apportionment Technology/Anthropogenic Precursor Culpability Analysis technique) to quantify the contribution of 2017 base case NO<sub>x</sub> and VOC emissions from all sources in each state to the 2017 projected receptors. The air quality model runs were performed for a modeling domain that covers the 48 contiguous United States and adjacent portions of Canada and Mexico. The NODA and the supporting technical support documents have been included in the docket for this SIP action.

The modeling data released in the NODA and the CSAPR Update Rule are the most up-to-date information we have developed to inform our analysis of upwind state linkages to downwind air quality problems. As discussed in the CSAPR Update Rule proposal, the air quality modeling (1) identified locations in the U.S. where we expect nonattainment or maintenance problems in 2017 for the 2008 ozone NAAQS (i.e., nonattainment or maintenance receptors), and (2) quantified the projected contributions of emissions from upwind states to downwind ozone concentrations at those receptors in 2017 (80 FR 75706, 75720-30, December 3, 2015). Consistent with CSAPR, we proposed to use a threshold of one percent of the 2008 ozone NAAQS (0.75 parts per billion) to identify linkages between upwind states and downwind nonattainment or maintenance receptors. We proposed that eastern states with contributions to a specific receptor that meet or exceed this screening threshold are considered “linked” to that receptor and were analyzed further to quantify available emissions reductions necessary to address interstate transport to these receptors.

Table 1 is a summary of the air quality modeling results for Louisiana from Tables V.D-1, V.D-2 and V.D-3 of the proposed CSAPR Update Rule.<sup>9</sup> As the State's downwind contribution to proposed nonattainment and maintenance receptors exceeded the threshold, the analysis for the proposal concluded that Louisiana's emissions significantly contribute to nonattainment and interfere with maintenance of the 2008 ozone NAAQS in other states. Louisiana's emissions were linked (1) to eastern nonattainment receptors in Sheboygan, Wisconsin, and the Dallas/Fort Worth and Houston areas of Texas, and (2) to eastern maintenance receptors in the Dallas/Fort Worth and Houston areas.

**Table 1. Louisiana's Largest Contribution to Downwind Nonattainment and Maintenance Areas (Proposed CSAPR Update Rule)**

<b>2008 Ozone NAAQS</b>	<b>Air Quality Threshold</b>	<b>Largest Downwind Contribution to Nonattainment</b>	<b>Largest Downwind Contribution to Maintenance</b>	<b>Downwind Nonattainment Receptors Located in States</b>	<b>Downwind Maintenance Receptors Located in States</b>
0.075 ppm (75 parts per billion or ppb)	0.75 ppb	3.09 ppb	4.23 ppb	Wisconsin, Texas	Texas

Accordingly, the most recent technical analysis available to us contradicts Louisiana's conclusion that the SIP contains adequate provisions to address interstate transport as to the 2008 ozone standard.

We are thus proposing to disapprove the portion of the Louisiana SIP submittal pertaining to interstate transport of air pollution which will significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in other states – i.e., element (D)(i)(I). As explained above, the Louisiana submittal did not provide an adequate

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<sup>9</sup> 80 FR 75706, 75727-28.

technical analysis demonstrating that the SIP contains adequate provisions prohibiting emissions that will significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in any other state. Moreover, our most recent modeling indicates that emissions from Louisiana are in fact projected to significantly contribute to nonattainment and interfere with maintenance of the 2008 ozone NAAQS in other states.

#### **IV. Proposed Action**

We propose to disapprove the portion of a June 4, 2013 Louisiana SIP submittal pertaining to CAA section 110(a)(2)(D)(i)(I), the interstate transport of air pollution which will significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in other states.

Pursuant to CAA section 110(c)(1), disapproval will establish a 2-year deadline for the EPA to promulgate a FIP for Louisiana to address the requirements of CAA section 110(a)(2)(D)(i) with respect to the 2008 ozone NAAQS unless Louisiana submits and we approve a SIP that meets these requirements. Disapproval does not start a mandatory sanctions clock for Louisiana pursuant to CAA section 179 because this action does not pertain to a part D plan for nonattainment areas required under CAA section 110(a)(2)(I) or a SIP call pursuant to CAA section 110(k)(5).

#### **V. Statutory and Executive Order Reviews**

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

This proposed action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget for review.

##### *B. Paperwork Reduction Act (PRA)*

This proposed action does not impose an information collection burden under the PRA because it does not contain any information collection activities.

*C. Regulatory Flexibility Act (RFA)*

I certify that this proposed action will not have a significant economic impact on a substantial number of small entities under the RFA. This action merely proposes to disapprove a SIP submission as not meeting the CAA.

*D. Unfunded Mandates Reform Act (UMRA)*

This proposed action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

*E. Executive Order 13132: Federalism*

This proposed action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

*F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*

This proposed action does not have tribal implications as specified in Executive Order 13175. This action does not apply on any Indian reservation land, any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, or non-reservation areas of Indian country. Thus, Executive Order 13175 does not apply to this action.

*G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

We interpret Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that we have reason to believe may

disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it merely proposes to disapprove a SIP submission as not meeting the CAA.

*H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution or Use*

This proposed action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

This proposed rulemaking does not involve technical standards.

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

We believe the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. This action merely proposes to disapprove a SIP submission as not meeting the CAA.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Nitrogen dioxide, Volatile organic compounds.

Dated: May 26, 2016.

**Ron Curry,**

*Regional Administrator, Region 6.*

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