6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2013-0465; FRL-9952-82-Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Infrastructure State Implementation Plan Requirements for the National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of State Implementation Plan (SIP) submittals from Louisiana which address the requirements of Clean Air Act (CAA) sections 110(a)(1) and (2) regarding the infrastructure requirements for the 2006 fine particulate matter ($PM_{2.5}$), 2008 Lead (Pb), 2008 Ozone (O_3), 2010 Nitrogen Dioxide (NO_2), 2010 Sulfur Dioxide (SO_2) and 2012 $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities as defined by the CAA. These infrastructure SIP (i-SIP) submittals address how the existing SIP provides for implementation, maintenance, and enforcement of the NAAQS.

DATES: This rule is effective on **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].**

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2013-0465. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

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SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," and "our" means the EPA.

I. Background

The background for this action is discussed in detail in our June 3, 2016 proposal (81 FR 35674). In that rulemaking action, we proposed to approve portions of Louisiana's SIP submittals pertaining to requirements of CAA sections 110(a)(1) and 110(a)(2) of the 2006 $PM_{2.5}$, 2008 Pb, 2008 O_3, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS. CAA Section 110(a)(1) requires states to submit a revised i-SIP within three years after the promulgation of a new or revised NAAQS. The submission must provide for the "implementation, maintenance, and enforcement" of the NAAQS. We received substantive comments from the Sierra Club during the comment period on our Notice of Proposed Rulemaking (NPR). A synopsis of the comments and our responses are provided below.

II. Response to Comments

A. Background Comments

1. The Plain Language of the CAA

Comment 1: Sierra Club states that the plain language of section 110(a)(2)(A) of the CAA, legislative history of the CAA, case law, EPA regulations, and legislative and regulatory interpretations made previously by EPA in rulemakings require the inclusion of enforceable

emission limits in an i-SIP to prevent NAAQS exceedances in areas not designated nonattainment. Sierra Club asserts that EPA must disapprove Louisiana's proposed i-SIP because it is in violation of CAA section 110(a)(2)(A) in that the i-SIP fails to include enforceable emission limitations necessary to ensure attainment and maintenance of the NAAQS. The Commenter also states that the Louisiana i-SIP revision fails to comport with CAA requirements for SIPs to establish enforceable emission limits that are adequate to prohibit NAAQS exceedances in areas not designated nonattainment.

The Commenter also states that, on its face, the CAA requires i-SIPs "to be adequate to prevent exceedances of the NAAQS." In support, the Commenter quotes the language in section 110(a)(1) which requires states to adopt a plan for implementation, maintenance, and enforcement of the NAAQS and the language in section 110(a)(2)(A) which the Commenter interprets to require i-SIPs to include enforceable emissions limitations that are sufficient to ensure maintenance of the NAAQS. Sierra Club notes the CAA definition of emission limit and reads these provisions together to require "enforceable emission limits on source emissions sufficient to ensure maintenance of the NAAQS."

Response 1: EPA disagrees that section 110 is clear "on its face" and must be read in the manner suggested by Sierra Club in the context of i-SIP submissions. As we have previously explained in response to Sierra Club's similar comments in our previous actions on Virginia's 2008 ozone NAAQS i-SIP (*see*, 79 FR 17043, 17047 March 27, 2014), Virginia's 2010 SO_2 NAAQS i-SIP (*see*, 80 FR 11557 March 4, 2015), West Virginia's 2010 SO_2 i-SIP (*see*, 79 FR 62022 October 16, 2014), Pennsylvania's 2008 Ozone and 2010 SO_2 NAAQS i-SIP (*see*, 80 FR 46494 August 5, 2015), and New Hampshire's SO_2 NAAQS i-SIP (*see*, 81 FR 44542 July 8, 2016), CAA Section 110 is only one provision that is part of the multi-faceted structure governing

implementation of the NAAQS program under the CAA, as amended in 1990, and it must be read in the context of not only that structure, but also of the historical evolution of that structure.

Infrastructure SIPs are general planning SIPs, consistent with the CAA as understood in light of its history and structure. When Congress enacted the CAA in 1970, it did not include provisions requiring states and the EPA to label areas as attainment or nonattainment. Rather, states were required to include all areas of the state in "air quality control regions" (AQCRs) and section 110 set forth the core substantive planning provisions for these AQCRs. At that time, Congress anticipated that states would be able to address air pollution quickly by complying with the very general planning provisions in section 110 and bring all areas into compliance with a new NAAQS within five years. Moreover, at that time, section 110(a)(2)(A)(i) specified that the section 110 plan provide for "attainment" of the NAAQS and section 110(a)(2)(B) specified that the plan must include "emission limitations, schedules, and timetables for compliance with such limitations, and such other measures as may be necessary to insure attainment and maintenance [of the NAAQS]."

In 1977, Congress recognized that the existing structure was not sufficient and many areas were still violating the NAAQS. At that time, Congress for the first time added provisions requiring that states and EPA identify whether areas of a state were violating the NAAQS (i.e., were nonattainment) or were meeting the NAAQS (i.e., were attainment/unclassifiable) and established specific planning requirements in section 172 for areas not meeting the NAAQS. In 1990, many areas still had air quality not meeting the NAAQS and Congress again amended the CAA and added yet another layer of more prescriptive planning requirements for each of the NAAQS. At that same time, Congress modified section 110 to remove references to the section 110 SIP providing for attainment, including removing pre-existing section 110(a)(2)(A) in its

entirety and renumbering subparagraph (B) as section 110(a)(2)(A). Additionally, Congress replaced the clause "as may be necessary to insure attainment and maintenance [of the NAAQS]" with "as may be necessary or appropriate to meet the applicable requirements of this chapter." Thus, the CAA has significantly evolved in the more than 40 years since it was originally enacted. While at one time section 110 of the CAA did provide the only detailed SIP planning provisions for states and specified that such plans must provide for attainment of the NAAQS, under the structure of the current CAA, section 110 is only the initial stepping-stone in the planning process for a specific NAAQS. More detailed, later-enacted provisions govern the substantive planning process, including planning for attainment of the NAAQS. CAA section 110 is only one provision that is part of the multi-faceted structure governing implementation of the NAAQS program under the CAA, as amended in 1990, and it must be read in the context of that structure and the historical evolution of that structure. In light of the revisions to section 110 since 1970 and the later-promulgated and more specific planning requirements of the CAA, the requirement in section 110(a)(2)(A) of the CAA that the plan provide for "implementation, maintenance and enforcement" means that the state must demonstrate that it has the necessary tools to implement and enforce a NAAQS, such as adequate state personnel and the legal authority for an enforcement program. It is Part D of title I of the CAA that contains numerous requirements for the NAAQS attainment planning process, including the requirement for enforceable emissions limitations, and such other control measures, means or techniques, as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for the attainment of the NAAQS. After a nonattainment designation is made, the Administrator establishes a plan submission schedule with which the state must comply. The schedule may include submission dates up to three years after the nonattainment designation has been made.

The state must, within the schedule provided by the Administrator, submit a plan that meets Part D's requirements. The general requirements of CAA section 110(a)(1) and the listing of elements in CAA section 110(a)(2) require review of each and every provision of a state's existing SIP against all requirements in the CAA and the EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. The requirement for emission limitations in section 110 means that the state may rely on measures already in place to address the pollutant at issue or any new control measures that the state may choose to submit to meet the requirements in section 110. Finally, as EPA has stated in the 2013 Infrastructure SIP Guidance[1] which specifically provides guidance to states in addressing the 2010 SO_2 NAAQS, "[t]he conceptual purpose of an i-SIP submission is to assure that the air agency's SIP contains the necessary structural requirements for the new or revised NAAQS, whether by establishing that the SIP already contains the necessary provisions, by making a substantive SIP revision to update the SIP, or both." Infrastructure SIP Guidance at p. 1-2.[2] Infrastructure SIP submissions are not required to include enforceable emissions limitations and schedules for compliance with the NAAQS, as suggested by the Commenter. Louisiana appropriately demonstrated that it has the "structural requirements" to implement the NAAQS for the pollutants addressed in this rule in its infrastructure SIP submission.

2. The Legislative History of the CAA

[1] "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act sections 110(a)(1) and 110(a)(2)," Memorandum from Stephen D. Page, September 13, 2013.

[2] Thus, EPA disagrees with Sierra Club's general assertion that the main objective of infrastructure SIPs is to ensure all areas of the country meet the NAAQS, as the infrastructure SIP process is the opportunity to review the structural requirements of a state's air program. EPA, however, does agree with Sierra Club that the NAAQS are the foundation upon which emission limitations are set, as explained in responses to subsequent comments, these emission limitations are generally set in the attainment planning process envisioned by part D of title I of the CAA, including, but not limited to, CAA sections 172 and 191-192.

Comment 2: Sierra Club cites two excerpts from the legislative history of the 1970 CAA claiming they support an interpretation that SIP revisions under CAA Section 110 must include emissions limitations sufficient to show maintenance of the NAAQS in all areas of Louisiana. Sierra Club also contends that the legislative history of the CAA supports the interpretation that i-SIPs under section 110(a)(2) must include enforceable emission limitations, citing the Senate Committee Report and the subsequent Senate Conference Report accompanying the 1970 CAA.

*Response 2***:** As noted above, the CAA, as enacted in 1970, including its legislative history, cannot be read in isolation from the later amendments that refined that structure and deleted relevant language from CAA Section 110 concerning demonstrating attainment. *See also*, 79 FR at 17043, 80 FR 11557, 79 FR 62022, 80 FR 46494 (responding to comments on various other i-SIPs). In any event, the two excerpts of legislative history the Sierra Club cites merely provide that states should include enforceable emission limits in their SIPs and they do not mention or otherwise address whether states are required to impose additional emission limitations or control measures as part of the i-SIP submission, as opposed to requirements for other types of SIP submissions such as attainment plans required under section 110(a)(2)(I). The proposed rule and the Technical Support Document (TSD) for it explain why the Louisiana SIP includes sufficient enforceable emissions limitations for the purposes of the infrastructure SIP submission.

3. Case Law

Comment 3: Sierra Club also cites to several cases which have interpreted various parts of the CAA. Sierra Club claims these cases support their contention that section 110(a)(2)(A) requires i-SIPs submissions to contain enforceable emissions limits in order to prevent exceedances of the NAAQS in areas not designated nonattainment. Sierra Club first cites to language in *Train v. NRDC*, 421 U.S. 60, 78 (1975), addressing the requirement for "emission limitations" and stating

that emission limitations "are specific rules to which operators of pollution sources are subject, and which, if enforced, should result in ambient air which meet the national standards." Sierra Club also cites to *Pennsylvania Dept. of Envtl. Resources v. EPA*, 932 F.2d 269, 272 (3d Cir. 1991) for the proposition that the CAA directs EPA to withhold approval of a SIP where it does not ensure maintenance of the NAAQS, and to *Mision Industrial, Inc. v. EPA*, 547 F.2d 123, 129 (1st Cir. 1976), which quoted section 110(a)(2)(B) of the CAA of 1970. The commenter states that the 1990 Amendments do not alter how courts have interpreted the requirements of section 110, quoting *Alaska Dept. of Envtl. Conservation v. EPA*, 540 U.S. 461, 470 (2004) which in turn quoted section 110(a)(2)(A) of the CAA and also stated that "SIPs must include certain measures Congress specified" to ensure attainment of the NAAQS. The Commenter also quotes several additional opinions in this vein. *Mont. Sulphur & Chem. Co. v. EPA*, 666 F.3d 1174, 1180 (9th Cir. 2012) ("The Clean Air Act directs states to develop implementation plans – SIPs – that 'assure' attainment and maintenance of [NAAQS] through enforceable emissions limitations"); *Hall v. EPA* 273 F.3d 1146, 1153 (9th Cir. 2001) ("Each State must submit a [SIP] that specif[ies] the manner in which [NAAQS] will be achieved and maintained within each air quality control region in the State"); *Conn. Fund for Env't, Inc. v. EPA,* 696 F.2d 169, 172 (D.C. Cir. 1982) (CAA requires SIPs to contain "measures necessary to ensure attainment and maintenance of NAAQS"). Finally, Sierra Club cites *Mich. Dept. of Envtl. Quality v. Browner*, 230 F.3d 181 (6th Cir. 2000) for the proposition that EPA may not approve a SIP revision that does not demonstrate how the rules would not interfere with attainment and maintenance of the NAAQS.

Response 3: None of the cases Sierra Club cites support its contention that section 110(a)(2)(A) requires i-SIP submissions to include detailed plans providing for attainment *and* maintenance of

the NAAQS in all areas of the state, nor do they shed light on the present day requirements of section 110(a)(2)(A). With the exception of *Train*, none of the cases the Commenter cites specifically concerned the interpretation of CAA section 110(a)(2)(A) (or section 110(a)(2)(B) of the pre-1990 Act). Rather, the courts reference section 110(a)(2)(A) (or section 110(a)(2)(B) of the pre-1990 CAA) in the background sections of decisions in the context of a challenge to an EPA action on revisions to a SIP that were required and approved as meeting other provisions of the CAA or in the context of an enforcement action.

In *Train*, the Court was addressing a state revision to an attainment plan submission made pursuant to section 110 of the CAA, the sole statutory provision at that time addressing such submissions. The issue in that case concerned whether changes to requirements that would occur before attainment was required were variances that should be addressed pursuant to the provision governing SIP revisions or were "postponements" that must be addressed under section 110(f) of the CAA of 1970, which contained prescriptive criteria. The Court concluded that EPA reasonably interpreted section 110(f) not to restrict a state's choice of the mix of control measures needed to attain the NAAQS, so long as the state met other applicable requirements of the CAA, and that revisions to SIPs that would not impact attainment of the NAAQS by the attainment date were not subject to the limits of section 110(f). Thus the issue was not whether the specific SIP at issue needs to provide for attainment or whether emissions limits are needed as part of the SIP; rather the issue was which statutory provision governed when the state wanted to revise the emission limits in its SIP if such revision would not impact attainment or maintenance of the NAAQS.

Pennsylvania Dept. of Envtl. Resources was also decided based on the pre-1990 provision of the CAA. At issue was whether EPA properly rejected a revision to an approved SIP where

the inventories relied on by the state for the updated submission had gaps. The Court quoted section 110(a)(2)(B) of the pre-1990 CAA in support of EPA's disapproval, but did not provide any interpretation of that provision. This decision did not address the question at issue in this action, i.e., what a state must include in an i-SIP submission for the purposes of section 110(a)(2)(A).Yet, even if the Court had interpreted that provision, EPA notes that it was modified by Congress in 1990; thus, this decision has little bearing on the present issue here.

At issue in *Mision Industrial*, was the definition of "emissions limitation", not whether section 110 requires the State to demonstrate how all areas of the State will attain and maintain the NAAQS as part of the State's i-SIP submission. The language from the opinion the Commenter quotes does not interpret but rather merely describes section 110(a)(2)(A). Sierra Club does not raise any concerns about whether the measures relied on by the State in the i-SIP submission are "emissions limitations" within the definition provided by the Act and the decision in this case has no bearing here.[3]

In *Mont. Sulphur & Chem. Co.*, 666 F.3d 1174, the Court was reviewing a federal implementation plan (FIP) that EPA promulgated after a long history of the State failing to submit an adequate SIP in response to EPA's finding under section 110(k)(5) that the previously approved SIP was substantially inadequate to attain or maintain the NAAQS, which triggered the State's duty to submit a new SIP detailing how it would remedy that deficiency and the measures that would be put in place to attain the NAAQS. The Court cited generally to sections 107 and 110(a)(2)(A) of the CAA for the proposition that SIPs should assure attainment and maintenance of NAAQS through emission limitations, but this language was not part of the Court's holding in

[3] While Sierra Club does contend that the State shouldn't be allowed to rely on emission reductions that were developed for the prior SO_2 standards (which we address herein), it does not claim that any of the measures are not "emissions limitations" within the definition of the CAA.

the case. The holding in *Mont. Sulphur* focused on whether EPA's finding of SIP inadequacy, disapproval of the State's responsive attainment demonstration, and adoption of a remedial FIP were lawful.

The Commenter suggests that *Alaska Dept. of Envtl. Conservation*, 540 U.S. 461, stands for the proposition that the 1990 CAA Amendments do not alter how courts interpret section 110. This claim is inaccurate. Rather, the Court quoted section 110(a)(2)(A), which, as noted previously, differs from the pre-1990 version of that provision and the court makes no mention of the changed language. Furthermore, Sierra Club also quotes the Court's statement that "SIPs must include certain measures Congress specified," but that statement specifically referenced the requirement in section 110(a)(2)(C), which requires an enforcement program and a program for the regulation of the modification and construction of any stationary sources. Notably, at issue in that case was the State's "new source" permitting program, not what is required for an i-SIP submission for purposes of CAA section 110(a)(2)(A).

Two of the cases Sierra Club cites, *Mich. Dept. of Envtl. Quality,* 230 F.3d 181, 183, 185 and *Hall,* 273 F.3d 1146, 1153 interpret CAA section 110(l), the provision governing "revisions" to plans, and not the initial plan submission requirement under section 110(a)(2) for a new or revised NAAQS, such as the i-SIP submissions at issue in this instance. Neither case, however, addressed the question at issue here, i.e., what states are required to address for purposes of an infrastructure SIP submission for purposes of section 110(a)(2)(A).

Finally, in *Conn. Fund for Env't, Inc. v. EPA,* the D.C. Circuit was reviewing EPA action on a control measure SIP provision which adjusted the percent of sulfur permissible in fuel oil. 696 F.2d 169 (D.C. Cir. 1982). The D.C. Circuit focused on whether EPA needed to evaluate effects of the SIP revision on one pollutant or effects of changes on all possible pollutants;

therefore, the D.C. Circuit did not address required measures for i-SIPs and nothing in the opinion addressed whether i-SIP submissions need to contain measures to ensure attainment and maintenance of the NAAQS.

EPA's position is that none of these court cases addressed required measures for i-SIP submission and therefore nothing in the opinions addressed whether the state's i-SIP submission must contain measures to ensure attainment and maintenance of the NAAQS.

4. EPA Regulations, Such as 40 CFR 51.112(a)

Comment 4: Sierra Club cites to 40 CFR 51.112(a), which provides that "[e]ach plan must demonstrate that the measures, rules and regulations contained in it are adequate to provide for the timely attainment and maintenance of the [NAAQS]." Sierra Club asserts that this regulation requires all SIPs to include emissions limits necessary to ensure attainment of the NAAQS. Sierra Club states that "[a]lthough these regulations were developed before the Clean Air Act separated i-SIPs from nonattainment SIPs – a process that began with the 1977 amendments and was completed by the 1990 amendments – the regulations apply to [i]-SIPs." Sierra Club relies on a statement in the preamble to the 1986 action restructuring and consolidating provisions in part 51, in which EPA stated that "[i]t is beyond the scope of th[is] rulemaking to address the provisions of Part D of the Act…" 51 FR 40656, 40656 (November 7, 1986).

Response 4: Sierra Club's reliance on 40 CFR 51.112 to support its argument that i-SIPs must contain emission limits "adequate to prohibit NAAQS exceedances" and adequate or sufficient to ensure the maintenance of the NAAQS is incorrect. As an initial matter, EPA notes and the Sierra Club recognizes this regulatory provision was initially promulgated and "restructured and consolidated" prior to the CAA Amendments of 1990, in which Congress removed all references to "attainment" in section 110(a)(2)(A). And, it is clear that 40 CFR 51.112 directly applies to

state SIP submissions that are specifically required to attain the NAAQS in nonattainment areas. These regulatory requirements apply when states are developing "control strategy" SIPs under other provisions of the CAA, such as attainment plans required for various NAAQS in Part D and maintenance plans required in section 175A. Sierra Club's suggestion that these provisions must apply to section 110 i-SIPs because in the preamble to EPA's action "restructuring and consolidating" provisions in part 51, we stated that the new attainment demonstration provisions in the 1977 Amendments to the CAA were "beyond the scope" of the rulemaking.[4]

Although EPA was explicit that it was not establishing requirements interpreting the provisions of new "Part D" of the CAA, it is clear that the regulations being restructured and consolidated were intended to address control strategy plans. In the preamble, EPA clearly stated that 40 CFR 51.112 was replacing 40 CFR 51.13 ("Control strategy: SO_x and PM (portion)"), 51.14 ("Control strategy: CO, HC, O_x and NO_2 (portion)"), 51.80 ("Demonstration of attainment: Pb (portion)"), and 51.82 ("Air quality data (portion)"). *Id.* at 40660. Thus, the present-day 40 CFR 51.112 contains consolidated provisions that are focused on control strategy SIPs, and the i-SIP is not such a plan.

5. EPA Interpretations in Other Rulemakings

Comment 5: Sierra Club also references two prior EPA rulemaking actions where EPA disapproved or proposed to disapprove SIPs and claimed these were actions in which EPA relied on section 110(a)(2)(A) and 40 CFR 51.112 to reject i-SIPs. The Sierra Club first points to a 2006 partial approval and partial disapproval of revisions to Missouri's existing plan addressing

[4] It is important to note, however, that EPA's action in 1986 was not to establish new substantive planning requirements, but rather was meant merely to consolidate and restructure provisions that had previously been promulgated. EPA noted that it had already issued guidance addressing the new "Part D" nonattainment planning obligations. Also, as to maintenance regulations, EPA expressly stated that it was not making any revisions other than to re-number those provisions. 51 FR at 40657.

the SO_2 NAAQS. In that action, EPA cited section 110(a)(2)(A) as the basis disapproving a revision to the state plan on the basis that the State failed to demonstrate the SIP was sufficient to ensure maintenance of the SO_2 NAAQS after revision of an emission limit. EPA also cited to 40 CFR 51.112, stating it requires that a plan demonstrates the rules in a SIP are adequate to attain the NAAQS. Second, Sierra Club cites a 2013 disapproval of a revision to the SO_2 SIP for Indiana, where the revision removed an emission limit that applied to a specific emissions source at a facility in the State. *See*, 78 FR 17157, 17158 (March 20, 2013) (proposed rule on Indiana SO_2 SIP) and 78 FR 78720, 78721 (December 27, 2013) (final rule on Indiana SO_2 SIP). In its proposed disapproval, EPA relied on 40 CFR 51.112(a) in proposing to reject the revision, stating that the State had not demonstrated that the emission limit was "redundant, unnecessary, or that its removal would not result in or allow an increase in actual SO_2 emissions." EPA further stated in that proposed disapproval that the State had not demonstrated that removal of the limit would not "affect the validity of the emission rates used in the existing attainment demonstration."

Response 5: EPA does not agree that the two prior actions referenced by Sierra Club establish how EPA reviews i-SIP submissions. It is clear from both the final Missouri rule and the proposed and final Indiana rule that EPA was not reviewing initial i-SIP submissions under section 110 of the CAA, but rather reviewing revisions that would make an *already approved* SIP designed to demonstrate attainment of the NAAQS less stringent. EPA's partial approval and partial disapproval of revisions to restrictions on emissions of sulfur compounds for the Missouri SIP in 71 FR 12623 addressed a control strategy SIP submission, and not an i-SIP submission. The Indiana action provides even less support for the Sierra Club's position since the EPA was reviewing a completely different requirement than that listed in CAA section 110(a)(2)(A).

Rather, in that case, the State had an approved SO_2 attainment plan which already included a specific emissions limitation for sources and was seeking to remove provisions from the SIP that it relied on as part of the modeled attainment demonstration. *See*, 78 FR 78720. EPA proposed that the State had failed to demonstrate under section 110(l) of the CAA that the SIP revision would not result in increased SO_2 emissions and thus would interfere with attainment of the NAAQS. *See*, 78 FR 17157. Nothing in that proposed or final rulemaking addresses the necessary content of the initial i-SIP submission for a new or revised NAAQS. Rather, it is simply applying the clear statutory requirement that a state must demonstrate why a revision to an approved attainment plan will not interfere with attainment of the NAAQS.

As discussed in detail in the TSD and proposed rule, EPA finds the Louisiana SIP meets the appropriate and relevant structural requirements of section 110(a)(2) of the CAA, that it will aid in attaining and/or maintaining the NAAQS, and that the State demonstrated that it has the necessary tools to implement and enforce the NAAQS.

Comments on Louisiana SIP Emission Limits

*Comment 6***:** Citing section 110(a)(2)(A) of the CAA, Sierra Club contends that EPA may not approve Louisiana's proposed i-SIP because it does not include enforceable NAAQS, including a 1-hour SO_2 emission limit, for sources that they claim are currently allowed to cause "NAAQS exceedances." Sierra Club also asserts the proposed i-SIP fails to include other required measures to ensure attainment and maintenance of the NAAQS in areas not designated nonattainment as Sierra Club claims is required by section 110(a)(2)(A). Sierra Club argues that an i-SIP must ensure, through state-wide regulations or source specific requirements, proper mass limitations and short term averaging on specific large sources of pollutants such as power plants. Sierra Club states that emission limits are especially important for meeting the 1-hour

SO_2 NAAQS because SO_2 impacts are strongly source-oriented. Sierra Club states coal-fired electric generating units (EGUs) are large contributors to SO_2 emissions, but contends Louisiana did not demonstrate that emissions allowed by the proposed i-SIP from such large sources of SO_2 will ensure compliance with the 2010 1-hour SO_2 NAAQS. They stated that the proposed i-SIP would allow major sources to continue operating with present emission limits. Sierra Club then refers to air dispersion modeling it conducted for two coal-fired EGUs in Louisiana, Cleco Power's Dolet Hills Power Station and Entergy's Big Cajun II Generating Station. Further, Sierra Club claims that the results of the air dispersion modeling it conducted employing EPA's AERMOD program for modeling used the plants' allowable and maximum emissions and showed the plants could cause exceedances of the 2010 SO_2 NAAQS with either allowable or maximum emissions.[5] Based on the modeling, Sierra Club claims the Louisiana's SO_2 i-SIP submittal authorizes the two EGUs to cause exceedances of the NAAQS with allowable and maximum emission rates and therefore the i-SIP fails to include adequate enforceable emission limitations or other required measures for sources of SO_2 sufficient to ensure attainment and maintenance of the 2010 SO_2 NAAQS. Sierra Club therefore asserts EPA must disapprove Louisiana's proposed SIP revision. In addition, Sierra Club asserts "EPA must impose additional emission limits on the plants that ensure attainment and maintenance of the NAAQS at all times."

*Response 6***:** As explained in previous responses above, section 110(a)(2)(A) of the CAA requires states to submit i-SIPs that reflect the first step in their planning for attainment and maintenance of a new or revised NAAQS. These i-SIP revisions should contain a demonstration that the state has the available tools and authority to develop and implement plans to attain and

[5] Sierra Club asserts its modeling followed protocols pursuant to 40 CFR Part 50, Appendix W and EPA's 2011 Guideline on implementing the one-hour SO_2 NAAQS.

maintain the NAAQS and show that the SIP has enforceable control measures. In light of the structure of the CAA, EPA's long-standing position regarding i-SIPs is that they are general planning SIPs to ensure that the state has adequate resources and authority to implement a NAAQS in general throughout the state. These i-SIP submissions are not detailed attainment and maintenance plans for each individual area of the state. States may rely on measures already in place to address the pollutant at issue or any new control measures that *the state* may choose to submit.

As stated in response to a previous comment, EPA asserts that section 110 of the CAA is only one provision that is part of the multi-faceted structure governing implementation of the NAAQS program under the CAA, as amended in 1990, and it must be read in the context of not only that structure, but also of the historical evolution of that structure. In light of the revisions to CAA section 110 since 1970 and the later-promulgated and more specific planning requirements of the CAA, section 110(a)(2)(A) does not require that an i-SIP contain enforceable emissions limits that will aid in attaining and/or maintaining the NAAQS. The i-SIPs required by CAA section 110(a) are not the appropriate place to require emission limits demonstrating future attainment with a NAAQS. Part D of title I of the CAA contains numerous requirements for the NAAQS attainment planning process. These requirements include enforceable emissions limitations, and such other control measures, means or techniques, as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for the attainment of the NAAQS. States have up to three years from the date of a nonattainment designation to submit a SIP meeting Part D's requirements. Louisiana's submittal was submitted to comply with the requirements outlined in CAA section 110(a), not Part D. As discussed above, the state may rely on measures already in place to address the pollutant at issue or any new control

measures that the state may choose to submit. Finally, as EPA stated in the Infrastructure SIP Guidance, which specifically provides guidance to states in addressing the NAAQS, "[t]he conceptual purpose of an i-SIP submission is to assure that the air agency's SIP contains the necessary structural requirements for the new or revised NAAQS, whether by establishing that the SIP already contains the necessary provisions, by making a substantive SIP revision to update the SIP, or both." 2013 Infrastructure SIP Guidance at p. 2.

On April 12, 2012, EPA explained its expectations regarding the 2010 SO_2 NAAQS via letters to each of the states. EPA communicated in the April 2012 letters that all states were expected to submit SIPs meeting the "infrastructure" SIP requirements under section 110(a)(2) of the CAA by June 2013. At the time, EPA was undertaking a stakeholder outreach process to continue to develop possible approaches for determining attainment status under the SO_2 NAAQS and implementing this NAAQS. EPA was abundantly clear in the April 2012 letters that EPA did not expect states to submit substantive attainment demonstrations or modeling demonstrations showing attainment for areas not designated nonattainment in i-SIP submission due in June 2013. Although EPA had previously suggested in its 2010 SO_2 NAAQS preamble and in prior draft implementation guidance in 2011 that states should, in the unique SO_2 context, use the section 110(a) SIP process as the vehicle for demonstrating attainment of the NAAQS, this approach was never adopted as a binding requirement and was subsequently discarded in the April 2012 letters to states. The April 2012 letters recommended states focus i-SIPs due in June 2013, such as Louisiana's SO_2 i-SIP submission, on traditional "infrastructure elements" in section 110(a)(1) and (2), rather than on modeling demonstrations for future attainment for areas not designated as nonattainment. In February of 2016, EPA issued non-binding guidance for states to use in conducting, if they choose, additional analysis to support designations for the

2010 1-hour SO_2 NAAQS. *SO_2 NAAQS Designations Modeling Technical Assistance Document*, EPA Office of Air and Radiation and Office of Air Quality Planning and Standards, February 2016, available at https://www.epa.gov/so2-pollution/technical-assistance-documents-implementing-2010-sulfur-dioxide-standard

Therefore, EPA asserts that SIP revisions for SO_2 nonattainment areas including measures and modeling demonstrating attainment are due by the dates statutorily prescribed under subpart 5 under part D of Title I of CAA. Those submissions are due no later than 18 months after an area is designed nonattainment for SO_2, under CAA section 191(a). Thus, the CAA directs states to submit these SIP requirements for nonattainment areas on a separate schedule from the "structural requirements" of 110(a)(2) which are due within three years of adoption or revision of a NAAQS. The i-SIP submission requirement does not move up the date for any required submission of a CAA Title I part D plan for areas designated nonattainment for the new NAAQS. Thus, elements relating to demonstrating attainment for areas not attaining the NAAQS are not required for i-SIP submissions, and the CAA does not provide explicit requirements for demonstrating attainment for areas that have not yet been designated regarding attainment with a particular NAAQS.

The proper inquiry at this juncture is whether Louisiana has met the basic structural SIP requirements applicable at the point in time that the SIP was submitted. Emissions limitations and other control measures needed to attain the NAAQS in areas designated nonattainment for that NAAQS are due on a different schedule from the section 110 infrastructure elements. A state, like Louisiana, may choose to reference pre-existing SIP emission limits approved by EPA as meeting CAA Title I of part D plans for previous NAAQS in an i-SIP submission for purposes of CAA section 110(a)(2)(A).

The requirements for emission reduction measures for an area designated nonattainment for the 2010 primary SO_2 NAAQS are in sections 172 and 191-192 of the CAA, and therefore, the appropriate avenue for implementing requirements for necessary emission limitations for demonstrating attainment with the 2010 SO_2 NAAQS is through the attainment planning process contemplated by those sections of the CAA. LDEQ is required to bring St. Bernard Parish into compliance with the 1-hour standard as expeditiously as practicable, but no later than, October 4, 2018. The appropriate time for examining necessity of emission limits on specific sources is within the attainment planning process. When the St. Bernard Parish SO_2 attainment demonstration is submitted by the State, EPA will take action on it in a separate rulemaking. In separate future actions, EPA intends to address the designations for all other areas for which EPA has yet to issue designations. *See, e.g.,* 79 FR 27446 (May 13, 2014) (proposing process and timetables by which state air agencies would characterize air quality around SO_2 sources through ambient monitoring and/or air quality modeling techniques and submit such data to the EPA). As previously stated, EPA's position is that the submitted i-SIPs should be evaluated on whether Louisiana has met the basic structural SIP requirements applicable at the point in time that the SIP was submitted. Utilizing the i-SIP process to require the substantive elements contained elsewhere in the CAA, as detailed above, would be disruptive and premature absent exceptional circumstances and would interfere with a state's planning process. *See, In the Matter of EME Homer City Generation LP and First Energy Generation Corp.*, Order on Petitions Numbers III-2012-06, III-2012-07, and III-2013-01 (July 30, 2014) (hereafter, *Homer City/Mansfield Order*) at 10-19 (finding Pennsylvania SIP did not require imposition of SO_2 emission limits on sources independent of the part D nonattainment planning process contemplated by the CAA). The history of the CAA, and intent of Congress for the CAA as

described above, demonstrate clearly that it is within the section 172 and general part D nonattainment planning process that Louisiana must include additional SO_2 emission limits on sources in order to demonstrate future attainment, where needed, for any areas in Louisiana or other states that may be designated nonattainment now or in the future, in order to attain the 2010 1-hour SO_2 or other NAAQS.

Sierra Club's reliance on 40 CFR 51.112 to support its argument that i-SIPs must contain emission limits adequate to provide for timely attainment and maintenance of the standard is also unsupported. As explained above, EPA notes this regulatory provision clearly applies to plans specifically designed to attain the NAAQS and not to i-SIPs which show the states have in place structural requirements necessary to implement the NAAQS. Therefore, EPA finds 40 CFR 51.112 inapplicable to its analysis of Louisiana's i-SIP submission.

Regarding the air dispersion modeling conducted by Sierra Club pursuant to AERMOD for the coal-fired EGUs, including Cleco Power's Dolet Hills Power Station and Entergy's Big Cajun II Generating Station, EPA is not in this action making a determination regarding the air quality status in the area where these EGUs are located, and is not evaluating whether emissions applicable to these EGUs are adequate to attain and maintain the NAAQS. Consequently, EPA does not find the modeling information relevant for review of an infrastructure SIP for purposes of section 110(a)(2)(A). When additional areas in Louisiana are designated under the 2010 1-hour SO_2 NAAQS, and if any additional areas in Louisiana are designated nonattainment in the future, any potential future modeling submitted by the State with designations or attainment demonstrations would need to account for any new emissions limitations Louisiana develops to support such designation or demonstration. While EPA has extensively discussed the use of modeling for attainment demonstration purposes and for designations, EPA has recommended

that such modeling was not needed for the SO_2 infrastructure SIPs for the 2010 1-hour SO_2 NAAQS for purposes of section 110(a)(2)(A), which are not actions in which EPA makes determinations regarding current air quality status.[6] *See* April 12, 2012, letters to states and 2012 Draft White Paper.

In conclusion, EPA disagrees with Sierra Club's assertions that EPA must disapprove Louisiana's i-SIP submission because it does not establish specific enforceable NAAQS emission limits, and specifically enforceable emission limits for SO_2, either on coal-fired EGUs or other large SO_2 sources, in order to demonstrate attainment and maintenance with the NAAQS.

Comment 7: Sierra Club asserts that modeling is the appropriate tool for evaluating adequacy of i-SIPs and ensuring attainment and maintenance of the 2010 SO_2 NAAQS. The Commenter refers to EPA's historic use of air dispersion modeling for attainment designations as well as "SIP revisions." The Commenter states that in prior EPA statements the Agency has said it used modeling for designations and attainment demonstrations, including statements in the 2010 SO_2 NAAQS preamble, EPA's 2012 Draft White Paper for Discussion on Implementing the 2010 SO_2 NAAQS, and a 1994 SO_2 Guideline Document, as modeling could better address the source-specific impacts of SO_2 emissions and historic challenges from monitoring SO_2 emissions.

The Commenter discusses statements made by EPA staff regarding (1) the use of modeling and monitoring in setting emission limitations, (2) determining ambient concentrations as a result of a source's emissions, (3) discussing performance of AERMOD as a model,

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[6] *See*, for example, EPA recently discussed modeling for characterizing air quality in the Agency's August 21, 2015, final rule at 80 FR 51052 and for nonattainment planning in the April 23, 2014, *Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions*, Stephen D. Page, Director, EPA's Office of Air Quality Planning and Standards, to Regional Air Division Directors Regions 1- 10, April 23, 2014, available at https://www.epa.gov/sites/production/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.

including if AERMOD is capable of predicting whether the NAAQS is attained, and (4) whether individual sources contribute to SO_2 NAAQS violations. Sierra Club cites to EPA's history of employing air dispersion modeling for increment compliance verifications in the permitting process for the Prevention of Significant Deterioration (PSD) program which is required in part C of title I of the CAA.

Sierra Club asserts EPA's use of air dispersion modeling was upheld in *GenOn REMA, LLC v. EPA*, 722 F.3d 513 (3rd Cir. 2013) where an EGU challenged EPA's use of CAA section 126 to impose SO_2 emission limits on a source due to cross-state impacts. The Commenter claims the Third Circuit in *GenOn REMA* upheld EPA's actions after examining the record which included EPA's air dispersion modeling of the one source as well as other data.

The Commenter cites to *Vehicle Mfrs. Ass'n v. State Farm Mut. Auto Ins. Co.,* 463 U.S. 29, 43 (1983) and *NRDC v. EPA*, 571 F.3d 1245, 1254 (D.C. Cir. 2009) for the general proposition that it would be arbitrary and capricious for an agency to ignore an aspect of an issue placed before it and that an agency must consider information presented during notice-and-comment rulemaking.

Finally, Sierra Club claims that Louisiana's proposed i-SIP lacks emission limitations informed by air dispersion modeling and therefore fails to ensure Louisiana will achieve and maintain the SO_2 NAAQS. Sierra Club claims EPA must require adequate, 1-hour SO_2 emission limits in the i-SIP that show no exceedances of NAAQS when modeled.

Response 7: EPA agrees with Sierra Club that air dispersion modeling, including the use of AERMOD, can be an important tool for SO_2 designations under CAA section 107, and also as part of attainment planning under CAA sections 172 and 191-192. EPA agrees that prior EPA statements, EPA guidance, and case law support the use of air dispersion modeling in the SO_2

designations process and attainment demonstration SIP process, as well as in analyses of whether existing approved SIPs remain adequate to show attainment and maintenance of the SO_2 NAAQS. However, EPA disagrees with the Commenter that EPA must disapprove the Louisiana i-SIP for its alleged failure to include source-specific SO_2 emission limits that show no exceedances of the NAAQS when modeled.

As discussed above and in the 2013 Infrastructure SIP Guidance, the conceptual purpose of an i-SIP submission is to assure that the air agency's SIP contains the necessary structural requirements for the new or revised NAAQS and that the i-SIP submission process provides an opportunity to review the basic structural requirements of the Agency's air quality management program in light of the new or revised NAAQS. *See*, Infrastructure SIP Guidance at p. 2. The attainment planning process detailed in part D of the CAA, including sections 172 and 191-192, is the appropriate place for the state to evaluate measures needed to bring SO_2 nonattainment areas into attainment with the 2010 SO_2 NAAQS and to impose additional emission limitations such as SO_2 emission limits on specific sources.

EPA had initially recommended that states submit substantive attainment demonstration SIPs based on air quality modeling in the final 2010 SO_2 NAAQS preamble (75 FR 35520) and in subsequent draft guidance issued in September 2011 for the section 110(a) SIPs due in June 2013 in order to show how areas expected to be designated as unclassifiable would attain and maintain the NAAQS. These initial statements in the preamble and 2011 draft guidance were based on EPA's expectation at the time; that by June 2012, most areas would initially be designated as unclassifiable due to limitations in the scope of the ambient monitoring network and the short time available before which states could conduct modeling to support designations recommendations in 2011. However, after conducting extensive stakeholder outreach and

receiving comments from the states regarding these initial statements and the timeline for implementing the NAAQS, EPA subsequently stated in the April 12, 2012 letters and in the 2012 Draft White Paper that EPA was clarifying its implementation position and was no longer requiring such attainment demonstrations supported by air dispersion modeling for unclassifiable areas (which had not yet been designated) to be included in the June 2013 i-SIPs. EPA then reaffirmed this position in the February 6, 2013 memorandum, "Next Steps for Area Designations and Implementation of the Sulfur Dioxide National Ambient Air Quality Standard." As previously mentioned, EPA had stated in the preamble to the NAAQS and in the prior 2011 draft guidance that EPA intended to develop and seek public comment on guidance for modeling and development of SO_2 SIPs for sections 110, 172 and 191-192 of the CAA. After receiving such further comment, EPA has now issued guidance for the SO_2 nonattainment area SIPs due pursuant to sections 172 and 191-192 and proposed a process for further characterization of areas with larger SO_2 sources, which could include use of air dispersion modeling. *See,* April 23, 2014 *Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions* and 79 FR 27446 (proposing process and timetables for gathering additional information on impacts from larger SO_2 sources informed through ambient monitoring and/or air quality modeling). EPA issued non-binding guidance for states to use in conducting, if they choose, additional analysis to support designations for the 2010 1-hour SO_2 NAAQS. *SO_2 NAAQS Designations Modeling Technical Assistance Document*, EPA Office of Air and Radiation and Office of Air Quality Planning and Standards, February 2016, available at https://www.epa.gov/so2-pollution/technical-assistance-documents-implementing-2010-sulfur-dioxide-standard.

While EPA guidance for SO_2 attainment SIPs and the proposed process for further characterizing SO_2 emissions from larger sources both discuss the use of air dispersion modeling, EPA's 2013 Infrastructure SIP Guidance did not suggest that states use air dispersion modeling to inform emission limitations for section 110(a)(2)(A) to ensure no exceedances of the NAAQS when sources are modeled, nor does the CAA or Code of Federal Regulations require that they do. Therefore, as discussed previously, the Louisiana i-SIP submittal contains the structural requirements to address elements in section 110(a)(2) as discussed in detail in the TSD accompanying the proposed approval. I-SIPs are general planning SIPs that ensure that a state has adequate resources and authority to implement a new or revised NAAQS. I-SIP submissions are not intended to act or fulfill the obligations of a detailed attainment and/or maintenance plan for each individual area of the state that is not attaining the NAAQS. While i-SIPs must address modeling authorities in general for section 110(a)(2)(K), this section requires i-SIPs to provide the state's authority for air quality modeling and for submission of modeling data to EPA, not specific air dispersion modeling. In the TSD for this rulemaking action, EPA provided a detailed explanation of Louisiana's ability and authority to conduct air quality modeling when required and its authority to submit modeling data to EPA.

EPA finds Sierra Club's discussion of case law, guidance, and EPA staff statements regarding advantages of AERMOD as an air dispersion model to be irrelevant to the analysis of Louisiana's i-SIP as this is not an attainment SIP required to demonstrate attainment of the 2010 SO2 NAAQS pursuant to sections 172 or 192. In addition, Sierra Club's comments relating to EPA's use of AERMOD or modeling in general in SO_2 designations pursuant to section 107 are likewise irrelevant as EPA's present approval of Louisiana's i-SIP is unrelated to the section 107 designations process nor is EPA's action on this i-SIP related to any nonattainment new source

review (NNSR) or PSD permit program issue. As outlined in the August 23, 2010 clarification memo, "Applicability of Appendix W Modeling Guidance for the 1-hour SO_2 National Ambient Air Quality Standard" (U.S. EPA, 2010a), AERMOD is the preferred model for single source modeling to address the 2010 1-hour SO_2 NAAQS as part of the NNSR/PSD permit programs. Therefore, as attainment SIPs, designations, and NNSR/PSD actions are outside the scope of a required i-SIP submission for SO_2 NAAQS for section 110(a), EPA provides no further response to the Commenter's discussion of air dispersion modeling for these applications. If Sierra Club resubmits its SO_2 air dispersion modeling for the Louisiana's EGUs, or updated modeling information in the appropriate context, e.g., for designations, attainment SIPs, major source permitting, EPA will address the resubmitted modeling or updated modeling in the appropriate future context.

The Commenter correctly noted that the Third Circuit upheld EPA's Section 126 Order imposing SO_2 emissions limitations on an EGU pursuant to CAA section 126. *GenOn REMA, LLC v. EPA*, 722 F.3d 513. Pursuant to CAA section 126, any state or political subdivision may petition EPA for a finding that any major source or group of stationary sources emits, or would emit, any air pollutant in violation of the prohibition of section 110(a)(2)(D)(i)(I) which relates to significant contributions to nonattainment or maintenance in another state. The Third Circuit upheld EPA's authority under CAA section 126 and found EPA's actions neither arbitrary nor capricious after reviewing EPA's supporting docket which included air dispersion modeling as well as ambient air monitoring data showing violations of the NAAQS. The Sierra Club appears to have cited to this matter to demonstrate EPA's use of modeling for certain aspects of the CAA. EPA agrees with the Commenter regarding the appropriate role air dispersion modeling has for SO_2 NAAQS designations, attainment SIPs, and demonstrating significant contributions

to interstate transport. However, EPA's approval of Louisiana's i-SIP submission is based on our determination that Louisiana has the required structural requirements pursuant to CAA section 110(a)(2) in accordance with our explanation of the intent for i-SIP submissions as discussed in the 2013 Infrastructure SIP Guidance. Therefore, while air dispersion modeling may be appropriate for consideration in certain circumstances, EPA does not find air dispersion modeling of the NAAQS to be a required element before approval of i-SIP submission for CAA section 110(a) or specifically for 110(a)(2)(A) of the Act. Thus, EPA disagrees with the Commenter that EPA must require additional emission limitations in this Louisiana or other i-SIPs informed by air dispersion modeling and demonstrating attainment and maintenance of the NAAQS.

In its comments, Sierra Club relies on *Motor Vehicle Mfrs. Ass'n* and *NRDC v. EPA* to support its comments that EPA *must* consider the Sierra Club's modeling data on the Dolet Hills Power Station and Big Cajun II Generating Station based on administrative law principles regarding consideration of comments provided during a rulemaking process. EPA asserts that it has considered the modeling as well as all the submitted comments of Sierra Club. However, as discussed in detail in the responses above, the i-SIPs required by CAA section 110(a) are not the appropriate place to require emission limits demonstrating future attainment with a NAAQS, and as such EPA is not explicitly considering the modeling results provided by the Sierra Club insofar as they support the contention that enforceable emissions limitations are a required part of an i-SIP submission.

While i-SIP submissions are not *required* to contain emission limits, as suggested by the Commenter, EPA does recognize that in the past, states have used i-SIP submittals as a 'vehicle' for incorporating regulatory revisions or source-specific emission limits into the state's plan. *See*,

78 FR 73442 (December 6, 2013) (approving regulations Maryland submitted for incorporation into the SIP along with the 2008 Ozone i-SIP to address ethics requirements for State Boards in sections 128 and 110(a)(2)(E)(ii)). While these SIP revisions are intended to help the state meet the requirements of section 110(a)(2), these "ride-along" SIP revisions are not intended to signify that all i-SIP submittals should have similar regulatory revisions or source-specific emission limits. Rather, the regulatory provisions and source-specific emission limits the state relies on when showing compliance with CAA section 110(a)(2) have likely already been incorporated into the state's SIP prior to each new i-SIP submission; in some cases this was done for entirely separate CAA requirements, such as attainment plans required under section 172, or for previous NAAQS.

Comment 8: Sierra Club asserts that EPA may not approve the Louisiana proposed i-SIP submission because it fails to include enforceable emission limitations with a 1-hour averaging time that applies at all times. The Sierra Club cite to CAA section 302(k) which requires emission limits to apply on a continuous basis. The Commenter claims EPA has stated that 1-hour averaging times are necessary for the 2010 SO_2 NAAQS citing to a February 3, 2011, EPA Region 7 letter to the Kansas Department of Health and Environment regarding the need for 1-hour SO_2 emission limits in a PSD permit, an EPA Environmental Hearing Board (EHB) decision rejecting use of a 3-hour averaging time for a SO_2 limit in a PSD permit, and EPA's disapproval of a Missouri SIP which relied on annual averaging for SO_2 emission rates.[7]

Sierra Club also contends that i-SIPs approved by EPA must include monitoring of SO_2 emission limits on a continuous basis using a continuous emission monitor system or systems (CEMS) and cites to section 110(a)(2)(F) which requires a SIP to establish a system to monitor

[7] Sierra Club cited to *In re: Mississippi Lime Co.*, PSDAPLPEAL 11-01, 2011 WL 3557194, at *26-27 (EPA Aug. 9, 2011) and 71 FR 12623, 12624 (March 13, 2006) (EPA disapproval of a control strategy SO_2 SIP).

emissions from stationary sources and to require submission of periodic emission reports. Sierra Club contends i-SIPs must require such SO_2 CEMS to monitor SO_2 sources regardless of whether sources have control technology installed to ensure limits are protective of the NAAQS. Thus, Sierra Club contends EPA must require enforceable emission limits, applicable at all times, with 1-hour averaging periods, monitored continuously with CEMS of large sources of SO_2 emissions, and therefore must disapprove Louisiana's i-SIP which Sierra Club claims fails to require emission limits with adequate averaging times.

Response 8: St. Bernard Parish was designated nonattainment effective October 4, 2013. LDEQ is required to bring St. Bernard Parish into compliance with the 1-hour standard as expeditiously as practicable, but no later than October 4, 2018. When the attainment demonstration SIP is submitted by the State, we will take action on it in a separate rulemaking action. The appropriate time for examining necessity of 1-hour SO_2 emission limits on specific sources is within the attainment planning SIP rulemaking process. As such, EPA disagrees that we must disapprove the proposed Louisiana i-SIP because the submittal does not contain enforceable SO_2 emission limitations with 1-hour averaging periods that apply at all times, along with requiring CEMS, as the State has addressed its SO_2 nonattainment designation in another more appropriate document pursuant to section 107 of the CAA.[8] As explained in detail in previous responses, the purpose of the i-SIP is to ensure that a state has the structural capability to attain and maintain the NAAQS and thus, additional SO_2 emission limitations demonstrating future attainment and maintenance of the 2010 NAAQS are not required for such i-SIPs.[9] Likewise, EPA need not address, for the

[8] *See*, http://www.deq.louisiana.gov/portal/Portals/0/AirQualityAssessment/Planning/SIP/SO2%20SIP%20with%20Appendices%20-%20Final.pdf

[9] For a discussion on emission averaging times for emissions limitations for SO_2 attainment SIPs, *see* the April 23, 2014 *Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions.* EPA explained that it is possible, in specific

purpose of approving Louisiana's i-SIP, whether CEMS or some other appropriate monitoring of SO_2 emissions is necessary to demonstrate compliance with emission limits in order to show future attainment of the 2010 SO_2 NAAQS as such SO_2 emission limits and an attainment demonstration are not a prerequisite to EPA's approval of this or most other i-SIP submissions.[10] Therefore, because EPA finds Louisiana's i-SIP submission approvable without the additional SO_2 emission limitations showing future attainment of the NAAQS, EPA finds the issues of appropriate averaging periods and monitoring requirements for such future limitations not relevant at this time.

Sierra Club has cited to prior EPA discussion on emission limitations required in PSD permits (from an EAB decision and EPA's letter to Kansas' permitting authority) pursuant to part C of the CAA, which is neither relevant nor applicable to section 110 i-SIPs. In addition, as previously discussed, EPA disapproval of the 2006 Missouri SIP was a disapproval relating to a control strategy SIP required pursuant to part D attainment planning and is likewise not relevant to the analysis of i-SIP requirements.

EPA has explained in the TSD supporting this rulemaking action how the Louisiana SIP meets requirements in section 110(a)(2)(F) related to monitoring. Thus, EPA finds Louisiana has the authority and responsibility to monitor air quality for the relevant NAAQS pollutants at

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cases, for states to develop control strategies that account for variability in 1-hour emissions rates through emission limits with averaging times that are longer than 1-hour, using averaging times as long as 30-days, but still provide for attainment of the 2010 SO_2 NAAQS as long as the limits are of at least comparable stringency to a 1-hour limit at the critical emission value. EPA has not yet evaluated any specific submission of such a limit, and so is not at this time prepared to take final action to implement this concept. If and when a state submits an attainment demonstration that relies upon a limit with such a longer averaging time, EPA will evaluate it then.

[10] The appropriate time for application of monitoring requirements to demonstrate continuous compliance by specific sources is when such 1-hour emission limits are set for specific sources whether in permits issued by Louisiana pursuant to the SIP or in attainment SIPs submitted in the part D planning process.

appropriate locations and to submit data to EPA in a timely manner in accordance with 110(a)(2)(F) and the Infrastructure SIP Guidance.[11] *See,* Infrastructure SIP Guidance at p. 45-46.

Comment 9: The Commenter alleges the Louisiana SIP contains exemption provisions for periods of startup and "operating adjustments" as well as variance provisions for "exceptional circumstances" which would cause undue hardship. See LAC 33:III.1507, 917, and 1505 (2012), respectively. The Commenter notes that NAAQS must be enforced at all times and sources cannot be granted variances under any circumstances, even startup, shutdown and malfunction, and cites EPA's recent SIP Call to 39 states. See State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunctions; Final Rule, 80 FR 33840 (June 12, 2015). The Commenter claims that LDEQ must remove such provisions from the existing Louisiana SIP rules in order to properly comply with the infrastructure requirements for the 2010 SO_2 NAAQS.

Response 9: EPA disagrees with the Commenter that EPA is required to address all potential deficiencies that may exist in the Louisiana SIP in the context of evaluating an infrastructure SIP submission. In particular, an action on a state's infrastructure SIP submission is not necessarily the appropriate type of action in which to address possible deficiencies in a state's existing SIP rules related to excess emissions from sources during periods of startup, shutdown, or malfunction. It is not reasonable to read the general requirements of CAA section 110(a)(1) and the listing of elements in CAA section 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and the EPA regulations merely for

[11] While monitoring pursuant to NSPS requirements in 40 CFR Part 60 may not be sufficient for 1-hour SO_2 emission limits, Sierra Club's comment regarding NSPS monitoring provisions is not relevant at this time because EPA finds 1-hour SO_2 emission limits and associated monitoring and averaging periods are not required for our approval of Louisiana's i-SIP.

purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. In addition, EPA notes that the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. For example, CAA section 110(k)(5) authorizes EPA to issue a SIP call whenever EPA determines a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA. As noted by the Commenter, EPA has recently issued a SIP call to Louisiana requiring the removal of the exemption provision in LAC 33:III.1507. EPA is working closely with LDEQ to addressing the substantial inadequacies EPA identified in specific Louisiana SIP rules. See 80 FR 33967 (June 12, 2015). LDEQ is required to submit a revised SIP addressing the substantial inadequacies by November 22, 2016. EPA emphasizes that by approving Louisiana's i-SIP submission, EPA is not approving or reapproving any potentially deficient provisions that exist in the current SIP that relate to excess emissions. Furthermore, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in CAA section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time.

Comment 10: The Sierra Club claims EPA must disapprove the proposed i-SIP for the 2008 ozone NAAQS for its failure to include enforceable measures on sources of volatile organic compounds (VOCs) and nitrogen oxides (NOx) to ensure attainment and maintenance of the NAAQS in areas not designated nonattainment and to ensure compliance with section 110(a)(2)(A) for the 2008 and future ozone NAAQS. The commenter specifically mentions EGUs as well as the oil and gas production industry as sources needing additional controls as they are major sources of ozone precursors. The Sierra Club claims stringent emission limits

must apply at all times to ensure all areas in Louisiana attain and maintain the ozone NAAQS. The Commenter claims the ozone precursors can be reduced cost-effectively through installation of selective catalytic reductions ("SCR") technology at EGUs. The commenter claims that Louisiana's EGUs do not use SCRs adequately to prevent ozone exceedances.

In addition, the Commenter asserts that the Louisiana i-SIP must contain emission limits that include mass limitations and short term averaging periods on certain large sources of NOx such as power plants. These emission limits must apply at all times, to ensure that all areas of Louisiana attain and maintain the 2008 t8-hour ozone NAAQS. The Commenter also contends that adding control devices and emission limits on EGUs are a "cost effective option to reduce NOx pollution and attain and maintain the 2008 ozone NAAQS."

Finally, the Commenter states"[d]espite knowing that Louisiana is on the precipice of exceeding the ozone NAAQS, LDEQ is taking insufficient action to limit ozone concentrations and fails to demonstrate how it plans to address these significant ozone and ozone precursors. Consequently, EPA must disapprove the state's i-SIP."

Response 10: EPA has addressed in detail in prior responses above the Commenter's general arguments that the statutory language, legislative history, case law, EPA regulations, and prior rulemaking actions by EPA mandate the interpretation it advocates - i.e., that i-SIPs must ensure attainment and maintenance of the NAAQS. EPA's position is that the i-SIP submissions required by CAA section 110(a) are not the appropriate place to require emission limits demonstrating future attainment with a NAAQS as is explained more thoroughly in an above response. Moreover, the CAA recognizes and has provisions to address changes in air quality over time. These include provisions providing for redesignation in CAA section 107(d) and provisions in CAA section 110(k)(5) allowing EPA to call on the state to revise its SIP, as

appropriate. Finally, EPA appreciates the Commenter's information regarding EGU NOx control measures and reduction efficiencies as well as emissions limitations applicable to new or modified EGUs which were set during the PSD or NSR permit process. Additional NOx regulations on emissions from the EGUs would likely reduce ozone levels further in one or more areas in Louisiana. Congress established the CAA such that each state has primary responsibility for assuring air quality within the state and each state is first given the opportunity to determine an emission reduction program for its areas subject to EPA approval, with such approval dependent upon whether the SIP as a whole meets the applicable requirements of the CAA. *See Virginia v. EPA*, 108F.3d at 1410. The State could choose to consider additional control measures for NOx at EGUs to ensure attainment and maintenance of the ozone NAAQS as Louisiana moves forward to meet the more prescriptive planning requirements of the CAA in the future. However, as we have explained, the State is not required to regulate such sources for the purposes of meeting the i-SIP requirements of CAA section 110(a)(2).

In addition, emission limits with the shorter-term averaging rates suggested by the Commenter could be considered within the CAA Title I part D planning process to ensure attainment and maintenance of the 2008 NAAQS. As EPA finds Louisiana's NOx and VOC provisions presently in the SIP sufficient for infrastructure SIP purposes and specifically for CAA section 110(a)(2)(A), further consideration of the averaging times is not appropriate or relevant at this time. Thus, EPA disagrees with the Commenter that Louisiana's i-SIP must be disapproved for failure to contain sufficient measures to ensure attainment and maintenance of the 2008 ozone NAAQS.

Comment 11: The Sierra Club alleges that the proposed i-SIP does not address sources significantly contributing to nonattainment or interfering with maintenance of the NAAQS in

other states as required by section 110(a)(2)(D)(i)(I) of the CAA, and states EPA must therefore disapprove the i-SIP. Sierra Club claims its modeling shows that emissions from Dolet Hills and Big Cajun II are contributing to exceedances in other states. Sierra Club states that the CAA requires i-SIPs to address cross-state air pollution. The Commenter argues that Louisiana has not done so and that EPA must disapprove the proposed infrastructure. The Commenter references the recent Supreme Court decision, *EPA v. EME Homer City Generation, L.P. et al*, 134 S. Ct. 1584 (2014), which supports the states' mandatory duty to address cross-state pollution under section 110(a)(2)(D)(i)(I).

Response 11: The Sierra Club commented that Louisiana's i-SIP fails to address any cross-state impacts that are due to sources within the State. However in the proposed rulemaking for this final rule, EPA did address and propose to approve the good neighbor provisions in section 110(a)(2)(D)(i)(I) for the 2008 Pb and 2010 NO_2 NAAQS,[12] and we are finalizing those provisions in this rulemaking. The portion of the State's SIP addressing the good neighbor provision for the 2006 $PM_{2.5}$ was approved on April 15, 2014 (79 FR 21142) and the 2008 ozone was disapproved August 12, 2016 (81 FR 53308). EPA will be addressing 110(a)(2)(D)(i)(I) for 2010 SO_2 and the 2012 $PM_{2.5}$ NAAQS in future actions. Thus, the comments relating to the substance and approvability of Louisiana's good neighbor provision in its 2010 SO_2 and the 2012 $PM_{2.5}$ NAAQS i-SIP submission are not relevant to this rulemaking action. As stated herein and in the NPR, EPA will take later, separate action on Louisiana's 2010 SO_2 and the 2012 $PM_{2.5}$ NAAQS i-SIP submissions to address section 110(a)(2)(D)(i)(I).

The statutory language in the CAA supports our ability to approve Louisiana's NAAQS i-SIP submissions while taking later, separate action on the portion of the SIP submittals which

[12] 81 FR 35674

address Louisiana's obligation to address section 110(a)(2)(D)(i)(I). Section 110(k)(3) of the CAA authorizes EPA to approve a plan in full, disapprove it in full, or approve it in part and disapprove it in part, depending on the extent to which such plan meets the requirements of the CAA. This authority to approve the states' SIP revisions in separable parts was included in the 1990 Amendments to the CAA to overrule a decision in the Court of Appeals for the Ninth Circuit holding that EPA could not approve individual measures in a plan submission without either approving or disapproving the plan as a whole. *See*, S. Rep. No. 101-228, at 22, 1990 U.S.C.C.A.N. 3385, 3408 (discussing the express overruling of *Abramowitz* v. *EPA*, 832 F.2d 1071 (9th Cir. 1987)).

As such, EPA has the authority under section 110(k)(3), to use our discretion to approve or conditionally approve individual elements of Louisiana's infrastructure submission for NAAQS, separate and apart from any action with respect to the requirements of section 110(a)(2)(D)(i)(I). EPA views discrete i-SIP requirements, such as the requirements of 110(a)(2)(D)(i)(I), as severable from the other infrastructure elements and section 110(k)(3) allows us to act on individual severable measures in a plan submission. The commenter raises no compelling legal or environmental rationale for an alternate interpretation. Nothing in the Supreme Court's April 2014 decision in *EME Homer City* alters our interpretation that we may act on individual severable measures including the requirements of section 110(a)(2)(D)(i)(I) in a SIP submission. *See*, *EPA* v. *EME Homer City Generation, L.P.*,134 S. Ct. 1584 (2014) (affirming a state's obligation to submit a SIP revision addressing section 110(a)(2)(D)(i)(I) independent of EPA's action finding significant contribution or interference with maintenance).

EPA's proposed approval of the Louisiana’s i-SIP submission for NAAQS for the portions described in the NPR was therefore appropriate.

III. Final Action

EPA is approving i-SIP submissions from Louisiana submitted on May 16, 2011, October 10, 2011, June 4, 2013, and December 17, 2015, certifying that the State's current i-SIP is sufficient to meet the required infrastructure elements under sections 110(a)(1) and 110(a)(2) for the 2006 $PM_{2.5}$, 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ with exception of certain aspects relating to CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone, 2010 SO_2 and 2012 $PM_{2.5}$ and disapproval for the visibility protection portion of CAA section 110(a)(2)(D)(i)(II) for all pollutants except the 2008 Pb NAAQS. The elements in which no action is taken, or for which disapproval was given will be or have been addressed in other actions. Please see the Table 1 below.

Table 1: Final Action on Louisiana Infrastructure SIP Submittal for various NAAQS

Element	2006 $PM_{2.5}$	2008 Pb	2008 Ozone	2010 NO_2	2010 SO_2	2012 $PM_{2.5}$
(A): Emission limits and other control measures	A	A	A	A	A	A
(B): Ambient air quality monitoring and data system	A	A	A	A	A	A
(C)(i):Enforcement of SIP measures	A	A	A	A	A	A
(C)(ii):PSD program for major sources and major modifications	A	A	A	A	A	A
(C)(iii): Permitting program for minor sources and minor modifications	A	A	A	A	A	A
(D)(i)(I):Contribute to nonattainment/interfere with maintenance of NAAQS (requirements 1 and 2)	A*	A	No action	A	No action	No action
(D)(i)(II): PSD (requirement 3)	A	A	A	A	A	A
(D)(i)(II): Visibility Protection (requirement 4)	D	A	D	D	D	D
(D)(ii): Interstate and International Pollution Abatement	A	A	A	A	A	A
(E)(i): Adequate resources	A	A	A	A	A	A
(E)(ii): State boards	A	A	A	A	A	A
(E)(iii): Necessary assurances with respect to local agencies	A	A	A	A	A	A
(F): Stationary source monitoring system	A	A	A	A	A	A
(G): Emergency power	A	A	A	A	A	A
(H): Future SIP revisions	A	A	A	A	A	A
(I):Nonattainment area plan or plan revisions under part D	+	+	+	+	+	+
(J)(i): Consultation with government officials	A	A	A	A	A	A
(J)(ii): Public notification	A	A	A	A	A	A
(J)(iii): PSD	A	A	A	A	A	A
(J)(iv): Visibility protection	+	+	+	+	+	+
(K): Air quality modeling and data	A	A	A	A	A	A
(L): Permitting fees	A	A	A	A	A	A
(M): Consultation and participation by affected local entities	A	A	A	A	A	A

Key to Table 1: Proposed action on LA infrastructure SIP submittals for various NAAQS
A- Approve
A*- Approved at an earlier date
+- Not germane to infrastructure SIPs
No action- EPA is taking no action on this infrastructure requirements
D- Disapprove

IV. Statutory and Executive Order Reviews

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

This final 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 final 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 action will not have a significant economic impact on a substantial number of small entities under the RFA. This action merely approves or disapproves a SIP submission as not meeting the CAA.

D. Unfunded Mandates Reform Act (UMRA)

This 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 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 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 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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has 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 approves or disapproves a SIP submission as not meeting the CAA.

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

This 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 rulemaking does not involve technical standards.

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

EPA believes 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 approves or disapproves a SIP submission as not meeting the CAA requirements.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days

after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Interstate transport of pollution, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 29, 2016.

Samuel Coleman,
Acting Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52–APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart T – Louisiana

2. Section 52.970(e) is amended by adding six entries at the end of the second table titled "EPA Approved Louisiana Provisions and Quasi-Regulatory Measures" to read as follows:

§ 52.970 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED LOUISIANA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
* * * * * * *				
Infrastructure for the 2006 $PM_{2.5}$ NAAQS	Statewide	5/16/11	**[Insert date of publication in the Federal Register] [Insert Federal Register citation]**	Approval for 110(a)(2)(A), (B), (C), (D)(i) (portion pertaining to PSD), D(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
Infrastructure for the 2008 Pb NAAQS	Statewide	10/10/11	**[Insert date of publication in the Federal Register] [Insert Federal Register citation]**	Approval for 110(a)(2)(A), (B), (C), (D) (E), (F), (G), (H), (J), (K), (L) and (M).
Infrastructure for the 2008 O_3 NAAQS	Statewide	6/4/13	**[Insert date of publication in the Federal Register] [Insert Federal Register citation]**	Approval for 110(a)(2)(A), (B), (C), (D)(i) (portion pertaining to PSD), D(ii), (E), (F), (G), (H), (J), (K), (L) and (M).

Infrastructure for the 2010 NO_2 NAAQS	Statewide	6/4/13	**[Insert date of publication in the Federal Register] [Insert Federal Register citation]**	Approval for 110(a)(2)(A), (B), (C), (D)(i) (portions pertaining to nonattainment, interference with maintenance and PSD), D(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
Infrastructure for the 2010 SO_2 NAAQS	Statewide	6/4/13	**[Insert date of publication in the Federal Register] [Insert Federal Register citation]**	Approval for 110(a)(2)(A), (B), (C), (D)(i) (portion pertaining PSD), D(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
Infrastructure for the 2012 $PM_{2.5}$ NAAQS	Statewide	12/17/15	**[Insert date of publication in the Federal Register] [Insert Federal Register citation]**	Approval for 110(a)(2)(A), (B), (C), (D)(i) (portion pertaining to PSD), D(ii), (E), (F), (G), (H), (J), (K), (L) and (M).

3. Section 52.996 is amended by adding paragraph (b) to read as follows:

§ 52.996 Disapprovals.

* * * * *

(b) The portions of the SIP submitted on May 16, 2011, June 4, 2013, and December 17, 2015 addressing noninterference with measures required to protect visibility in any other state (Clean

Air Act section 110(a)(2)(D)(i)(II)) are disapproved for the following National Ambient Air Quality Standards: 2006 $PM_{2.5}$, 2008 Ozone, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$.

[FR Doc. 2016-24036 Filed: 10/3/2016 8:45 am; Publication Date: 10/4/2016]