



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

#### [EPA-R01-OAR-2016-0552; FRL-9956-50-Region 1]

### **Approval and Promulgation of Air Quality Implementation Plans; Maine, New Hampshire, Rhode Island and Vermont; Interstate Transport of Fine Particle and Ozone Air Pollution**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve State Implementation Plan (SIP) submissions from the Maine Department of Environmental Protection (ME DEP), the New Hampshire Department of Environmental Services (NH DES), the Rhode Island Department of Environmental Management (RI DEM) and the Vermont Department of Environmental Conservation (VT DEC). These SIP submissions address provisions of the Clean Air Act that require each state to submit a SIP to address emissions that may adversely affect another state's air quality through interstate transport. The EPA is proposing that all four States have adequate provisions to prohibit in-state emissions activities from significantly contributing to nonattainment, or interfering with the maintenance, of the 1997 ozone National Ambient Air Quality Standards (NAAQS) in other states, and that Rhode Island and Vermont have adequate provisions to prohibit in-state emissions activities from significantly contributing to nonattainment, or interfering with maintenance, of the 1997 fine particulate matter (PM<sub>2.5</sub>) and 2006 PM<sub>2.5</sub> NAAQS in other states. The intended effect of this action is to propose approval of the SIP revisions submitted by Maine, New Hampshire, Rhode Island, and Vermont. This action is being taken under the Clean Air Act.

**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 identification number EPA-R01-OAR-2016-0552, at <http://www.regulations.gov>, or via email to [Arnold.Ann@EPA.gov](mailto:Arnold.Ann@EPA.gov). For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, 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 the person identified in the “For Further Information Contact” section. 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>.

Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or at the U.S. Environmental Protection Agency, Region 1, Air Programs

Branch, 5 Post Office Square, Boston, Massachusetts. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

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

**SUPPLEMENTARY INFORMATION:**

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

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

- I. What should I consider as I prepare my comments for EPA?
- II. Rulemaking Information
- III. Proposed Action
- IV. Statutory and Executive Order Reviews

**I. What should I consider as I prepare my comments for EPA?**

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date, and page number).
2. Follow directions - EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

## **II. Rulemaking Information**

EPA is proposing to approve SIP submissions from the ME DEP, the NH DES, the RI DEM and the VT DEC. The SIPs were submitted on the following dates: April 24, 2008 (ME); March 11, 2008 (NH); April 30, 2008 and November 6, 2009 (RI); and April 15, 2009 and May 21, 2010 (VT). These SIP submissions address the requirements of Clean Air Act (CAA) section

110(a)(2)(D)(i)(I) for the 1997 ozone and 1997 PM<sub>2.5</sub> and 2006 PM<sub>2.5</sub> NAAQS.<sup>1</sup> EPA previously approved SIP submissions from New Hampshire and Maine as meeting the requirements of CAA

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<sup>1</sup> To the extent that these SIP submittals address other infrastructure elements, such as CAA section 110(a)(2)(D)(i)(II), those requirements are not being addressed in today's action. In today's rulemaking, EPA is proposing action only with respect to CAA section 110(a)(2)(D)(i)(I).

section 110(a)(2)(D)(i)(I) for the 1997 PM<sub>2.5</sub> and 2006 PM<sub>2.5</sub> NAAQS (see 77 FR 63228).

On July 18, 1997, EPA established a new 8-hour NAAQS for ozone of 0.08 parts per million (ppm) (62 FR 38856). On March 12, 2008, EPA published a revision to the 8-hour ozone standard, lowering the level from 0.08 ppm to 0.075 ppm. In addition, on July 18, 1997, EPA also revised the NAAQS for particulate matter to add new annual and 24-hour standards for fine particles, using PM<sub>2.5</sub> as the indicator (62 FR 38652). These revisions established an annual standard of 15 µg/m<sup>3</sup> and a 24-hour standard of 65 µg/m<sup>3</sup>. During 2006, EPA revised the air quality standards for PM<sub>2.5</sub>. The 2006 standards decreased the level of the 24-hour fine particle standard from 65 µg/m<sup>3</sup> to 35 µg/m<sup>3</sup>, and retained the annual fine particle standard at 15 µg/m<sup>3</sup>.<sup>2</sup>

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, or “prongs,” within CAA section 110(a)(2)(D)(i). This action addresses the first two sub-elements of the good neighbor provisions, at CAA section 110(a)(2)(D)(i)(I), often referred to as “prong one” and “prong two.” These sub-elements require that each SIP for a new or revised standard contain adequate provisions to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will “contribute significantly to nonattainment” (prong 1) or “interfere with maintenance” (prong 2) of the applicable air quality standard in any other state.

We note that the EPA has addressed the interstate transport requirements of CAA section

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<sup>2</sup> In addition, EPA subsequently revised the annual fine particle NAAQS to a level of 12 µg/m<sup>3</sup> (78 FR 3086; January 15, 2013) and the ozone NAAQS to a level of 0.070 ppm (80 FR 65292; October 26, 2015). These NAAQS updates are not, however, relevant to today’s action.

110(a)(2)(D)(i)(I) for the eastern portion of the United States in several past regulatory actions.<sup>3</sup> We most recently promulgated the Cross-State Air Pollution Rule (CSAPR), which addressed CAA section 110(a)(2)(D)(i)(I) in the eastern portion of the United States.<sup>4</sup> CSAPR addressed multiple national ambient air quality standards, but did not address the 2008 8-hour ozone standard.<sup>5</sup> On December 3, 2015, the EPA proposed an update to CSAPR to address the 2008 ozone standard, referred to as the CSAPR Update.<sup>6</sup> On October 26, 2016, the final CSAPR Update was published (see 81 FR 74504).

In addition, EPA issued guidance on August 15, 2006, relating to SIP submissions to meet the requirements of section 110(a)(2)(D)(i).<sup>7</sup> This guidance indicated that states excluded from the Clean Air Interstate Rule (CAIR) “should be able to make a relatively simple SIP submission verifying that the State does not significantly contribute to nonattainment or interfere with maintenance of the [1997] 8-hour ozone or PM<sub>2.5</sub> standards in another state.” EPA promulgated CAIR in 2005 (see 70 FR 25172, May 12, 2005). The CAIR modeling showed that none of the four states that are the subject of this proposed action (Maine, New Hampshire, Rhode Island, and Vermont) were linked to identified downwind nonattainment receptors, for either the 1997 PM<sub>2.5</sub> and 2006 PM<sub>2.5</sub> or the 1997 ozone NAAQS, and therefore were not considered to significantly contribute to nonattainment or interfere with maintenance of the standards in those downwind areas. In accordance with the above guidance, each of the four

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<sup>3</sup> NO<sub>x</sub> SIP Call, 63 FR 57371 (October 27, 1998); Clean Air Interstate Rule (CAIR), 70 FR 25172 (May 12, 2005); Cross-State Air Pollution Rule (CSAPR), 76 FR 48208 (August 8, 2011).

<sup>4</sup> 76 FR 48208.

<sup>5</sup> CSAPR addressed the 1997 8-hour ozone, and the 1997 and 2006 fine particulate matter NAAQS.

<sup>6</sup> Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS, 80 FR 75706 (December 3, 2015).

<sup>7</sup> “Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards,” Memorandum from William T. Harnett, EPA OAQPS, to EPA Regional Air Division Directors, August 15, 2006.

states' SIP submissions use the CAIR modeling results as the basis for showing that their State does not contribute significantly to downwind nonattainment, or interfere with maintenance, of the 1997 ozone or the 1997 PM<sub>2.5</sub> and 2006 PM<sub>2.5</sub> NAAQS.

CAIR was subject to litigation and ultimately remanded to the EPA by the D.C. Circuit.<sup>8</sup> Among other things, the court held that EPA had failed to give “independent significance” to the interfere with maintenance prong of CAA section 110(a)(2)(D)(i)(I) by separately identifying downwind areas that might be projected to attain the NAAQS, but that might struggle to maintain the standard due to emissions from upwind states.<sup>9</sup> The court concluded that “EPA must redo its analysis from the ground up.”<sup>10</sup>

CAIR was subsequently replaced by CSAPR. Although the states do not cite CSAPR or the CSAPR Update in their SIP submissions (as these SIP submissions pre-date CSAPR), the CSAPR modeling is helpful to EPA in our review in that it bolsters the case these four states have given EPA in their SIP submissions showing that they do not cause or contribute significantly to downwind nonattainment or maintenance for either the 1997 ozone or 1997 PM<sub>2.5</sub> and 2006 PM<sub>2.5</sub> NAAQS.

In the CSAPR rulemaking, the EPA used detailed air quality analyses to first identify downwind nonattainment and maintenance receptors, and to then 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

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<sup>8</sup> *North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir. 2008), amended on rehearing, 550 F.3d 1176 (2008).

<sup>9</sup> 531 F.3d at 910-11.

<sup>10</sup> *Id.* at 929.

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.

In CSAPR, the EPA proposed an air quality screening threshold of one percent of the applicable NAAQS and requested comment on whether one percent was appropriate.<sup>11</sup> The EPA 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, the EPA compiled the contribution modeling results for CSAPR to analyze the impact of different possible thresholds for the eastern United States. The EPA's 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.<sup>12</sup> In addition, the EPA 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.<sup>13</sup> The EPA 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. The EPA determined that a "0.5 percent threshold could lead to emission reduction responsibilities in additional states that individually have a very

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<sup>11</sup> CSAPR proposal, 75 FR 45210, 45237 (August 2, 2010).

<sup>12</sup> See also Air Quality Modeling Final Rule Technical Support Document, Appendix F, Analysis of Contribution Thresholds, Docket ID # EPA-HQ-OAR-2009-0491.

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.”<sup>14</sup>

In the final CSAPR, the EPA 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 EPA’s previous use of a one-percent threshold in CAIR. The EPA used a single “bright line” air quality threshold equal to one percent of the 1997 8-hour ozone standard, or 0.08 ppm.<sup>15</sup> 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.<sup>16</sup>

For purposes of the 1997 ozone NAAQS, each of the four states included in this proposed action (Maine, New Hampshire, Rhode Island, and Vermont) have contributions below this significance threshold finalized in CSAPR. Specifically, the CSAPR modeling indicates that Maine’s ozone contribution to any projected downwind nonattainment site is 0.00 ppb (parts per billion) and Maine’s largest contribution to any projected downwind maintenance-only site is 0.08 ppb. The CSAPR modeling indicates that New Hampshire’s largest ozone contribution to any projected downwind nonattainment site is 0.02 ppb and New Hampshire’s largest ozone

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<sup>13</sup> CSAPR, 76 FR 48208, 48236–37 (August 8, 2011).

<sup>14</sup> Id.

<sup>15</sup> Id.

contribution to any projected downwind maintenance-only site is 0.07 ppb. The CSAPR modeling indicates that Rhode Island's largest ozone contribution to any projected downwind nonattainment site is 0.02 ppb and Rhode Island's largest contribution to any projected downwind maintenance-only site is 0.08 ppb. The CSAPR modeling indicates that Vermont's largest ozone contribution to any projected downwind nonattainment site is 0.01 ppb and Vermont's largest contribution to any projected downwind maintenance-only site is 0.05 ppb. These ozone contribution values are all well below the one percent screening threshold of 0.85 ppb and, therefore, there are no identified linkages between these four states and downwind projected nonattainment and maintenance sites.

For the 1997 PM<sub>2.5</sub> and 2006 annual PM<sub>2.5</sub> NAAQS, the CSAPR modeling indicates that Rhode Island's contribution to any projected downwind nonattainment site is 0.00 micrograms per cubic meter (ug/m<sup>3</sup>) and Rhode Island's contribution to any projected downwind maintenance-only site is 0.00 ug/m<sup>3</sup>. For the 1997 PM<sub>2.5</sub> and 2006 24-hour PM<sub>2.5</sub> NAAQS, the CSAPR modeling indicates that Rhode Island's largest contribution to any projected downwind nonattainment site is 0.02 ug/m<sup>3</sup> and Rhode Island's largest contribution to any projected downwind maintenance-only site is 0.06 ug/m<sup>3</sup>. For the 1997 PM<sub>2.5</sub> and 2006 annual PM<sub>2.5</sub> NAAQS, the CSAPR modeling indicates that Vermont's contribution to any projected downwind nonattainment site is 0.00 ug/m<sup>3</sup> and Vermont's contribution to any projected downwind maintenance-only site is 0.00 ug/m<sup>3</sup>. For the 1997 PM<sub>2.5</sub> and 2006 24-hour PM<sub>2.5</sub> NAAQS, the CSAPR modeling indicates that Vermont's largest contribution to any projected downwind nonattainment site is 0.03 ug/m<sup>3</sup> and Vermont's largest contribution to any projected downwind maintenance-only site is 0.05 ug/m<sup>3</sup>. These PM<sub>2.5</sub> contribution values are all well below the one

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<sup>16</sup> Id.

percent screening thresholds of  $0.15 \text{ ug/m}^3$  (annual) and  $0.35 \text{ ug/m}^3$  (24-hour)<sup>17</sup> and, therefore, there are no identified linkages between Rhode Island and Vermont and downwind projected nonattainment and maintenance sites for the 1997  $\text{PM}_{2.5}$  and 2006  $\text{PM}_{2.5}$  standards.<sup>18</sup>

In summary, in CSAPR, the EPA used an air quality analysis 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 standards in those downwind areas.<sup>19</sup> The CSAPR modeling showed that none of the four states that are the subject of this proposed action (Maine, New Hampshire, Rhode Island, and Vermont) were linked to identified downwind nonattainment and maintenance receptors with respect to the 1997 ozone and 1997 and 2006  $\text{PM}_{2.5}$  NAAQS.<sup>20</sup> Therefore, in the CSAPR rulemaking, the EPA found that these states do not significantly contribute to nonattainment or interfere with maintenance of the standards in those downwind areas. The findings made in the CSAPR rulemaking support the conclusions by each these four states that they do not significantly contribute to nonattainment, or interfere with maintenance, in downwind states for either the 1997 ozone NAAQS or the 1997  $\text{PM}_{2.5}$  and 2006  $\text{PM}_{2.5}$  NAAQS.

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<sup>17</sup> Note this is the screening threshold for the more stringent 2006 24-hour  $\text{PM}_{2.5}$  NAAQS.

<sup>18</sup> As noted above, EPA previously approved SIP submissions from New Hampshire and Maine as meeting the requirements of CAA section 110(a)(2)(D)(i)(I) for the 1997  $\text{PM}_{2.5}$  and 2006  $\text{PM}_{2.5}$  NAAQS (see 77 FR 63228).

<sup>19</sup> 76 FR at 48236 ("States whose contributions are below the thresholds are not included in the Transport Rule for the NAAQS. In other words, we are finding that states whose contributions are below these thresholds do not significantly contribute to nonattainment or interfere with maintenance of the relevant NAAQS.")

<sup>20</sup> See Table V.D-1, 76 FR at 48240 (contributions to downwind receptors with respect to the 1997 annual  $\text{PM}_{2.5}$  NAAQS); Table V.D-4, 76 FR 48241-242 (contributions to downwind receptors with respect to the 2006 24-hour  $\text{PM}_{2.5}$  NAAQS); and Table V.D-7, 76 FR at 48244-245 (contributions to downwind receptors with respect to the 1997 ozone NAAQS).

Based on the findings made in the CSAPR rulemaking, and the information and analysis provided in all four states' SIP submissions, we are proposing to approve the interstate transport SIPs submitted by Rhode Island on April 30, 2008 and Vermont on April 15, 2009 as meeting the CAA section 110(a)(2)(D)(i)(I) requirements for the 1997 ozone and the 1997 PM<sub>2.5</sub> NAAQS. We are also proposing to approve Maine's April 24, 2008 and New Hampshire's March 11, 2008 SIP submittals as meeting the CAA section 110(a)(2)(D)(i)(I) requirements for the 1997 ozone NAAQS. Finally, we are proposing to approve Rhode Island's November 6, 2009 and Vermont's May 21, 2010 SIP submittals as meeting the CAA section 110(a)(2)(D)(i)(I) requirements for the 2006 PM<sub>2.5</sub> NAAQS. The EPA's findings confirm the results of the states' analyses: Maine, New Hampshire, Rhode Island, and Vermont do not significantly contribute to nonattainment, or interfere with maintenance, of the 1997 ozone NAAQS and Rhode Island and Vermont do not significantly contribute to nonattainment, or interfere with maintenance, of the 1997 PM<sub>2.5</sub> and 2006 PM<sub>2.5</sub> NAAQS in any other state. EPA has determined that the SIPs contain adequate provisions to satisfy CAA section 110(a)(2)(D)(i)(I) requirements as to the 1997 ozone NAAQS and the 1997 PM<sub>2.5</sub> NAAQS, for Maine, New Hampshire, Rhode Island, and Vermont, and the 2006 PM<sub>2.5</sub> NAAQS, for Rhode Island and Vermont.

### **III. Proposed Action**

EPA is proposing to approve the SIP revisions submitted by the states on the following dates as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 1997 ozone NAAQS: April 24, 2008 (Maine); March 11, 2008 (New Hampshire); April 30, 2008 (Rhode Island); and April 15, 2009 (Vermont). In addition, EPA is proposing to approve the SIP

revisions submitted by the states on the following dates as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 1997 PM<sub>2.5</sub> NAAQS: April 30, 2008 (Rhode Island); and April 15, 2009 (Vermont). Also, EPA is proposing to approve the SIP revisions submitted by Rhode Island on November 6, 2009 and Vermont on May 21, 2010 as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 PM<sub>2.5</sub> NAAQS. EPA has reviewed these SIP revisions and has found that they satisfy the relevant CAA requirements discussed above. EPA is soliciting public comments on the proposed approval of the SIP revisions, and will consider those comments before taking final action. However, the EPA is not reopening public comment on the analysis and policy decisions finalized in the CSAPR rulemaking, including the air quality modeling and the application of the 1 percent threshold to identify those states whose contribution to identified downwind nonattainment and maintenance receptors are insignificant.

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

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial

direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175  
(65 FR 67249, November 9, 2000).

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 1, 2016.

H. Curtis Spalding,  
Regional Administrator,  
EPA New England.

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