



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2018-0806; FRL-9990-17-Region 9]

Air Plan Approval; Hawaii; Infrastructure SIP

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) submission from the State of Hawaii regarding certain Clean Air Act (CAA or “Act”) requirements related to the interstate transport for the 2008 ozone national ambient air quality standards (NAAQS). The interstate transport requirements consist of several elements; this proposal pertains only to provisions prohibiting any source or other type of emissions activity in one state from emitting any air pollutant in amounts that will contribute significantly to nonattainment and interference with maintenance of the 2008 ozone NAAQS in other states. We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2018-0806 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information

(CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, please contact 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 <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Tom Kelly, EPA Region IX, (415) 972-3856, kelly.thomasp@epa.gov.

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

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I. Background

Section 110(a)(1) of the CAA requires states to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as the EPA may prescribe. Section 110(a)(2) requires

states to address structural SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to provide for implementation, maintenance, and enforcement of the NAAQS. The EPA refers to the SIP submissions required by these provisions as “infrastructure SIP” submissions. Section 110(a) imposes the obligation upon states to make a SIP submission to the EPA for a new or revised NAAQS, but the contents of individual state submissions may vary depending upon the facts and circumstances. This proposed rule pertains to the infrastructure SIP requirements for interstate transport of air pollution.

A. Interstate Transport

Section 110(a)(2)(D)(i) of the CAA requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from emitting any air pollutant in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS, or interfere with measures required to prevent significant deterioration of air quality or to protect visibility in any other state. This proposed rule addresses the two requirements under section 110(a)(2)(D)(i)(I), which we refer to as prong 1 (significant contribution to nonattainment of the NAAQS in any other state) and prong 2 (interference with maintenance of the NAAQS in any other state).¹ The EPA refers to SIP revisions addressing the requirements of section 110(a)(2)(D)(i)(I) as “good neighbor SIPs” or “interstate transport SIPs.”

On March 12, 2008, the EPA revised the levels of the primary and secondary 8-hour ozone NAAQS, setting them at 0.075 parts per million. In 2015, the EPA issued an informational

¹ This proposed action does not address the two elements of the interstate transport SIP provision in CAA section 110(a)(2)(D)(i)(II) regarding interference with measures required to prevent significant deterioration of air quality or to protect visibility in another state or elements associated with section 110(a)(2)(D)(ii) regarding interstate pollution abatement and international air pollution.

memo regarding interstate transport SIP requirements for the 2008 ozone NAAQS (“Ozone Transport Memo”).² The Ozone Transport Memo, following the approach used in the original Cross State Air Pollution Rule (CSAPR),³ provided data identifying ozone monitoring sites in the continental United States (U.S.) that were projected to be in nonattainment or have maintenance problems for the 2008 ozone NAAQS in 2018. In 2016, the EPA updated our ozone transport modeling through the Cross-State Air Pollution Rule Update (“CSAPR Update”).⁴ As part of this action, we changed the modeled year to 2017, aligning it with the relevant attainment dates for the 2008 ozone NAAQS as required by the D.C. Circuit’s decision in *North Carolina v. EPA*.⁵ This CSAPR modeling did not include the island state of Hawaii and thus a different approach is used in this proposal.

B. State Submittal

The Hawaii Department of Health (HDOH) submitted its proposed good neighbor SIP for the 2008 ozone NAAQS in a letter dated June 8, 2015,⁶ as a parallel processing request.⁷ The EPA notified HDOH that the submittal was complete on June 12, 2015.⁸ HDOH submitted a

² Memorandum dated January 22, 2015, from Stephen D. Page, Director, Office of Air Quality Planning and Standards, EPA, to Regional Air Division Directors, Regions 1 – 10, “Information on Interstate Transport ‘Good Neighbor’ Provision for the 2008 Ozone National Ambient Air Quality Standards (NAAQS) under Clean Air Act (CAA) Section 110(a)(2)(D)(i)(I).”

³ 76 FR 48208 (August 8, 2011).

⁴ 81 FR 74504 (October 26, 2016). The modeling results are found in the “Ozone Transport Policy Analysis Final Rule TSD,” EPA, August 2016, and an update to the affiliated final CSAPR Update ozone design value and contributions spreadsheet, entitled Copy of final_csapr_update_ozone_design_values_contributions.xlsx.

⁵ 531 F.3d 896, 911–12 (D.C. Cir. 2008) (holding that EPA must coordinate interstate transport compliance deadlines with downwind attainment deadlines).

⁶ Letter dated June 8, 2015, from Virginia Pressler, M.D., Director of Health, HDOH, to Jared Blumenfeld, Regional Administrator, U.S. EPA, Region IX.

⁷ Under the EPA’s “parallel processing” procedure, the EPA may propose a rulemaking action concurrently with the state’s proposed rulemaking. See 40 CFR part 51, appendix V for more information.

⁸ Letter dated June 12, 2015, from Colleen McKaughan, Acting Director, Air Division, EPA Region 9, to Nolan Hirai, HDOH.

final good neighbor SIP (“HDOH Submittal”) on August 6, 2015,⁹ including documentation of public participation meeting the requirements of CAA section 110(a)(2) and 40 CFR 51.102. The content of the HDOH Submittal is discussed in section II.B (“The HDOH Transport Analysis”) of this notice.

II. Interstate Transport Analysis and Evaluation

A. The EPA’s Evaluation Approach

To assess interstate transport for regional pollutants such as fine particulate matter (PM_{2.5}) or ozone, we typically first identify the areas that may have problems attaining or maintaining attainment of the NAAQS. We refer to regulatory monitors that are expected to exceed the NAAQS under average conditions as “nonattainment receptors” and those that may have difficulty maintaining the NAAQS as “maintenance receptors.” Such receptors may include regulatory monitors operated by states, tribes, or local air agencies.

In some cases, we have identified these receptors by modeling air quality in a future year that is relevant to CAA attainment deadlines for a given NAAQS. This type of modeling has been based on air quality data, emissions inventories, existing and planned air pollution control measures, and other information. As previously mentioned in Section I.A., the EPA modeled air quality in the 48 contiguous states of the continental U.S. in the CSAPR Update.¹⁰ This information is used in this analysis to identify states with nonattainment and maintenance receptors for the 2008 ozone NAAQS.¹¹ To evaluate interstate transport for the 2008 ozone

⁹ Letter dated August 6, 2015, from Virginia Pressler, M.D., Director of Health, HDOH, to Jared Blumenfeld, Regional Administrator, U.S. EPA Region IX.

¹⁰ The methodology for the EPA’s transport modeling for the 2008 ozone is described in the CSAPR Update Rule (81 FR 74504, October 26, 2016).

¹¹ Nonattainment receptors were projected to have 2017 average design values higher than the 2008 ozone NAAQS

NAAQS for states in the continental U.S., the EPA estimated interstate contributions from and to all other continental states. The EPA then determined which upwind states contribute to these identified air quality problems in amounts sufficient to warrant further evaluation to determine if the state can make emission reductions to reduce its contribution. The CSAPR Update used a screening threshold (1% of the NAAQS or 0.75 parts per billion) to identify contributing upwind states warranting further review and analysis.

The EPA does not believe that modeling is necessarily required, particularly for isolated states like Hawaii. A proper and well-supported weight of evidence approach can provide sufficient information for purposes of addressing transport with respect to the 2008 ozone NAAQS. In a weight of evidence analysis, no single piece of information is by itself dispositive of the issue. Instead, the total weight of all the evidence taken together is used to evaluate significant contributions to nonattainment or interference with maintenance of the 2008 ozone NAAQS in another state.

B. The HDOH Transport Analysis

HDOH concluded that Hawaii does not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS for another state, citing several factors: the distance from Hawaii to the continental U.S; the relatively small quantity of ozone precursor emissions in Hawaii; and an evaluation of ozone transport.

In the HDOH Submittal, the State notes that Hawaii is approximately 2,390 miles from the nearest state, California. It also compares Hawaii's ozone precursor emissions to those of California. Emissions of nitrogen oxides (NO_x) and volatile organic compounds (VOC) from

and maintenance receptors were projected to have 2017 maximum design values higher than the 2008 ozone NAAQS.

Hawaii were 5.0% and 5.9% respectively of California's emissions in 2008 and 6.8% and 1.3% in 2011.

Appendix 1 to the HDOH Submittal shows trajectories for emissions from Hawaii's Campbell Industrial Park, which includes a refinery and power generation facility, based on 2010 meteorological data. The trajectories initially travel eastward, before turning westward. A very small fraction of emissions arrives in the continental U.S. more than two days after release and a slightly larger fraction arrives five days after release.

C. The EPA's Evaluation of Significant Contribution to Nonattainment

In the modeling performed for the CSAPR Update, the westernmost projected nonattainment receptors in the U.S. were in California and Texas.¹² The nearest California projected nonattainment receptor is located in Turlock, Stanislaus County, which is 2,389 miles from the easternmost edge of Hawaii.¹³ The nearest Texas nonattainment receptor is located in Manvel, Brazoria County, which is 3,765 miles from Hawaii.¹⁴

We have supplemented Hawaii's emission comparison with California to include Arizona, Colorado, and Texas because Arizona's contribution to ozone levels in California, Texas, and Colorado was considered in the EPA's modeling for the CSAPR Update, as explained further below.¹⁵ Hawaii's emissions are substantially lower than emissions from California, Arizona, Colorado, and Texas, as shown in Table 1.¹⁶ We further note that emissions of ozone precursors in Hawaii decreased over time.

¹² Copy of Final_csapr_update_ozone_design_values_contributions.xlsx.

¹³ Monitor ID 060990006.

¹⁴ Monitor ID 480391004.

¹⁵ Copy of final_csapr_updates_ozone_design_values_contributions.xlsx.

¹⁶ The data were downloaded from the EPA's National Emissions Inventory Gateway and included in the docket for

Pollutant	NO _x			VOC			
	Year	2008	2011 ^b	2014 ^b	2008	2011 ^b	2014 ^b
HI		55,447	54,803	43,421	41,724	38,781	34,545
AZ		311,197	256,227	229,555	2,118,307	2,270,916	2,016,827
CA		1,086,293	770,902	580,053	4,037,072	2,996,891	3,331,126
CO		301,556	332,361	282,078	1,084,404	1,331,019	960,549
TX		1,729,465	1,384,989	1,326,015	5,853,227	7,597,708	6,634,878

^a Data from EPA's National Emissions Inventory: 2014 Version 2, 2011 Version 2, and 2008 Version 3 (some values for 2011 and 2008 emissions differ slightly from those provided by HDOH).

^b Non-anthropogenic event emissions (e.g., wildfires) were not included in these data.

In the CSAPR Update, the EPA modeled Arizona's 2017 contributions to nonattainment receptors in El Centro and Los Angeles, California to be 2.4% and 1.1%, respectively. Although Arizona's contribution to these receptors in California exceeded the 1% screening threshold, we concluded that Arizona's contribution was not significant due to the low total contribution of all upwind states (4.4% at the El Centro receptor and 2.5% at Los Angeles receptor).¹⁷ The proposed rule explained, the "EPA believes that a 4.4% and 2.5% cumulative ozone contribution from all upwind states is negligible."¹⁸ Our modeling estimated Arizona's contribution to all other ozone nonattainment receptors at less than the 1% threshold for potential significance.¹⁹ The EPA's conclusions about Arizona's contribution to nonattainment receptors in California, Texas, and

this action, in a spreadsheet entitled HI-AZ-CA-CO-TX NO_x&VOC 2008-11-14.xls x.

¹⁷ 81 FR 31513 (May 19, 2016).

¹⁸ 81 FR 15200 (March 22, 2016).

¹⁹ Copy of final_csapr_updates_ozone_design_values_contributions.xlsx.

other states further suggests Hawaii's emissions are unlikely to significantly contribute to those nonattainment receptors because NO_x and VOC emissions from Arizona are more than five times larger than from Hawaii and more than 2,000 miles closer to the nonattainment receptors.

The trajectory analysis in Appendix 1 of the HDOH Submittal shows the predominant transport patterns in January and July of 2010 and supports the conclusion that Hawaii does not contribute to nonattainment of the 2008 ozone NAAQS in another state. Although the trajectory analysis was originally prepared in support of Hawaii's analysis for the 1997 ozone NAAQS, it still provides relevant technical information on transport patterns for the 2008 ozone NAAQS.

Although the analysis only looked at trajectories for the months of January and July of 2010, the National Weather Service lists persistent trade winds from the northeast as a feature of Hawaii's climate from May to October.²⁰ This suggests that the July 2010 metrological data, which form the basis of the trajectory analysis, would be similar to the meteorological data for other months from May to October. As the trajectory analysis shows, Hawaii's summertime emissions can be expected to travel eastward for at least one day, and often many days, before turning westward. Additionally, few of the trajectories reach the continental U.S. Our analysis is focused on summertime transport because summertime is typically the period of highest ozone concentrations.

Based on emissions data and the large distance that separates Hawaii from the continental U.S., it appears highly unlikely that emissions from Hawaii impact the ozone nonattainment receptors of California, Texas, or more distant states. In addition, the comparison of trajectory modeling results with ozone monitoring data provides further support for this conclusion.

²⁰ US Department of Commerce, National Oceanic and Atmospheric Association (NOAA). "Honolulu, HI." Pacific Region Headquarters, NOAA's National Weather Service, www.prh.noaa.gov/hnl/pages/climate_summary.php.

Additionally, emissions of ozone precursors in Hawaii are trending downward and should be less likely to impact other states' nonattainment areas in the future.

D. The EPA's Evaluation of Interference with Maintenance

In addition to projected maintenance receptors in California and Texas, the EPA modeling in the CSAPR Update also projected maintenance receptors in Colorado.²¹ These maintenance receptors in California, Colorado, and Texas are located 2,401, 3,245, and 3,649 miles, respectively, from Hawaii.²² The EPA's projected 2017 modeling estimated Arizona's contribution to be less than 1% of the NAAQS for all California, Colorado, and Texas maintenance receptors. Consequently, we determined the emissions from Arizona do not interfere with maintenance in California, Colorado, or Texas. Because NO_x and VOC emissions from Arizona are five times larger and more than 2000 miles closer than emissions from Hawaii, we expect that Hawaii's contribution to these receptors would also be less than 1%. Therefore, we conclude that emissions of ozone precursors in Hawaii are unlikely to interfere with maintenance receptors in California, Colorado, Texas, or any other state. This conclusion is also supported by the prevailing wind directions as documented by Hawaii's trajectory analysis.

III. The EPA's Proposed Action

Based on our review of the HDOH Submittal and the additional analysis discussed in this notice, we propose to find that emissions from Hawaii do not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in any other state. Accordingly, we propose to approve the HDOH Submittal as satisfying the requirements of CAA

²¹ Copy of final_csapr_updates_ozone_design_values_contributions.xlsx

²² Monitor ID 060610006, in Roseville, Placer County, California; Monitor ID 080590011 in Applewood, Jefferson County Colorado; and Monitor ID 481210034, in Denton, Denton County, Texas.

section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS.

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, the EPA's role is to approve state choices, provided they meet the criteria of the Act. Accordingly, this proposed action merely proposes to approve 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, 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 the 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, Infrastructure SIP, Interstate transport, Nitrogen oxides, Volatile organic compounds.

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

Dated: February 1, 2019.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

[FR Doc. 2019-03564 Filed: 2/27/2019 8:45 am; Publication Date: 2/28/2019]