

safety zone will be enforced from 10 p.m. to 10:30 p.m. on July 5, 2015.

(15) *Tawas City 4th of July Fireworks, Tawas City, MI.* The safety zone listed in 33 CFR 165.941(a)(47), all U.S. waters of Lake Huron, within a 300 yard radius of position 44°16' N, 083°30' W, 2000 feet west of the State Dock in East Tawas, will be enforced from 10 p.m. to 11 p.m. on July 4, 2015. In the case of inclement weather on July 4 2015, this safety zone will be enforced from 10 p.m. to 11 p.m. on July 5, 2015.

(16) *Marine City Maritime Festival Fireworks, Marine City, MI.* The safety zone listed in 33 CFR 165.941(a)(13), all waters of the St. Clair River within a 500 foot radius of the fireworks launch site located at position 42°43.15 N, 082°29.2 W, approximately 500 feet offshore from the intersection of Pearl St. and N. Water St., will be enforced from 10 p.m. to 10:30 p.m. on July 31, 2015. In the case of inclement weather on July 31, 2015, this safety zone will be enforced from 10 p.m. to 10:30 p.m. on August 1, 2015.

Under the provisions of 33 CFR 165.23, entry into, transiting, or anchoring within these safety zones during the enforcement period is prohibited unless authorized by the Captain of the Port Detroit or his designated representative. Vessels that wish to transit through the safety zones may request permission from the Captain of the Port Detroit or his designated representative. Requests must be made in advance and approved by the Captain of Port before transits will be authorized. Approvals will be granted on a case by case basis. The Captain of the Port may be contacted via U.S. Coast Guard Sector Detroit on channel 16, VHF-FM. The Coast Guard will give notice to the public via Local Notice to Mariners and VHF radio broadcasts that the regulation is being enforced.

This document is issued under authority of 33 CFR 165.941 and 5 U.S.C. 552 (a). If the Captain of the Port determines that any of these safety zones need not be enforced for the full duration stated in this document, he may suspend such enforcement and notify the public of the suspension via a Broadcast Notice to Mariners.

Dated: June 29, 2015.

**Scott B. Lemasters,**

*Captain, U. S. Coast Guard, Captain of the Port Detroit.*

[FR Doc. 2015-17126 Filed 7-10-15; 8:45 am]

BILLING CODE 9110-04-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2015-0530]

RIN 1625-AA00

#### Safety Zone; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone-Sturgeon Bay Yacht Club Evening on the Bay Fireworks

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the safety zone on the waters of Sturgeon Bay in Sturgeon Bay, WI for the Evening on the Bay Fireworks. This zone will be enforced from 8:30 p.m. until 10:30 p.m. on August 8, 2015. This action is necessary and intended to ensure safety of life on navigable waters immediately prior to, during, and immediately after the fireworks display. During the aforementioned period, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port Lake Michigan or a designated representative.

**DATES:** The regulations in 33 CFR 165.929 will be enforced for safety zone (f)(5), Table 165.929, from 8:30 p.m. until 10:30 p.m. on August 8, 2015.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this document, call or email MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747-7148, email [joseph.p.mccollum@uscg.mil](mailto:joseph.p.mccollum@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

The Coast Guard will enforce the Sturgeon Bay Yacht Club Evening on the Bay Fireworks safety zone listed as item (f)(5) in Table 165.929 of 33 CFR 165.929. Section 165.929 lists many annual events requiring safety zones in the Captain of the Port Lake Michigan zone. This safety zone will encompass all waters of Sturgeon Bay within the arc of a circle with a 280-foot radius from the fireworks launch site located on a barge in approximate position 44°49.310' N., 087°21.370' W. (NAD 83). This zone will be enforced from 8:30 p.m. until 10:30 p.m. on August 8, 2015.

All vessels must obtain permission from the Captain of the Port Lake Michigan or the on-scene representative to enter, move within, or exit the safety

zone. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis. Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of the Captain of the Port Lake Michigan or a designated representative.

This document is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone, and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification for the enforcement of this zone via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan or an on-scene representative may be contacted via Channel 16, VHF-FM.

Dated: June 16, 2015.

**A.B. Cocanour,**

*Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.*

[FR Doc. 2015-17125 Filed 7-10-15; 8:45 am]

BILLING CODE 9110-04-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-HQ-OAR-2012-0943, FRL-9930-25-OAR]

#### Findings of Failure To Submit a Section 110 State Implementation Plan for Interstate Transport for the 2008 National Ambient Air Quality Standards for Ozone

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action finding that 24 states have failed to submit infrastructure State Implementation Plans (SIPs) to satisfy certain interstate transport requirements of the Clean Air Act (CAA) with respect to the 2008 8-hour ozone national ambient air quality standard (NAAQS). Specifically, these requirements pertain to significant contribution to nonattainment, or interference with maintenance, of the 2008 8-hour ozone NAAQS in other states. These findings of failure to submit establish a 2-year deadline for the EPA to promulgate a Federal Implementation Plan (FIP) to address the interstate transport SIP requirements pertaining to significant

contribution to nonattainment and interference with maintenance unless, prior to the EPA promulgating a FIP, the state submits, and the EPA approves, a SIP that meets these requirements.

**DATES:** Effective date of this action is August 12, 2015.

**FOR FURTHER INFORMATION CONTACT:** General questions concerning this document should be addressed to Mrs. Gobeail McKinley, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code C539-04, 109 TW Alexander Drive, Research Triangle Park, NC 27711; telephone (919) 541-5246; email: [mckinley.gobeail@epa.gov](mailto:mckinley.gobeail@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Notice and Comment Under the Administrative Procedures Act (APA)*

Section 553 of the APA, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because no significant EPA judgment is involved in making a finding of failure to submit SIPs, or elements of SIPs, required by the CAA, where states have made no submissions or incomplete submissions, to meet the requirement. Thus, notice and public procedure are unnecessary. The EPA

finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

*B. How can I get copies of this document and other related information?*

The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2012-0943. Publicly available docket materials are available either electronically through <https://www.regulations.gov> or in hard copy at the EPA Docket Center, EPA/DC, William Jefferson Clinton West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744 and the telephone number for the Office of Air and Radiation Docket and Information Center is (202) 566-1742.

*C. How is the preamble organized?*

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The table below lists the states that failed to make an interstate transport SIP submittal addressing CAA section 110(a)(2)(D)(i)(I) requirements for the 2008 ozone NAAQS. For questions related to specific states mentioned in this document, please contact the appropriate EPA Regional Office:

Regional offices	States
EPA Region 1: Anne Arnold, Manager, Air Quality Planning Unit (OEP05-02), EPA Region I, 5 Post Office Square, Suite 100, Boston, MA 02109-3912. (617) 918-1047.	Maine, Massachusetts, New Hampshire, Vermont
EPA Region 3: Cristina Fernandez, Associate Director, Office of Air Program Planning (3AP30), Air Protection Division, EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2187. (215) 814-2178.	Pennsylvania, Virginia, West Virginia
EPA Region 4: R. Scott Davis, Chief, Air Planning & Implementation Branch, EPA Region IV, Sam Nunn Atlanta Federal Center, 61 Forsyth Street SW, 12th Floor, Atlanta, GA 30303. (404) 562-9127.	Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee
EPA Region 5: John Mooney, Air Program Branch Manager, Air Programs Branch, EPA Region 5, 77 West Jackson Street, Chicago, IL 60604-3590. (312) 886-6043.	Illinois, Michigan, Minnesota
EPA Region 6: Guy Donaldson, Chief, Air Planning Section, EPA Region VI, 1445 Ross Avenue, Dallas, TX 75202-2733. (214) 665-7242.	Arkansas, New Mexico, Oklahoma
EPA Region 7: Joshua A. Tapp, Branch Chief, Air Planning and Development Branch, EPA Region VII, 11201 Renner Blvd., Lenexa, KS 66219. (913) 551-7606.	Iowa, Kansas, Missouri
EPA Region 9: Matt Lakin, Air Program Manager, Air Planning Office, EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105. (415) 972-3851.	California

## II. Background and Overview

### A. Interstate Transport SIPs

The CAA section 110(a) imposes an obligation upon states to submit SIPs that provide for the implementation, maintenance and enforcement of a new or revised NAAQS within 3 years following the promulgation of that NAAQS. Section 110(a)(2) lists specific requirements that states must meet in these SIP submissions, as applicable. The EPA refers to this type of SIP submission as the “infrastructure” SIP because it ensures that states can implement, maintain and enforce the air standards. Within these requirements, section 110(a)(2)(D)(i) contains requirements to address interstate transport of NAAQS pollutants. A SIP revision submitted for this sub-section is referred to as an “interstate transport SIP.” In turn, section 110(a)(2)(D)(i)(I) requires that such a plan contain adequate provisions to prohibit emissions from the state that will contribute significantly to nonattainment of the NAAQS in any other state (“prong 1”) or interfere with maintenance of the NAAQS in any other state (“prong 2”). Interstate transport prongs 1 and 2, also called the “good neighbor” provisions, are the requirements relevant to this findings document.

Pursuant to CAA section 110(k)(1)(B), the EPA must determine no later than 6 months after the date by which a state is required to submit a SIP whether a state has made a submission that meets the minimum completeness criteria established per section 110(k)(1)(A). The EPA refers to the determination that a state has not submitted a SIP submission that meets the minimum completeness criteria as a “finding of failure to submit.” If the EPA finds a state has failed to submit a SIP to meet its statutory obligation to address 110(a)(2)(D)(i)(I), pursuant to section 110(c)(1) the EPA has not only the authority, but the obligation, to promulgate a FIP within 2 years to address the CAA requirement. This finding therefore starts a 2-year clock for promulgation by the EPA of a FIP, in accordance with CAA section 110(c)(1), unless prior to such promulgation the state submits, and the EPA approves, a submittal from the state to meet the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2008 8-hour ozone NAAQS. The EPA will work with states subject to these findings of failure to submit and provide assistance as necessary to help them develop approvable submittals in a timely manner. The EPA notes this action does not start a mandatory sanctions clock

pursuant to CAA section 179 because this finding of failure to submit does not pertain to a part D plan for nonattainment areas required under CAA section 110(a)(2)(I) or a SIP call pursuant to CAA section 110(k)(5).

### B. Background on 2008 Ozone NAAQS and Related Rulemakings

On March 12, 2008, the EPA strengthened the NAAQS for ozone.<sup>1</sup> The EPA revised the previous 8-hour primary ozone standard of 0.08 parts per millions (ppm) to 0.075 ppm. The EPA also revised the secondary 8-hour standard to the level of 0.075 ppm making it identical to the revised primary standard. Infrastructure SIPs addressing the revised standard were due March 12, 2011. In September 2009, the EPA announced it would reconsider the 2008 8-hour ozone NAAQS.<sup>2</sup> To reduce the workload for states during the interim period of reconsideration, the EPA also announced its intention to propose staying implementation of the 2008 ozone NAAQS for a number of the requirements. Then, on January 6, 2010, as part of its voluntary rulemaking on reconsideration, the EPA proposed to revise the 2008 NAAQS for ozone from 75 ppb to a level within the range of 60 to 70 ppb. See 75 FR 2938 (January 19, 2010). The EPA indicated its intent to issue final standards, based upon the reconsideration, by summer 2011.

On July 6, 2011, the EPA finalized the Cross-State Air Pollution Rule (CSAPR), 76 FR 48208, in response to the remand by the United States Court of Appeals for the District of Columbia Circuit (DC Circuit) of the EPA’s earlier rule, the Clean Air Interstate Rule (CAIR).<sup>3</sup> See *North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir. 2008), modified by 550 F.3d 1176 (remanding CAIR). CSAPR addresses ozone transport with respect to the 1997 ozone NAAQS, but does not address the 2008 ozone standard, because the 2008 ozone NAAQS was under reconsideration by the EPA during the analytical work for CSAPR.

On September 2, 2011, consistent with the direction of the President, the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget returned the draft final 2008 ozone

NAAQS rule to the EPA for further consideration.<sup>4</sup> In view of this direction and the timing of the EPA’s ongoing periodic review of the ozone NAAQS required under CAA section 109 (as announced on September 29, 2008), the EPA decided to coordinate further proceedings on its voluntary rulemaking on reconsideration of the 2008 ozone NAAQS with that ongoing periodic review, by deferring the completion of its voluntary rulemaking on reconsideration until it completed its statutorily-required periodic review.<sup>5</sup> During this time period for renewed implementation of the 2008 ozone standard, however, a number of legal developments pertaining to the EPA’s promulgation of CSAPR created uncertainty over the EPA’s statutory interpretation and implementation of the “good neighbor” requirement as to that standard.

On August 21, 2012, the DC Circuit issued a decision in *EME Homer City Generation, L.P. v. EPA* addressing several legal challenges to CSAPR and holding, among other things, that states had no obligation to submit good neighbor SIPs until the EPA had first quantified each state’s good neighbor obligation.<sup>6</sup> Accordingly, under that decision the submission deadline for good neighbor SIPs under the CAA would not necessarily be tied to the promulgation of a new or revised NAAQS. While the EPA disagreed with this interpretation of the statute and sought review first with the DC Circuit *en banc* and then with the United States Supreme Court, the EPA complied with the DC Circuit’s ruling during the pendency of its appeal. In particular, the EPA indicated that consistent with the DC Circuit’s opinion, it would not at that time issue findings that states had failed to submit SIPs addressing the good neighbor requirements in CAA section 110(a)(2)(D)(i)(I).<sup>7</sup> Moreover, when the EPA made findings that states had failed to submit infrastructure SIPs

<sup>4</sup> See Policy Assessment for the Review of the Ozone National Ambient Air Quality Standards, August 2014, pages 1–9. The Policy assessment is available at <http://www.epa.gov/ttn/naaqs/standards/ozone/data/20140829pa.pdf>.

<sup>5</sup> *Id.*

<sup>6</sup> *EME Homer City Generation, L.P. v. EPA*, 696 F.3d 7, 31 (D.C. Cir. 2012).

<sup>7</sup> See, e.g., Memorandum from the Office of Air and Radiation former Assistant Administrator Gina McCarthy to the EPA Regions, “Next Steps for Pending Redesignation Requests and State Implementation Plan Actions Affected by the Recent Court Decision Vacating the 2011 Cross-State Air Pollution Rule,” November 19, 2012; 78 FR 65559 (November 1, 2013) (final action on Florida infrastructure SIP submission for 2008 8-hour ozone NAAQS); and 78 FR 14450 (March 6, 2013) (final action on Tennessee infrastructure SIP submissions for 2008 8-hour ozone NAAQS).

<sup>1</sup> See 73 FR 16436 (March 27, 2008) (National Ambient Air Quality Standards for Ozone, Final Rule).

<sup>2</sup> The EPA’s Fact Sheet, *EPA to reconsider Ozone Pollution Standards*, is available at [http://www.epa.gov/groundlevelozone/pdfs/O3\\_Reconsideration\\_FACT%20SHEET\\_091609.pdf](http://www.epa.gov/groundlevelozone/pdfs/O3_Reconsideration_FACT%20SHEET_091609.pdf).

<sup>3</sup> See 70 FR 25162 (May 12, 2005) (Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to the Acid Rain Program; Revisions to the NO<sub>x</sub> SIP Call, Final Rule).

addressing the 2008 ozone NAAQS, the EPA explained that it was not issuing findings as to the good neighbor requirements in accordance with the court's holding in *EME Homer City Generation*. 78 FR 2882, 2884 (January 15, 2013) (Findings of Failure To Submit a Complete State Implementation Plan for Section 110(a) Pertaining to the 2008 Ozone National Ambient Air Quality Standard).

While the DC Circuit declined to consider the EPA's appeal *en banc*,<sup>8</sup> on January 23, 2013, the Supreme Court granted the EPA's petition for certiorari.<sup>9</sup> During 2013 and early 2014, as the EPA awaited a decision from the Supreme Court, the EPA initiated efforts and technical analyses aimed at identifying and quantifying state good neighbor obligations for the 2008 ozone NAAQS. As part of this effort, the EPA solicited stakeholder input and also provided states with, and requested input on, emissions inventories for 2011 and emissions inventory projections for 2018.

On April 29, 2014, the Supreme Court issued a decision reversing the DC Circuit's *EME Homer City* opinion on CSAPR and held, among other things, that under the plain language of the CAA, states must submit SIPs addressing the good neighbor requirement in CAA section 110(a)(2)(D)(i)(I) within 3 years of promulgation of a new or revised NAAQS, regardless of whether the EPA first provides guidance, technical data or rulemaking to quantify the state's obligation. Thus, the Supreme Court affirmed that states have an obligation in the first instance to address the good neighbor provision after promulgation of a new or revised NAAQS, a holding that also applies to states' obligation to address interstate transport for CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS.

#### *C. Mandatory Duty Suit for the EPA's Failure to Make Findings of Failure To Submit for States That Did Not Submit SIPs*

On March 15, 2013, several states and the District of Columbia filed a complaint challenging the EPA's assertion in the January 15, 2013 findings of failure to submit for the 2008 ozone NAAQS infrastructure SIPs that it did not have the authority to issue findings as to the good neighbor

provision.<sup>10</sup> After the Supreme Court issued its decision reversing the DC Circuit's vacatur of CSAPR, the EPA requested partial vacatur and remand of the January 15, 2013 portion of the findings that pertained to the good neighbor provision. On August 1, 2014, the court granted the EPA's request, vacating the EPA's decision not to make findings of failure to submit with respect to the good neighbor provision and remanding the findings to the EPA for further consideration.

Shortly thereafter, Sierra Club and WildEarth Guardians filed two separate cases alleging that the EPA had not fulfilled its mandatory duty to make findings of failure to submit good neighbor SIPs addressing interstate transport in CAA section 110(a)(2)(D)(i)(I) with respect to the 2008 ozone NAAQS. In the first case, Sierra Club filed a complaint in the U.S. District Court for the Northern District of California (Northern District of California) on July 15, 2014, seeking an order to compel the EPA to make findings of failure to submit with respect to the 2008 ozone NAAQS good neighbor SIP for the state of Tennessee.<sup>11</sup> On November 18, 2014, Sierra Club and WildEarth Guardians filed another complaint in the same court seeking an order to compel the EPA to make findings of failure to submit with respect to the 2008 ozone NAAQS good neighbor SIPs for the following states: Arkansas, California, Connecticut, Georgia, Iowa, Illinois, Kansas, Massachusetts, Maine, Michigan, Minnesota, Missouri, New Hampshire, New Mexico, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Virginia, Washington and West Virginia.<sup>12</sup> On January 15, 2015, the plaintiffs amended their complaint in the second case to add Alabama, Florida, North Carolina and Mississippi. On May 15, 2015, the court entered judgment ordering the EPA to, by June 30, 2015, sign a notice issuing its findings of failure to submit with respect to the 2008 ozone NAAQS interstate transport SIPs for the 26 states addressed in both cases.<sup>13</sup>

The EPA recognizes the practical and legal uncertainty that has surrounded

the 2008 ozone NAAQS and the proper interpretation of the good neighbor provision. States were given the impression that if the NAAQS were revised as a result of the reconsideration, the 3-year SIP deadline would reset. The EPA also recognizes that this uncertainty may have influenced states' efforts to develop SIPs to address CAA section 110(a)(2)(D)(i)(I) requirements for the 2008 ozone NAAQS. Given that the NAAQS have not been revised and the United States Supreme Court overturned the DC Circuit opinion on CSAPR, March 12, 2011, remains the legally applicable deadline for good neighbor SIPs for the 2008 8-hour ozone NAAQS.

In response to the orders from the DC Circuit and the Northern District of California, the EPA is taking this action for all states that have failed to submit complete SIPs addressing CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS. To date, 26 states, the District of Columbia and Puerto Rico have submitted complete SIPs addressing CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS. Three states specifically identified in the Northern District of California's order have made complete submissions as of the date of this document. Therefore, the EPA is issuing national findings of failure to submit good neighbor SIPs addressing the requirements of CAA sections 110(a)(2)(D)(i)(I) as to the 2008 ozone NAAQS, addressing all states that have not made complete submissions as to the date of this document.

#### *D. Further Background Specific to North Carolina SIP Status*

On November 12, 2012, the state of North Carolina submitted a SIP revision to the EPA addressing, among other things, the good neighbor provision of CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS. The submission was determined to be complete by a letter dated November 15, 2012. On July 15, 2014, Sierra Club filed a complaint in the Northern District of California alleging that the EPA had failed to take final action on the North Carolina SIP submission, including the interstate transport provisions, by the statutory deadline and asked the court to order the EPA to take such final action by a date certain.<sup>14</sup> Subsequently, on September 3, 2014, the state of North Carolina submitted a letter withdrawing the good neighbor provision of the November 12, 2012, infrastructure SIP submission addressing CAA section

<sup>8</sup> *EME Homer City Generation, L.P. v. EPA*, No. 11-1302 (D.C. Cir. January 24, 2013), ECF No. 1417012 (denying the EPA's motion for rehearing *en banc*).

<sup>9</sup> *EPA v. EME Homer City Generation, L.P.*, 133 S. Ct. 2857 (2013) (granting the EPA's and other parties' petitions for certiorari).

<sup>10</sup> *Maryland v. EPA*, Case No. 13-1070 (D.C. Cir., filed March 15, 2013).

<sup>11</sup> Complaint, *Sierra Club vs. McCarthy*, Case 4:14-cv-3198-JSW (N.D. Cal. July 15, 2014). The complaint also included a separate claim regarding the EPA's alleged failure to take final action to approve or disapprove infrastructure SIPs as to a number of states.

<sup>12</sup> Complaint, *Sierra Club vs. McCarthy*, Case 4:14-cv-05091-YGR (N.D. Cal. November 18, 2014).

<sup>13</sup> See Judgment, *Sierra Club v. McCarthy*, Case 4:14-cv-05091-YGR (N.D. Cal. May 15, 2015).

<sup>14</sup> Complaint, *Sierra Club v. McCarthy*, Case 4:14-cv-03198-JSW, (N.D. Cal. July 15, 2014).

110(a)(2)(D)(i)(I).<sup>15</sup> In reliance on the withdrawal, Sierra Club filed an amended complaint on December 12, 2014, that revised its claim to remove the allegation that the EPA had failed to act the good neighbor provision of North Carolina's SIP.<sup>16</sup> The parties to the litigation subsequently entered into a consent decree that settled the remaining claim as to North Carolina.<sup>17</sup> In further reliance on the withdrawal, Sierra Club and WildEarth Guardians also filed an amended complaint in case number 4:14-cv-05091, discussed above, alleging that the EPA had failed to make a finding of failure to submit as to North Carolina's good neighbor SIP for the 2008 ozone NAAQS.<sup>18</sup>

On June 26, 2015, North Carolina submitted a letter indicating that it wished to "rescind" its September 3, 2014 withdrawal of its good neighbor SIP to address the 2008 ozone NAAQS.<sup>19</sup> The letter explained that the November 12, 2012 submittal did not include modeling and that preliminary air quality modeling released by the EPA on January 22, 2015, supported its interstate transport SIP. The letter also explained that, based on this modeling, the state concluded "it has met its obligations under CAA section 110(a)(1) and (2)(D) related to interstate transport . . . and therefore, does not expect" to be subject to this document finding certain states' failure to submit interstate transport SIPs for the 2008 ozone NAAQS.

On June 30, 2015, the EPA responded to North Carolina's June 26, 2015 letter.<sup>20</sup> Because the EPA determined that it was not appropriate to rescind North Carolina's prior withdrawal of its November 12, 2012 SIP submission, and

because the June 25, 2015, letter relies on new information and analysis to support the state's conclusion regarding its statutory interstate transport obligations that was not contained in its November 12, 2012, SIP submission (*i.e.*, the preliminary air quality modeling released by the EPA on January 22, 2015), the EPA views the June 26, 2015 letter as a new SIP submission. Accordingly, the EPA has evaluated the June 26, 2015 letter for completeness as a SIP revision pursuant to the criteria in 40 CFR part 51, appendix V, and concluded that the June 26, 2015, letter is an incomplete SIP submission. The incompleteness letter notes that North Carolina's June 26, 2015, letter contains new information and analysis upon which North Carolina now relies to support its conclusions regarding the state's statutory obligations to address interstate transport, in particular the EPA's air quality modeling, and that neither the new information nor North Carolina's conclusions relying upon that information were subject to public notice and comment per criteria 2.1(f)–(h) of appendix V. Accordingly, the EPA is finding in this document that North Carolina has failed to submit a complete SIP revision addressing CAA section 110(a)(2)(D)(i)(I) as to the 2008 ozone NAAQS.

### III. Findings of Failure To Submit for States That Failed To Make a Good Neighbor SIP Submission for the 2008 Ozone NAAQS

Three states (*i.e.*, Connecticut, Rhode Island and Washington) addressed by the Northern District of California's order have made complete SIP submittals addressing the good neighbor provision for the 2008 ozone NAAQS. Hawaii was not addressed by the Northern District of California's order and the state has submitted a complete SIP submittal addressing the good neighbor provision for the 2008 ozone NAAQS. The EPA is making findings of failure to submit for 24 states. The EPA is finding that the following states have not made a complete good neighbor SIP submittal to meet the requirements of CAA section 110(a)(2)(D)(i)(I): Alabama, Arkansas, California, Florida, Georgia, Iowa, Illinois, Kansas, Massachusetts, Maine, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Mexico, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Vermont,<sup>21</sup> Virginia and West Virginia.

<sup>21</sup> We are making a finding for the state of Vermont even though the state was not addressed by the Northern District of California's order. In

### IV. Environmental Justice Considerations

This document is making a procedural finding that certain states have failed to submit a SIP to address CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS. The EPA did not conduct an environmental analysis for this rule because this rule would not directly affect the air emissions of particular sources. Because this rule will not directly affect the air emissions of particular sources, it does not affect the level of protection provided to human health or the environment. Therefore, this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations.

### V. Statutory and Executive Order Reviews

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

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

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

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This final rule does not establish any new information collection requirement apart from what is already required by law.

#### C. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule is not subject to notice and comment requirements because the agency has invoked the APA "good cause" exemption under 5 U.S.C. 553(b).

#### D. Unfunded Mandates Reform Act of 1995 (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 implements mandates specifically and explicitly set forth in the CAA under section 110(a) without the exercise of any policy discretion by the EPA.

fairness and to fulfill its statutory obligations, the EPA is addressing all states that have not made a submittal in this findings document.

<sup>15</sup> See, Letter from Sheila Holman, Director, Division of Air Quality, NCDENR, to Heather McTeer Toney, Regional Administrator, USEPA Region 4, "Withdrawal of Section 110(a)(2)(D)(i)(I) from North Carolina's 2008 Ozone Infrastructure State Implementation Plan Submittal" (September 3, 2014).

<sup>16</sup> First Amended Complaint, *Sierra Club v. McCarthy*, Case 4:14-cv-03198-JSW, (N.D. Cal. December 12, 2014).

<sup>17</sup> See Judgment, *Sierra Club v. McCarthy*, Case 4:14-cv-03198-JSW, (N.D. Cal. May 15, 2015).

<sup>18</sup> See Amended Complaint, *Sierra Club v. McCarthy*, Case No. 4:14-cv-05091 (N.D. Cal. Jan. 15, 2015).

<sup>19</sup> See Letter from Sheila C. Holman, NCDENR, to Heather McTeer Toney, USEPA Region 4, "Recession [sic] of North Carolina's September 3, 2014, Withdrawal of 2008 Ozone Infrastructure State Implementation Plan Certification Pertaining to Interstate Transport (Section 110(a)(2)(D)(i)(I))" (June 26, 2015).

<sup>20</sup> See Letter from Beverly H. Banister, USEPA Region 4, to Sheila Holman, NCDENR, "Response to North Carolina's June 26, 2015 Letter Seeking to Rescind the September 3, 2014 Withdrawal of the 2008 Ozone Infrastructure State Implementation Plan Certification Regarding Interstate Transport" (June 30, 2015).

*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 rule responds to the requirement in the CAA for states to submit SIPs under section 110(a) to address CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS. No tribe is subject to the requirement to submit an implementation plan under section 110(a) within 3 years of promulgation of a new or revised NAAQS. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the 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 does not concern an environmental health risk or safety risk.

*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*

The 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 because it does not affect the level of protection provided to human health or the environment. The

EPA’s evaluation of environmental justice considerations is contained in section IV of this document.

*K. Congressional Review Act (CRA)*

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

*L. Judicial Review*

Section 307(b)(1) of the CAA indicates which federal Courts of Appeal have venue for petitions of review of final agency actions by the EPA under the CAA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit (i) when the agency action consists of “nationally applicable regulations promulgated, or final actions taken, by the Administrator,” or (ii) when such action is locally or regionally applicable, if “such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.”

The EPA has determined that this final rule consisting of findings of failure to submit certain of the required good neighbor SIP provisions is “nationally applicable” within the meaning of section 307(b)(1). This rule affects 24 states across the country that are located in seven of the ten EPA Regions, 10 different federal circuits, and multiple time zones.

This determination is appropriate because, in the 1977 CAA Amendments that revised CAA section 307(b)(1), Congress noted that the Administrator’s determination that an action is of “nationwide scope or effect” would be appropriate for any action that has “scope or effect beyond a single judicial circuit.” H.R. Rep. No. 95–294 at 323–324, reprinted in 1977 U.S.C.C.A.N. 1402–03. Here, the scope and effect of this action extends to the 10 judicial circuits that include the states across the country affected by this action. In these circumstances, section 307(b)(1) and its legislative history authorize the Administrator to find the rule to be of “nationwide scope or effect” and thus to indicate that venue for challenges lies in the DC Circuit. Accordingly, the EPA is determining that this is a rule of nationwide scope or effect. 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 District of Columbia within 60 days from the date this final action is published in the **Federal**

**Register.** Filing a petition for review by the Administrator of this final action does not affect the finality of the action for the purposes of judicial review nor does it extend the time within which a petition for judicial review must be filed, and shall not postpone the effectiveness of such rule or action.

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: June 30, 2015.

**Janet G. McCabe,**

*Acting Assistant Administrator.*

[FR Doc. 2015–16922 Filed 7–10–15; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

**[EPA–R09–OAR–2014–0841; FRL–9929–60–Region 9]**

**Revisions to the California State Implementation Plan, South Coast Air Quality Management District**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking action to approve a revision to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). This revision concerns volatile organic compound (VOC) emissions from Large Confined Animal Facilities. We are approving a local rule to regulate these emission sources under the Clean Air Act (CAA or the Act).

**DATES:** This rule will be effective on August 12, 2015.

**ADDRESSES:** The EPA has established docket number EPA–R09–OAR–2014–0841 for this action. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g., confidential business information (CBI)). To inspect the hard copy