

■ 5. Amend § 2.22 by:

- a. Removing the word “and” at the end of paragraph (a)(19);
- b. Removing the period at the end of paragraph (a)(20) and adding “; and” in its place; and
- c. Adding paragraph (a)(21).

The addition reads as follows:

§ 2.22 Requirements for a TEAS Plus application.

(a) * * *

(21) An applicant whose domicile or principal place of business is not located within the United States or its territories must designate an attorney as the applicant's representative, pursuant to § 2.11(a).

* * * * *

- 6. Amend § 2.32 by revising paragraph (a)(4) to read as follows:

§ 2.32 Requirements for a complete trademark or service mark application.

(a) * * *

(4) The address of the applicant. When the applicant is, or must be, represented by a practitioner, as defined in § 11.1 of this chapter, who is qualified to practice under § 11.14 of this chapter, the practitioner's name, postal address, email address, and bar information;

* * * * *

PART 11—REPRESENTATION OF OTHERS BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE

- 7. The authority citation for 37 CFR part 11 continues to read as follows:

Authority: 5 U.S.C. 500, 15 U.S.C. 1123, 35 U.S.C. 2(b)(2), 32, 41; Sec. 1, Pub. L. 113–227, 128 Stat. 2114.

- 8. Amend § 11.14 by revising paragraphs (c) and (e) to read as follows:

§ 11.14 Individuals who may practice before the Office in trademark and other non-patent matters.

* * * * *

(c) *Foreigners.* (1) Any foreign attorney or agent not a resident of the United States who shall file a written application for reciprocal recognition under paragraph (f) of this section and prove to the satisfaction of the OED Director that he or she is a registered and active member in good standing before the trademark office of the country in which he or she resides and practices and possesses good moral character and reputation, may be recognized for the limited purpose of representing parties located in such country before the Office in the presentation and prosecution of trademark matters, provided: The

trademark office of such country and the USPTO have reached an official understanding to allow substantially reciprocal privileges to those permitted to practice in trademark matters before the Office. Recognition under this paragraph (c) shall continue only during the period that the conditions specified in this paragraph (c) obtain.

(2) In any trademark matter where a foreign attorney or agent authorized under paragraph (c)(1) of this section is representing an applicant, registrant, or party to a proceeding, an attorney, as defined in § 11.1 and qualified to practice under paragraph (a) of this section, must also be appointed pursuant to § 2.17(b) and (c) of this chapter as the representative with whom the Office will communicate and conduct business.

* * * * *

(e) *Appearance.* No individual other than those specified in paragraphs (a), (b), and (c) of this section will be permitted to practice before the Office in trademark matters on behalf of a client. Except as specified in § 2.11(a) of this chapter, an individual may appear in a trademark or other non-patent matter in his or her own behalf or on behalf of:

(1) A firm of which he or she is a member;

(2) A partnership of which he or she is a partner; or

(3) A corporation or association of which he or she is an officer and which he or she is authorized to represent.

* * * * *

Dated: February 6, 2019.

Andrei Iancu,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2019–02154 Filed 2–14–19; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2018–0542; FRL–9989–59–Region 4]

Air Plan Approval; Florida; 2008 8-Hour Ozone Interstate Transport

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve Florida's October 3, 2017, State Implementation Plan (SIP) submission pertaining to the “good neighbor”

provision of the Clean Air Act (CAA or Act) for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS). The good neighbor provision requires each state's implementation plan to address the interstate transport of air pollution in amounts that contribute significantly to nonattainment, or interfere with maintenance of a NAAQS in any other state. In this action, EPA is proposing to determine that Florida's SIP contains adequate provisions to prohibit emissions within the state from contributing significantly to nonattainment or interfering with maintenance of the 2008 8-hour ozone NAAQS in any other state.

DATES: Comments must be received on or before March 18, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2018–0542 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [regulations.gov](https://www.regulations.gov). 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. 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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Nacosta C. Ward, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Ward can also be reached via telephone at (404) 562–9140 and via electronic mail at ward.nacosta@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 2008, EPA promulgated an ozone NAAQS that revised the levels of the primary and secondary 8-hour ozone standards from 0.08 parts per

million (ppm) to 0.075 ppm.¹ See 73 FR 16436 (March 27, 2008). Pursuant to CAA section 110(a)(1), within three years after promulgation of a new or revised NAAQS (or shorter, if EPA prescribes), states must submit SIPs that meet the applicable requirements of section 110(a)(2). EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of sections 110(a)(1) and 110(a)(2) as “infrastructure SIP” submissions. One of the structural requirements of section 110(a)(2) is section 110(a)(2)(D)(i), which generally requires SIPs to contain adequate provisions to prohibit in-state emissions activities from having certain adverse air quality effects on neighboring states due to interstate transport of air pollution. There are four sub-elements, or “prongs,” within section 110(a)(2)(D)(i) of the CAA. CAA section 110(a)(2)(D)(i)(I), also known as the “good neighbor” provision, 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 in another state. The two provisions of this section are referred to as prong 1 (significant contribution to nonattainment) and prong 2 (interference with maintenance). Section 110(a)(2)(D)(i)(II) requires SIPs to contain adequate provisions to prohibit emissions that will interfere with measures required to be included in the applicable implementation plan for any other state under part C to prevent significant deterioration of air quality (prong 3) or to protect visibility (prong 4). This proposed action addresses only prongs 1 and 2 of section 110(a)(2)(D)(i). All other infrastructure SIP elements for Florida for the 2008 8-hour ozone NAAQS were addressed in separate rulemakings.²

A. State Submittal

On October 3, 2017, the Florida Department of Environmental Protection (FDEP) provided a SIP submittal³ to EPA to address the interstate transport requirements of sections 110(a)(2)(D)(i)(I) for the Florida SIP.

Florida made this submission to certify that its SIP contains adequate provisions to prohibit emissions activities within the State which will contribute significantly to nonattainment or interfere with maintenance of the 2008 8-hour ozone NAAQS in any other state, and therefore, adequately addresses the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2008 8-hour ozone NAAQS.⁴ Florida’s certification is based on emissions generating activities, air quality monitoring and modeling data, and SIP-approved and state provisions regulating emissions of ozone precursors (volatile organic compounds (VOCs) and nitrogen oxides (NO_x)) within the State.

B. EPA’s Analysis Related to 110(a)(2)(D)(i)(I) for the 2008 8-Hour Ozone NAAQS

EPA developed technical information and related analyses to assist states with meeting section 110(a)(2)(D)(i)(I) requirements for the 2008 8-hour ozone NAAQS through SIPs and, as appropriate, to provide backstop federal implementation plans (FIPs) in the event that states failed to submit approvable SIPs.⁵ On October 26, 2016 (81 FR 74504), EPA took steps to effectuate this backstop role with respect to eastern states⁶ by finalizing an update to the Cross-State Air Pollution Rule (CSAPR) ozone season program that addresses good neighbor obligations for the 2008 8-hour ozone NAAQS (“CSAPR Update”). The CSAPR Update establishes statewide NO_x budgets for certain affected electricity generating units in 22 eastern states for the May–September ozone season to reduce the interstate transport of ozone pollution in the eastern United States, and thereby help downwind states and communities meet and maintain the

2008 8-hour ozone NAAQS. See 81 FR 74506. The rule also determined that emissions from 14 states (including Florida) will not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in downwind states. Accordingly, EPA determined that it need not require further emission reductions from sources in those states to address the good neighbor provision as to the 2008 ozone NAAQS. *Id.*

The CSAPR Update used the same framework that EPA used when developing the original 2011 CSAPR, EPA’s interstate transport rule addressing the 1997 8-hour ozone NAAQS as well as the 1997 and 2006 fine particulate matter (PM_{2.5}) NAAQS. The CSAPR framework establishes the following four-step process to address the requirements of the good neighbor provision: (1) Identify downwind areas, referred to as receptors, that are expected to have problems attaining or maintaining the NAAQS; (2) determine which upwind states impact these identified problems in amounts sufficient to “link” them to the downwind air quality problems; (3) for states linked to downwind air quality problems, identify upwind emissions, if any, that will significantly contribute to nonattainment or interfere with maintenance of a NAAQS; and (4) reduce the identified upwind emissions for states that are found to have emissions that will significantly contribute to nonattainment or interfere with maintenance of the NAAQS downwind by adopting permanent and enforceable measures in a FIP or SIP. In the CSAPR Update, EPA used this four-step framework to determine whether states in the east will significantly contribute to nonattainment or interference with maintenance of downwind air quality. As explained below, the CSAPR Update’s four-step analysis supports the conclusions provided in FDEP’s October 3, 2017, interstate transport SIP for the 2008 8-hour ozone NAAQS that the State will not significantly contribute to nonattainment or interfere with maintenance of the standard in other states.

In the technical analysis supporting the CSAPR Update, EPA used detailed air quality analyses to determine where projected nonattainment or maintenance receptors would be, at step 1 of the four-step framework, and whether emissions from an eastern state contribute to downwind air quality problems at those projected nonattainment or maintenance receptors, at step 2 of the framework. Specifically, EPA determined whether each state’s contributing emissions were

¹ 0.075 ppm equates to 75 parts per billion (ppb).

² See 78 FR 65559 (November 1, 2013); 79 FR 50554 (August 25, 2014).

³ This submittal supplements an October 31, 2011 submittal addressing other infrastructure SIP elements for Florida for the 2008 Ozone NAAQS. See 78 FR 65559, 79 FR 50554. Although the transmittal letter is dated October 3, 2017, EPA did not receive Florida’s submittal until October 12, 2017.

⁴ On July 13, 2015, EPA published a final rule that finalized findings of failure to submit with regard to the requirements of CAA section 110(a)(2)(D)(i)(I) for 24 states, including Florida, with respect to the 2008 ozone NAAQS. See 80 FR 39961. The findings of failure to submit established a two-year deadline for EPA to promulgate a FIP to address the interstate transport SIP requirements pertaining to significant contribution to nonattainment and interference with maintenance unless, prior to EPA promulgating a FIP, the state submits, and EPA approves, a SIP that meets these requirements. Additional background on the findings of failure to submit—including Florida’s finding—can be found in the preamble to the final rule findings.

⁵ The EPA issued a Notice of Data Availability on August 4, 2015 requesting comment on the modeling platform and air quality modeling results that were used for the proposed CSAPR Update. See 80 FR 46271.

⁶ For purposes of the CSAPR Update, “eastern” states refer to all contiguous states fully east of the Rocky Mountains (thus not including the mountain states of Montana, Wyoming, Colorado, or New Mexico).

at or above a specific threshold (*i.e.*, one percent of the ozone NAAQS). EPA determined that one percent was an appropriate threshold to use in this analysis because there were important, even if relatively small, contributions to identified nonattainment and maintenance receptors from multiple upwind states at that threshold.⁷ See 81 FR 74504 (October 26, 2016). For the CSAPR Update, EPA applied an air quality screening threshold of 0.75 ppb (one percent of the 2008 8-hour ozone NAAQS of 75 ppb) to identify linkages between upwind states and the downwind nonattainment and maintenance receptors. States with impacts below the one-percent threshold were considered not to contribute to identified downwind nonattainment and maintenance receptors and therefore would not contribute significantly to nonattainment or interfere with maintenance of the standard in those downwind areas. If a state's impact was equal to or exceeded the one-percent threshold, that state was considered "linked" to the downwind nonattainment or maintenance receptor(s) and the state's emissions were further evaluated, taking into account both air quality and cost considerations, to determine whether any emissions reductions might be necessary to address the state's obligation pursuant to CAA section 110(a)(2)(D)(i)(I).

As discussed in the final rule for the CSAPR Update, the air quality modeling contained in EPA's technical analysis: (1) Identified locations in the U.S. where EPA anticipated nonattainment or maintenance issues in 2017 for the

2008 8-hour ozone NAAQS (these were identified as nonattainment or maintenance receptors, respectively), and (2) quantified the projected contributions from emissions from upwind states to downwind ozone concentrations at the receptors in 2017. See 81 FR 74504 (October 26, 2016). This modeling used the Comprehensive Air Quality Model with Extensions (CAM_x version 6.11) to model the 2011 base year and the 2017 future base case emissions scenarios to identify projected nonattainment and maintenance sites with respect to the 2008 8-hour ozone NAAQS in 2017. EPA used nationwide state-level ozone source apportionment modeling (the CAM_x Ozone Source Apportionment Technology/Anthropogenic Precursor Culpability Analysis technique) to quantify the contribution of 2017 base case NO_x and VOC emissions from all sources in each state to the 2017 projected receptors. The air quality model runs were performed for a modeling domain that covers the 48 contiguous United States, the District of Columbia, and adjacent portions of Canada and Mexico. The updated modeling data released to support the final CSAPR Update for Florida are the most up-to-date information EPA has developed to inform the Agency's analysis of upwind state linkages to downwind air quality problems for the 2008 8-hour ozone NAAQS. See "Air Quality Modeling Final Rule Technical Support Document for the Final CSAPR Update" (CSAPR Update Modeling TSD).⁸

EPA's air quality modeling for the final CSAPR Update indicated that Florida's largest impact on any projected downwind nonattainment receptor in 2017 was 0.71 ppb, which is below the one-percent threshold. Accordingly, Florida is not "linked" to any nonattainment receptors in EPA's modeling. Although the modeling for the proposed CSAPR Update did not link Florida's emissions to any maintenance receptors, the updated modeling conducted for the final CSAPR Update indicated that Florida's largest contribution to any projected downwind maintenance-only site in 2017 would be 0.75 ppb.⁹ EPA's modeling indicated an average

contribution at the 0.75 ppb threshold to the 2017 design values at two receptors in Houston, Texas (*i.e.*, Harris County sites 482010024 and 482011034).

EPA received a comment on the CSAPR Update proposal¹⁰ stating that the version of CAM_x used for the proposal modeling (CAM_x v6.11) did not include the most recent halogen chemistry that would affect ozone concentrations in saltwater marine atmospheres and transport of ozone from Florida to receptors in Texas. The commenter stated that EPA should include this chemistry in modeling for the final rule. See 81 FR 74504 (October 26, 2016). A report by the CAM_x model developer on the impact of modeling with the latest CAM_x halogen chemistry indicates that the updated chemistry results in lower modeled ozone in air transported over saltwater marine environments for multiple days.¹¹ Specifically, the report notes that on days with multi-day transport across the Gulf of Mexico, modeling with the updated chemistry could lower 8-hour daily maximum ozone concentrations by up to 2 to 4 ppb in locations in eastern Texas, including Houston. Air parcel trajectories for individual days used in EPA's calculation of the contribution from Florida to the Houston receptors confirm that on days with high modeled transport from Florida to the receptors in Houston, air travels for multiple days over the Gulf of Mexico from Florida before reaching the receptors in Houston.¹² In the final rule modeling, EPA was not able to explicitly account for the updated chemistry because this chemistry had not yet been included by the model developer in the source apportionment tool in CAM_x at the time the modeling was performed for this rule. However, because Florida's maximum impact on receptors in Houston, Texas, is exactly

⁷ EPA's analysis showed that the one-percent threshold generally captured a high percentage of the total pollution transport affecting downwind states. EPA's analysis further showed that the application of a lower threshold would result in a relatively modest increase in the overall percentage of ozone transport pollution captured, while the use of higher thresholds would result in a relatively large reduction in the overall percentage of ozone pollution transport captured relative to the levels captured at one percent at the majority of the receptors. See 81 FR 74504 (October 26, 2016) and "Air Quality Modeling Final Rule Technical Support Document for the Final CSAPR Update" (CSAPR Update Modeling TSD), available at https://www.epa.gov/sites/production/files/2017-05/documents/air_modeling_tsd_final_csapr_update.pdf. This approach is consistent with the use of a one-percent threshold to identify those states "linked" to air quality problems with respect to the 1997 8-hour ozone NAAQS in the original CSAPR rulemaking, wherein EPA noted that there are adverse health impacts associated with ambient ozone even at low levels. See 76 FR 48208 (August 8, 2011). See technical support document for the August 8, 2011 final rule "Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP" approvals" located at <https://www.regulations.gov/document?D=EPA-HQ-OAR-2009-0491-4140>.

⁸ See "Air Quality Modeling Final Rule Technical Support Document for the Final CSAPR Update" (CSAPR Update Modeling TSD), available at https://www.epa.gov/sites/production/files/2017-05/documents/air_modeling_tsd_final_csapr_update.pdf.

⁹ See CSAPR Update Modeling TSD at Table 4–2, section 4.4 and Appendix D located at available at https://www.epa.gov/sites/production/files/2017-05/documents/air_modeling_tsd_final_csapr_update.pdf.

¹⁰ See 80 FR 75706 (December 3, 2015).

¹¹ See Yarwood, G., T. Sakulyanontvittaya, O. Nopmongkol, and B. Koo, 2014. Ozone Depletion by Bromine and Iodine over the Gulf of Mexico Final Report. Prepared for the Texas Commission on Environmental Quality. November 2014. Ramboll Environ International Corporation, Novato, CA and Yarwood, G., J. Jung, O. Nopmongkol, and C. Emery, 2012. Improving CAM_x Performance in Simulating Ozone Transport from the Gulf of Mexico. Prepared for the Texas Commission on Environmental Quality. September 2012. Ramboll Environ International Corporation, Novato, CA. These studies are available in the docket for the CSAPR Update Rule as EPA–HQ–OAR–2015–0500–0458 and EPA–HQ–OAR–2015–0500–0457, respectively.

¹² More details and analysis of the impact of the CAM_x halogen chemistry updates on the contributions from Florida and other Gulf Coast states can be found in section 4.4 and Appendix D to the CSAPR Update Modeling TSD available at https://www.epa.gov/sites/production/files/2017-05/documents/air_modeling_tsd_final_csapr_update.pdf.

at the 0.75 ppb threshold, the Agency concluded that if it had performed the final rule modeling with the updated halogen chemistry, Florida's impact would likely be below this threshold. Therefore, EPA determined in the CSAPR Update that when this updated halogen chemistry is considered, there are no identified linkages between Florida and 2017 downwind projected nonattainment and maintenance receptors. As a result of the modeling, EPA did not finalize a FIP that required NO_x emission reductions from Florida in the CSAPR Update because EPA's analysis performed to support the final rule does not indicate that the State is linked to any identified downwind nonattainment or maintenance receptors with respect to the 2008 8-hour ozone NAAQS. Rather, in the CSAPR Update, EPA took final action to determine that emissions from Florida will not significantly contribute to nonattainment or interfere with maintenance of the 2008 8-hour ozone NAAQS in any other states.

Additionally, the CSAPR Update addressed the decision from the United States Court of Appeals for the District of Columbia Circuit in *EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118 (D.C. Cir. 2015), remanding for reconsideration certain states' ozone season NO_x emission budgets from the original CSAPR (including Florida's) with respect to the 1997 8-hour ozone NAAQS.¹³ EPA removed Florida from the CSAPR ozone season trading program beginning in 2017.¹⁴

II. What is EPA's analysis of the Florida submittal?

As mentioned in section I of this document, Florida's October 3, 2017 submittal certifies that emission activities from the State will not contribute significantly to nonattainment or interfere with maintenance of the 2008 8-hour ozone

NAAQS in any other state for the following reasons: (1) Modeling conducted by EPA in support of the CSAPR Update indicates that Florida's impact on any downwind receptor is less than one percent of the standard; (2) NO_x and VOC precursor emissions and monitored ozone concentrations in Florida have decreased since 2000; and (3) Florida has SIP-approved stationary source emissions standards and monitoring and permitting regulations in place addressing certain emissions generating activities that contribute to ozone precursor emissions. Based on an assessment of this information, EPA proposes to approve Florida's SIP submission because it has adequate provisions to ensure that emissions from sources within the State will not significantly contribute to nonattainment or interfere with maintenance of the 2008 8-hour ozone NAAQS in any other state.

Florida's submittal assessed EPA's CSAPR Update modeling that showed Florida's contribution to downwind receptors for the 2008 8-hour ozone NAAQS is less than one percent of the standard (*i.e.*, 0.75 ppb), except as follows. As discussed in Florida's October 3, 2017 SIP submission, the CSAPR Update 2017 modeling generated an average contribution from Florida at the 0.75 ppb threshold to two receptors in Houston, Texas (*i.e.*, Harris County sites 482010024 and 482011034). However, as discussed in section I.B of this document and the CSAPR Update, a newer version of the CAM_x chemical mechanism contains updated chemical reactions (halogen chemistry) which may have an impact on the estimated ozone contributions from Florida emissions to Houston receptors. In the final rule modeling, EPA was not able to explicitly account for the updated chemistry because this chemistry had not yet been included by the model developer in the source apportionment tool in CAM_x at the time the modeling was performed for this final rule. However, because Florida's maximum contribution to receptors in Houston, Texas is exactly at the 0.75 ppb threshold, the Agency believes that if it had performed the final rule modeling with the updated halogen chemistry, Florida's contribution would likely be below the 0.75 ppb threshold. Therefore, EPA concluded that Florida's emissions will not contribute to downwind nonattainment and maintenance receptors when considering updated halogen chemistry and therefore, did not finalize a FIP that required NO_x emission reductions from Florida in the CSAPR Update.

Accordingly, in the CSAPR Update, EPA already made a final determination that Florida emissions will not significantly contribute to nonattainment or interfere with the 2008 ozone NAAQS in other states and that sources in the State are not required to further reduce emissions pursuant to the good neighbor provision with respect to this standard.

Florida's submittal also notes that total NO_x and non-biogenic VOC emissions in Florida have decreased by 52 percent and 44 percent, respectively, since 2000. Florida indicates that monitored ozone concentrations in the State are also trending downward, which correlates to the decline in ozone precursor emissions.¹⁵

Florida also identified SIP-approved regulations in the Florida Administrative Code, including Chapters 62–204, 62–210, and 62–212, that provide for the implementation of a permitting program required under title I, parts C and D of the CAA for sources of NO_x and VOC ozone precursors that contribute to ambient ozone concentrations. The permitting requirements help ensure that no new or modified sources in the State subject to these permitting regulations will contribute significantly to nonattainment or interfere with maintenance of the 2008 8-hour ozone NAAQS in other states. Chapters 62–296 and 62–297 establish emission standards and compliance (testing and monitoring) requirements respectively for stationary sources of air pollution emissions.

Based on the information presented herein, EPA proposes to approve Florida's SIP submission on grounds that it addresses the State's 110(a)(2)(D)(i)(I) good neighbor obligation for the 2008 8-hour ozone NAAQS because the EPA has found that the State will not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in any other state.

III. Proposed Action

EPA is proposing to approve Florida's October 3, 2017 SIP submission demonstrating that Florida's SIP is sufficient to address the CAA requirements of prongs 1 and 2 under section 110(a)(2)(D)(i)(I) for the 2008 8-hour ozone NAAQS. In the CSAPR Update, EPA has already taken a final action to determine that emissions from Florida will not significantly contribute to nonattainment or interfere with

¹³ Among other things, the decision remanded CSAPR without vacatur for reconsideration of the EPA's emission budgets for certain states. The court declared invalid the CSAPR Phase 2 NO_x ozone season emission budgets of 11 states, including Florida, holding that those budgets over-control with respect to the downwind air quality problems to which those states were linked for the 1997 ozone NAAQS. Because the 2008 ozone NAAQS is more stringent than the 1997 ozone NAAQS, the CSAPR Update modeling necessarily indicates that Florida is also not linked to any remaining air quality concerns with respect to the 1997 ozone standard for which the states were regulated in the original CSAPR. For Florida, EPA therefore relieved sources in the State from the obligation to comply with the NO_x ozone season trading program in response to the remand. The court also remanded without vacatur the CSAPR Phase 2 SO₂ annual emission budgets for four states (Alabama, Georgia, South Carolina, and Texas) for reconsideration.

¹⁴ See 81 FR 74523–74524, October 26, 2016.

¹⁵ See Florida's October 3, 2017, SIP submission, Appendix 1 for additional information on ozone precursor emission trends and monitored ozone concentrations in the State.

maintenance of the 2008 8-hour ozone NAAQS in downwind states. EPA requests comment on this proposed approval of Florida's SIP.¹⁶

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. *See* 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 CAA. 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 (Pub. L. 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).

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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: February 5, 2019.

Mary S. Walker,

Acting Regional Administrator, Region 4.

[FR Doc. 2019-02542 Filed 2-14-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2018-0799; FRL-9989-58-Region 4]

Air Plan Approval; Kentucky; Regional Haze Plan and Prong 4 (Visibility) for the 1997 Ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to take the following four actions regarding the Kentucky State Implementation Plan (SIP): Approve Kentucky's November 16, 2018, SIP submittal seeking to change reliance from the Clean Air Interstate Rule (CAIR) to the Cross-State Air Pollution Rule (CSAPR) for certain regional haze requirements; convert EPA's limited approval/limited disapproval of Kentucky's regional haze plan to a full approval; remove EPA's Federal Implementation Plan (FIP) for Kentucky which replaced reliance on CAIR with reliance on CSAPR to address the deficiencies identified in the limited disapproval of Kentucky's regional haze plan; and approve the visibility prong of Kentucky's

infrastructure SIP submittals for the 1997 Ozone, 2010 Nitrogen Dioxide (NO₂), 2010 Sulfur Dioxide (SO₂), and 2012 Fine Particulate Matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS).

DATES: Comments must be received on or before March 18, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No EPA-R04-OAR-2018-0799 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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. 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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

A. Regional Haze Plans and Their Relationship With CAIR and CSAPR

Section 169A(b)(2)(A) of the Clean Air Act (CAA or Act) requires states to submit regional haze plans that contain such measures as may be necessary to make reasonable progress towards the natural visibility goal, including a requirement that certain categories of existing major stationary sources built between 1962 and 1977 procure, install, and operate Best Available Retrofit Technology (BART) as determined by the state. Under the Regional Haze Rule (RHR), states are directed to conduct BART determinations for such "BART-

¹⁶ EPA is not reopening for comment final determinations made in the CSAPR Update or the modeling conducted to support that rulemaking.