

emissions” in Tennessee’s SIP-approved PSD and NNSR regulations as discussed above.<sup>12</sup> EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

#### V. Proposed Action

EPA is proposing to approve the portions of Tennessee’s May 28, 2009, SIP revision that change the definitions of “baseline actual emissions” in TAPCR 1200–3–9–.01,—“Construction Permits,” as discussed above.

#### VI. 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. This 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 CAA; 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, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

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

Dated: June 8, 2018.

**Onis “Trey” Glenn, III,**

*Regional Administrator, Region 4.*

[FR Doc. 2018–13142 Filed 6–19–18; 8:45 am]

**BILLING CODE 6560–50–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R04–OAR–2018–0187; FRL–9979–62–Region 4]

#### Air Plan Approval; Tennessee; Regional Haze Plan and Prong 4 (Visibility) for the 2012 PM<sub>2.5</sub>, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> 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 Tennessee State Implementation Plan (SIP): approve Tennessee’s November 22, 2017, SIP submittal seeking to change reliance from the Clean Air Interstate Rule (CAIR) to Cross-State Air Pollution Rule (CSAPR) for certain regional haze requirements; convert EPA’s limited approval/limited disapproval of Tennessee’s regional haze plan to a full approval; remove EPA’s Federal Implementation Plan (FIP) for Tennessee which replaced reliance on CAIR with reliance on CSAPR to address the deficiencies identified in the limited disapproval of Tennessee’s regional haze plan; and convert the conditional approvals of the visibility prong of Tennessee’s infrastructure SIP submittals for the 2012 Fine Particulate Matter (PM<sub>2.5</sub>), 2010 Nitrogen Dioxide (NO<sub>2</sub>), and 2010 Sulfur Dioxide (SO<sub>2</sub>) National Ambient Air Quality Standards (NAAQS) to full approvals.

**DATES:** Comments must be received on or before July 20, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No EPA–R04–OAR–2018–0187 at <http://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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Michele Notarianni, 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. Notarianni can be reached by telephone at (404) 562–9031 or via electronic mail at [notarianni.michele@epa.gov](mailto:notarianni.michele@epa.gov).

<sup>12</sup> The state effective date of the rule changes to the definitions of “baseline actual emissions” in Tennessee’s May 28, 2009, SIP revision is May 10, 2009. However, these changes to Tennessee’s rule are captured and superseded by the version of TAPCR 1200–3–9–.01 that was state effective on April 24, 2013. On July 25, 2013 (78 FR 44889), EPA approved portions of the April 24, 2013 version of TAPCR 1200–3–9–.01 into the SIP and modified the state effective date at 40 CFR 52.2220(c) accordingly.

## 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-eligible” sources that may be anticipated to cause or contribute to any visibility impairment in a Class I area. Rather than requiring source-specific BART controls, states also have the flexibility to adopt an emissions trading program or other alternative program as long as the alternative provides greater reasonable progress towards improving visibility than BART. See 40 CFR 51.308(e)(2). EPA provided states with this flexibility in the RHR, adopted in 1999, and further refined the criteria for assessing whether an alternative program provides for greater reasonable progress in two subsequent rulemakings. See 64 FR 35714 (July 1, 1999); 70 FR 39104 (July 6, 2005); 71 FR 60612 (October 13, 2006).

EPA demonstrated that CAIR would achieve greater reasonable progress than BART in revisions to the regional haze program made in 2005.<sup>1</sup> See 70 FR 39104 (July 6, 2005). In those revisions, EPA amended its regulations to provide that states participating in the CAIR cap-and-trade programs pursuant to an EPA-approved CAIR SIP or states that remain subject to a CAIR FIP need not require affected BART-eligible electric generating units (EGUs) to install, operate, and maintain BART for emissions of SO<sub>2</sub> and nitrogen oxides (NO<sub>x</sub>). As a result of EPA’s determination that CAIR was “better-than-BART,” a number of states in the CAIR region, including Tennessee, relied on the CAIR cap-and-trade programs as an alternative to BART for EGU emissions of SO<sub>2</sub> and NO<sub>x</sub> in designing their regional haze plans. These states also relied on CAIR as an element of a long-term strategy (LTS) for

achieving their reasonable progress goals (RPGs) for their regional haze programs. However, in 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded CAIR to EPA without vacatur to preserve the environmental benefits provided by CAIR. *North Carolina v. EPA*, 550 F.3d 1176, 1178 (D.C. Cir. 2008). On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit’s remand, EPA promulgated CSAPR to replace CAIR and issued FIPs to implement the rule in CSAPR-subject states.<sup>2</sup> Implementation of CSAPR was scheduled to begin on January 1, 2012, when CSAPR would have superseded the CAIR program.

Due to the D.C. Circuit’s 2008 ruling that CAIR was “fatally flawed” and its resulting status as a temporary measure following that ruling, EPA could not fully approve regional haze plans to the extent that they relied on CAIR to satisfy the BART requirement and the requirement for a LTS sufficient to achieve the state-adopted RPGs. On these grounds, on June 7, 2012 (77 FR 33642), EPA promulgated a FIP to replace reliance on CAIR with reliance on CSAPR to address the deficiencies in Tennessee’s regional haze plan. EPA finalized a limited approval and a limited disapproval of Tennessee’s regional haze plan on April 24, 2012 (77 FR 24392). EPA’s limited approval finalized the determination that Tennessee’s regional haze plan met the remaining applicable regional haze requirements set forth in the CAA and the RHR.<sup>3</sup> EPA’s limited disapproval was issued due to the deficiencies in Tennessee’s regional haze plan created by the plan’s reliance on CAIR for certain regional haze requirements.

In the June 7, 2012, action, EPA also amended the RHR to provide that

<sup>2</sup> CSAPR requires 28 eastern states to limit their statewide emissions of SO<sub>2</sub> and/or NO<sub>x</sub> in order to mitigate transported air pollution unlawfully impacting other states’ ability to attain or maintain four NAAQS: The 1997 ozone NAAQS, the 1997 annual PM<sub>2.5</sub> NAAQS, the 2006 24-hour PM<sub>2.5</sub> NAAQS, and the 2008 8-hour ozone NAAQS. The CSAPR emissions limitations are defined in terms of maximum statewide “budgets” for emissions of annual SO<sub>2</sub>, annual NO<sub>x</sub>, and/or ozone-season NO<sub>x</sub> by each covered state’s large EGUs. The CSAPR state budgets are implemented in two phases of generally increasing stringency, with the Phase 1 budgets applying to emissions in 2015 and 2016 and the Phase 2 budgets applying to emissions in 2017 and later years.

<sup>3</sup> In the April 24, 2012, final rule, EPA took action on the entire Tennessee regional haze plan submitted on April 4, 2008, except for the BART determination for Eastman Chemical Company (Eastman). On November 27, 2012, EPA finalized approval of the BART requirements for Eastman that were provided in the State’s April 4, 2008, regional haze plan, as later modified and supplemented on May 14, 2012, and May 25, 2012. See 77 FR 70689.

participation by a state’s EGUs in a CSAPR trading program for a given pollutant—either a CSAPR federal trading program implemented through a CSAPR FIP or an integrated CSAPR state trading program implemented through an approved CSAPR SIP revision—qualifies as a BART alternative for those EGUs for that pollutant. See 40 CFR 51.308(e)(4). Since EPA promulgated this amendment, numerous states covered by CSAPR have come to rely on the provision through either SIPs or FIPs.<sup>4</sup>

Numerous parties filed petitions for review of CSAPR in the D.C. Circuit, and on August 21, 2012, the court issued its ruling, vacating and remanding CSAPR to EPA and ordering continued implementation of CAIR. *EME Homer City Generation, L.P. v. EPA*, 696 F.3d 7, 38 (D.C. Cir. 2012). The D.C. Circuit’s vacatur of CSAPR was reversed by the United States Supreme Court on April 29, 2014, and the case was remanded to the D.C. Circuit to resolve remaining issues in accordance with the high court’s ruling. *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the CSAPR budgets to a number of states. *EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118 (D.C. Cir. 2015). The remanded budgets include the Phase 2 SO<sub>2</sub> emissions budgets for Alabama, Georgia, Tennessee, and Texas and the Phase 2 ozone-season NO<sub>x</sub> budgets for 11 states. This litigation ultimately delayed implementation of CSAPR for three years, from January 1, 2012, when CSAPR’s cap-and-trade programs were originally scheduled to replace the CAIR cap-and-trade programs, to January 1, 2015. Thus, the rule’s Phase 2 budgets that were originally promulgated to begin on January 1, 2014, began on January 1, 2017.

On September 29, 2017 (82 FR 45481), EPA issued a final rule affirming the continued validity of the Agency’s 2012 determination that participation in CSAPR meets the RHR’s criteria for an alternative to the application of source-

<sup>4</sup> EPA has promulgated FIPs relying on CSAPR participation for BART purposes for Georgia, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia, 77 FR at 33654, and Nebraska, 77 FR 40150, 40151 (July 6, 2012). EPA has approved SIPs from several states relying on CSAPR participation for BART purposes. See, e.g., 82 FR 47393 (October 12, 2017) for Alabama; 77 FR 34801 (June 12, 2012) for Minnesota; and 77 FR 46952 (August 7, 2012) for Wisconsin.

<sup>1</sup> CAIR created regional cap-and-trade programs to reduce SO<sub>2</sub> and NO<sub>x</sub> emissions in 27 eastern states (and the District of Columbia), including Tennessee, that contributed to downwind nonattainment or interfered with maintenance of the 1997 8-hour ozone NAAQS or the 1997 PM<sub>2.5</sub> NAAQS.

specific BART.<sup>5</sup> EPA has determined that changes to CSAPR's geographic scope resulting from the actions EPA has taken or expects to take in response to the D.C. Circuit's budget remand do not affect the continued validity of participation in CSAPR as a BART alternative, because the changes in geographic scope would not have adversely affected the results of the air quality modeling analysis upon which EPA based the 2012 determination. EPA's September 29, 2017, determination was based, in part, on EPA's final action approving a SIP revision from Alabama (81 FR 59869 (August 31, 2016)) adopting Phase 2 annual NO<sub>x</sub> and SO<sub>2</sub> budgets equivalent to the federally-developed budgets and on SIP revisions submitted by Georgia and South Carolina to also adopt Phase 2 annual NO<sub>x</sub> and SO<sub>2</sub> budgets equivalent to the federally-developed budgets.<sup>6</sup> Since that time, EPA has approved the SIP revisions from Georgia and South Carolina. See 82 FR 47930 (October 13, 2017) and 82 FR 47936 (October 13, 2017), respectively.

Tennessee's November 22, 2017, SIP submittal seeks to correct the deficiencies identified in the April 24, 2012, limited disapproval of its regional haze plan submitted on April 4, 2008, by replacing reliance on CAIR with reliance on CSAPR. EPA is proposing to approve Tennessee's request that EPA amend the State's regional haze plan by replacing its reliance on CAIR with CSAPR. EPA is proposing to approve this SIP submittal and amend the SIP accordingly.

#### B. Infrastructure SIPs

By statute, plans meeting the requirements of sections 110(a)(1) and (2) of the CAA are to be submitted by states within three years (or less, if the Administrator so prescribes) after promulgation of a new or revised NAAQS to provide for the implementation, maintenance, and enforcement of the new or revised NAAQS. 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. Sections 110(a)(1) and (2) require states to address basic SIP elements such as for monitoring, basic program requirements, and legal authority that are designed to assure attainment and

maintenance of the newly established or revised NAAQS. More specifically, section 110(a)(1) provides the procedural and timing requirements for infrastructure SIP submissions. Section 110(a)(2) lists specific elements that states must meet for the infrastructure SIP requirements related to a newly established or revised NAAQS. The contents of an infrastructure SIP submission may vary depending upon the data and analytical tools available to the state, as well as the provisions already contained in the state's implementation plan at the time in which the state develops and submits the submission for a new or revised NAAQS.

Section 110(a)(2)(D) has two components: 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). Section 110(a)(2)(D)(i) includes four distinct components, commonly referred to as "prongs," that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (prong 1) and from interfering with maintenance of the NAAQS in another state (prong 2). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (prong 3) or from interfering with measures to protect visibility in another state (prong 4). Section 110(a)(2)(D)(ii) requires SIPs to include provisions ensuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement.

Through this action, EPA is proposing to convert the conditional approvals of the prong 4 portions of Tennessee's infrastructure SIP submissions for the 2010 1-hour NO<sub>2</sub>, 2010 1-hour SO<sub>2</sub>, and 2012 annual PM<sub>2.5</sub> NAAQS to full approvals, as discussed in section III of this document.<sup>7</sup> All other applicable infrastructure SIP requirements for these SIP submissions have been or will be addressed in separate rulemakings. A brief background regarding the NAAQS relevant to this proposal is provided below. For comprehensive information on these NAAQS, please refer to the

**Federal Register** documents cited in the following subsections.

#### 1. 2010 1-hour SO<sub>2</sub> NAAQS

On June 2, 2010, EPA revised the 1-hour primary SO<sub>2</sub> NAAQS to an hourly standard of 75 parts per billion (ppb) based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. See 75 FR 35520 (June 22, 2010). States were required to submit infrastructure SIP submissions for the 2010 1-hour SO<sub>2</sub> NAAQS to EPA no later than June 2, 2013. Tennessee submitted an infrastructure SIP submission for the 2010 1-hour SO<sub>2</sub> NAAQS on March 13, 2014. This proposed action only addresses the prong 4 element of that submission.<sup>8</sup>

#### 2. 2010 1-hour NO<sub>2</sub> NAAQS

On January 22, 2010, EPA promulgated a new 1-hour primary NAAQS for NO<sub>2</sub> at a level of 100 ppb, based on a 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. See 75 FR 6474 (February 9, 2010). States were required to submit infrastructure SIP submissions for the 2010 1-hour NO<sub>2</sub> NAAQS to EPA no later than January 22, 2013. Tennessee submitted an infrastructure SIP submission for the 2010 1-hour NO<sub>2</sub> NAAQS on March 13, 2014. This proposed action only addresses the prong 4 element of that submission.<sup>9</sup>

#### 3. 2012 PM<sub>2.5</sub> NAAQS

On December 14, 2012, EPA revised the annual primary PM<sub>2.5</sub> NAAQS to 12.0 micrograms per cubic meter (µg/m<sup>3</sup>). See 78 FR 3086 (January 15, 2013). States were required to submit infrastructure SIP submissions for the 2012 PM<sub>2.5</sub> NAAQS to EPA no later than December 14, 2015. Tennessee submitted an infrastructure SIP submission for the 2012 PM<sub>2.5</sub> NAAQS on December 16, 2015. This proposed

<sup>8</sup> With the exception of the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2, and 4), the other portions of Tennessee's March 13, 2014, 2010 1-hour SO<sub>2</sub> infrastructure submission were addressed in a separate action. See 81 FR 85410 (November 28, 2016).

<sup>9</sup> With the exception of the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i), and (j), and the interstate transport provisions of prong 4 of section 110(a)(2)(D)(i), the other portions of Tennessee's March 13, 2014, 2010 1-hour NO<sub>2</sub> infrastructure submission were addressed in a separate action. See 82 FR 3639 (January 12, 2017). On March 18, 2015, EPA approved Tennessee's March 13, 2014, infrastructure SIP submission regarding the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i), and (j) for the 2010 1-hour NO<sub>2</sub> NAAQS. See 80 FR 14019.

<sup>5</sup> Legal challenges to this rule are pending. *Nat'l Parks Conservation Ass'n v. EPA*, No. 17-1253 (D.C. Cir. filed November 28, 2017).

<sup>6</sup> EPA proposed to approve the Georgia and South Carolina SIP revisions adopting CSAPR budgets on August 16, 2017 (82 FR 38866), and August 10, 2017 (82 FR 37389), respectively.

<sup>7</sup> On June 15, 2017, EPA conditionally approved the prong 4 portions of Tennessee's infrastructure SIP submissions for the 2010 1-hour NO<sub>2</sub>, 2010 1-hour SO<sub>2</sub>, and 2012 annual PM<sub>2.5</sub> NAAQS. See 82 FR 27428.

action only addresses the prong 4 element of that submission.<sup>10</sup>

## II. What are the prong 4 requirements?

CAA section 110(a)(2)(D)(i)(II) requires a state's implementation plan to contain provisions prohibiting sources in that state from emitting pollutants in amounts that interfere with any other state's efforts to protect visibility under part C of the CAA (which includes sections 169A and 169B). EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (2013 Guidance).<sup>11</sup> The 2013 Guidance states that these prong 4 requirements can be satisfied by approved SIP provisions that EPA has found to adequately address any contribution of that state's sources that impacts the visibility program requirements in other states. The 2013 Guidance also states that EPA interprets this prong to be pollutant-specific, such that the infrastructure SIP submission need only address the potential for interference with protection of visibility caused by the pollutant (including precursors) to which the new or revised NAAQS applies.

The 2013 Guidance lays out how a state's infrastructure SIP submission may satisfy prong 4. One way that a state can meet the requirements is via confirmation in its infrastructure SIP submission that the state has an approved regional haze plan that fully meets the requirements of 40 CFR 51.308 or 51.309. 40 CFR 51.308 and 51.309 specifically require that a state participating in a regional planning process include all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process. A fully approved regional haze plan will ensure that emissions from sources under an air agency's jurisdiction are not interfering with measures required to be included in other air agencies' plans to protect visibility.

Alternatively, in the absence of a fully approved regional haze plan, a state may meet the requirements of prong 4 through a demonstration in its infrastructure SIP submission that emissions within its jurisdiction do not

interfere with other air agencies' plans to protect visibility. Such an infrastructure SIP submission would need to include measures to limit visibility-impairing pollutants and ensure that the reductions conform with any mutually agreed regional haze RPGs for mandatory Class I areas in other states.

## III. What is EPA's analysis of how Tennessee addressed prong 4 and regional haze?

As noted in the infrastructure SIP portion of Tennessee's November 22, 2017, SIP revision, the State's March 13, 2014, 2010 1-hour NO<sub>2</sub> and 2010 1-hour SO<sub>2</sub> submission, and December 16, 2015, 2012 annual PM<sub>2.5</sub> submission rely on the State having a fully approved regional haze plan to satisfy its prong 4 requirements. However, EPA has not fully approved Tennessee's regional haze plan as the Agency issued a limited disapproval of the State's original regional haze plan on April 24, 2012, due to its reliance on CAIR. On December 7, 2016, Tennessee submitted a commitment letter to EPA to submit a SIP revision that revises its regional haze plan to replace reliance on CAIR with CSAPR for certain regional haze provisions.<sup>12</sup> In its letter, Tennessee committed to providing this SIP revision within one year of EPA's final conditional approval of the prong 4 portions of the infrastructure SIP revisions. On June 15, 2017 (82 FR 27428), EPA conditionally approved the prong 4 portion of Tennessee's infrastructure SIP submissions for the 2010 1-hour NO<sub>2</sub>, 2010 1-hour SO<sub>2</sub>, and 2012 annual PM<sub>2.5</sub> NAAQS based on this commitment letter from the State. In accordance with the State's December 7, 2016, commitment letter, Tennessee submitted a SIP revision on November 22, 2017, to replace reliance on CAIR with reliance on CSAPR for certain regional haze provisions.

EPA is proposing to approve the State's November 22, 2017, SIP revision replacing reliance on CAIR with CSAPR, and to convert EPA's previous action on Tennessee's regional haze plan from a limited approval/limited disapproval to a full approval because final approval of the SIP revision would correct the deficiencies that led to EPA's limited approval/limited disapproval of the State's regional haze plan. Specifically, EPA's approval of Tennessee's November 22, 2017, SIP revision would satisfy the SO<sub>2</sub> and NO<sub>x</sub> BART requirements and first implementation period SO<sub>2</sub> reasonable progress

requirements for EGUs formerly subject to CAIR and the requirement that a LTS include measures as necessary to achieve the state-adopted RPGs. Thus, EPA is also proposing to remove EPA's FIP for Tennessee which replaced reliance on CAIR with reliance on CSAPR to address the deficiencies identified in the limited disapproval of Tennessee's regional haze plan. Because a state may satisfy prong 4 requirements through a fully approved regional haze plan, EPA is therefore also proposing to convert the conditional approvals to full approvals of the prong 4 portion of Tennessee's March 13, 2014, 2010 1-hour NO<sub>2</sub> and 2010 1-hour SO<sub>2</sub> submission, and December 16, 2015, 2012 annual PM<sub>2.5</sub> submission.

## IV. Proposed Action

As described above, EPA is proposing to take the following actions: (1) Approve Tennessee's November 22, 2017, SIP submission to change reliance from CAIR to CSAPR in its regional haze plan; (2) convert EPA's limited approval/limited disapproval of Tennessee's April 4, 2008, regional haze plan to a full approval; (3) remove EPA's FIP for Tennessee which replaced reliance on CAIR with reliance on CSAPR to address the deficiencies identified in the limited disapproval of Tennessee's regional haze plan; and (4) convert EPA's June 15, 2017, conditional approvals to full approvals of the prong 4 portion of Tennessee's March 13, 2014, 2010 1-hour NO<sub>2</sub> and 2010 1-hour SO<sub>2</sub> submission, and December 16, 2015, 2012 annual PM<sub>2.5</sub> submission. All other applicable infrastructure requirements for the infrastructure SIP submissions have been or will be addressed in separate rulemakings.

## V. 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. These actions merely propose to approve state law as meeting Federal requirements and remove a FIP and do not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are not significant regulatory actions 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);

<sup>10</sup> With the exception of the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2, and 4), the other portions of Tennessee's December 16, 2015, PM<sub>2.5</sub> infrastructure submission were addressed in a separate action. See 82 FR 21706 (May 10, 2017). No action has been taken with respect to prongs 1 and 2 for the 2012 annual PM<sub>2.5</sub> NAAQS.

<sup>11</sup> "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)," Memorandum from Stephen D. Page, September 13, 2013.

<sup>12</sup> Tennessee's December 7, 2016, commitment letter is included in the docket for this action.

- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because these actions are either exempted or not significant under Executive Order 12866;

- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Are 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.*);

- Do 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);

- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Are 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 CAA; and

- Do 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 proposed actions do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will they impose substantial direct costs on tribal governments or preempt tribal law.

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

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: June 8, 2018.

**Onis “Trey” Glenn, III,**

*Regional Administrator, Region 4.*

[FR Doc. 2018–13146 Filed 6–19–18; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA–HQ–SFUND–1986–0005; FRL–9979–21–Region 3]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Ordnance Works Disposal Areas Superfund Site

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

**ACTION:** Proposed rule; notice of intent.

**SUMMARY:** The Environmental Protection Agency (EPA), Region 3, is issuing a Notice of Intent to Delete the Ordnance Works Disposal Areas Superfund Site (Site) located in Morgantown, West Virginia, from the National Priorities List (NPL) and requests public comments on this proposed action. For purposes of this action, the Site consists of Operable Unit 1 (OU1), an NPL-listed area of approximately 6 acres. Also for purposes of this action, and unless otherwise noted, the Site does not include Operable Unit 2 (OU2), a non-NPL listed area of approximately eight hundred acres. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of West Virginia, through the West Virginia Department of Environmental Protection (WVDEP), have determined that all appropriate response actions under CERCLA, other than operation and maintenance, monitoring, and five-year reviews have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** Comments must be received by July 20, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1986–0005, by one of the following methods:

- <https://www.regulations.gov>: Follow on-line 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, 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>.

- **Email:** Jeffrey Thomas at [thomas.jeffrey@epa.gov](mailto:thomas.jeffrey@epa.gov).

- **Mail:** Jeffrey Thomas (3HS23), Remedial Project Manager, United States Environmental Protection Agency 1650 Arch Street, Philadelphia, PA 19103.

- **Hand delivery:** United States Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID no. EPA–HQ–SFUND–1986–0005. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <https://www.regulations.gov> or email. The <https://www.regulations.gov> website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through <https://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA