



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2016-0011; FRL-9947-18-Region 4]**

**Air Plan Approval; Tennessee; Revision and Removal of  
Stage I and II Gasoline Vapor Recovery Program**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve changes to the State Implementation Plan (SIP) submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation (TDEC) on February 8, 2016, for parallel processing. This draft SIP revision seeks to lower applicability thresholds for certain sources subject to Federal Stage I requirements, remove the Stage II vapor control requirements, and add requirements for decommissioning gasoline dispensing facilities, as well as requirements for new and upgraded gasoline dispensing facilities in the Nashville, Tennessee Area (hereinafter also known as the “Middle Tennessee Area”). EPA has preliminarily determined that Tennessee’s February 8, 2016, draft SIP revision is approvable because it is consistent with the Clean Air Act (CAA or Act).

**DATES:** Written comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No EPA-R04-OAR-2016-0011 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:** Kelly Sheckler, 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. Sheckler's phone number is (404) 562-9222. She can also be reached via electronic mail at [sheckler.kelly@epa.gov](mailto:sheckler.kelly@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. What is Parallel Processing?**

Consistent with EPA regulations found at 40 CFR Part 51, Appendix V, section 2.3.1, for purposes of expediting review of a SIP submittal, parallel processing allows a state to submit a

plan to EPA prior to actual adoption by the state. Generally, the state submits a copy of the proposed regulation or other revisions to EPA before conducting its public hearing. EPA reviews this proposed state action and prepares a notice of proposed rulemaking. EPA's notice of proposed rulemaking is published in the Federal Register during the same time frame that the state is holding its public process. The state and EPA then provide for concurrent public comment periods on both the state action and federal action.

If the revision that is finally adopted and submitted by the state is changed in aspects other than those identified in the proposed rulemaking on the parallel process submission, EPA will evaluate those changes and if necessary and appropriate, issue another notice of proposed rulemaking. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by the state and submitted formally to EPA for incorporation into the SIP.

On February 8, 2016, the State of Tennessee, through TDEC, submitted a formal letter request for parallel processing of a draft SIP revision that the State was already taking through public comment. TDEC requested parallel processing so that EPA could begin to take action on its draft SIP revision in advance of the State's submission of the final SIP revision. As stated above, the final rulemaking action by EPA will occur only after the SIP revision has been: (1) adopted by Tennessee; (2) submitted formally to EPA for incorporation into the SIP; and (3) evaluated by EPA, including any changes made by the State after the February 8, 2016, draft was submitted to EPA.

## **II. Background for Federal Stage I and II Requirements**

Stage I vapor recovery is a type of emission control system that captures gasoline vapors that are released when gasoline is delivered to a storage tank. The vapors are returned to the tank

truck as the storage tank is being filled with fuel, rather than released to the ambient air. Stage II and onboard refueling vapor recovery (ORVR) are two types of emission control systems that capture fuel vapors from vehicle gas tanks during refueling. Stage II systems are specifically installed at gasoline dispensing facilities and capture the refueling fuel vapors at the gasoline pump nozzle. The system carries the vapors back to the underground storage tank at the gasoline dispensing facility to prevent the vapors from escaping to the atmosphere. ORVR systems are carbon canisters installed directly on automobiles to capture the fuel vapors evacuated from the gasoline tank before they reach the nozzle. The fuel vapors captured in the carbon canisters are then combusted in the engine when the automobile is in operation.

Under section 182(b)(3) of the CAA, each state was required to submit a SIP revision to implement Stage II for all ozone nonattainment areas classified as moderate, serious, severe, or extreme, primarily for the control of volatile organic compounds (VOC)—a precursor to ozone formation.<sup>1</sup> However, section 202(a)(6) of the CAA states that the section 182(b)(3) Stage II requirements for moderate ozone nonattainment areas shall not apply after the promulgation of ORVR standards.<sup>2</sup> ORVR standards were promulgated by EPA on April 6, 1994. *See* 59 FR

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<sup>1</sup> Section 182(b)(3) states that each State in which all or part of an ozone nonattainment area classified as moderate or above shall, with respect to that area, submit a SIP revision requiring owners or operators of gasoline dispensing systems to install and operate vapor recovery equipment at their facilities. Specifically, the CAA specifies that the Stage II requirements must apply to any facility that dispenses more than 10,000 gallons of gasoline per month or, in the case of an independent small business marketer (ISBM), as defined in section 324 of the CAA, any facility that dispenses more than 50,000 gallons of gasoline per month. Additionally, the CAA specifies the deadlines by which certain facilities must comply with the Stage II requirements. For facilities that are not owned or operated by an ISBM, these deadlines, calculated from the time of State adoption of the Stage II requirements, are: (1) 6 months for facilities for which construction began after November 15, 1990, (2) 1 year for facilities that dispense greater than 100,000 gallons of gasoline per month, and (3) by November 15, 1994, for all other facilities. For ISBMs, section 324(a) of the CAA provides the following three-year phase-in period: (1) 33 percent of the facilities owned by an ISBM by the end of the first year after the regulations take effect; (2) 66 percent of such facilities by the end of the second year; and (3) 100 percent of such facilities after the third year.

<sup>2</sup> ORVR is a system employed on gasoline-powered highway motor vehicles to capture gasoline vapors displaced from a vehicle fuel tank during refueling events. These systems are required under section 202(a)(6) of the CAA and implementation of these requirements began in the 1998 model year. Currently they are used on all gasoline-powered passenger cars, light trucks and complete heavy trucks of less than 14,000 pounds GVWR. ORVR systems

16262 and 40 CFR parts 86, 88 and 600. As a result, the CAA no longer requires moderate areas to impose Stage II controls under section 182(b)(3), and such areas were able to submit SIP revisions, in compliance with section 110(l) of the CAA, to remove Stage II requirements from their SIPs. EPA's policy memoranda related to ORVR, dated March 9, 1993, and June 23, 1993, provide further guidance on removing Stage II requirements from certain areas. The policy memorandum dated March 9, 1993, states that “[w]hen onboard rules are promulgated, a State may withdraw its Stage II rules for moderate areas from the SIP (or from consideration as a SIP revision) consistent with its obligations under sections 182(b)(3) and 202(a)(6), so long as withdrawal will not interfere with any other applicable requirement of the Act.”<sup>3</sup>

CAA section 202(a)(6) also provides discretionary authority to the EPA Administrator to, by rule, revise or waive the section 182(b)(3) Stage II requirement for serious, severe, and extreme ozone nonattainment areas after the Administrator determines that ORVR is in widespread use throughout the motor vehicle fleet. On May 16, 2012, in a rulemaking entitled “Air Quality: Widespread Use for Onboard Refueling Vapor Recovery and Stage II Waiver,” EPA determined that ORVR technology is in widespread use throughout the motor vehicle fleet for purposes of controlling motor vehicle refueling emissions. *See* 77 FR 28772. By that action, EPA waived the requirement for states to implement Stage II gasoline vapor recovery systems at gasoline dispensing facilities in nonattainment areas classified as serious and above for the ozone NAAQS. Effective May 16, 2012, states implementing mandatory Stage II programs under section 182(b)(3) of the CAA were allowed to submit SIP revisions to remove this program. *See*

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typically employ a liquid file neck seal to block vapor escape to the atmosphere and otherwise share many components with the vehicles' evaporative emission control system including the onboard diagnostic system sensors.

<sup>3</sup> Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, to EPA Regional Air Directors, *Impact of the Recent Onboard Decision on Stage II Requirements in Moderate Areas* (March 9, 1993), available at: [http://www.epa.gov/tn/naaqs/aqmguides/collection/cp2/19930309\\_seitz\\_onboard\\_impact\\_stage2\\_.pdf](http://www.epa.gov/tn/naaqs/aqmguides/collection/cp2/19930309_seitz_onboard_impact_stage2_.pdf).

40 CFR 51.126(b).<sup>4</sup> On April 7, 2012, EPA released the guidance entitled “Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures” for states to consider in preparing their SIP revisions to remove existing Stage II programs from state implementation plans.<sup>5</sup>

### **III. Tennessee’s Stage I and II Vapor Recovery Requirements for the Middle Tennessee Area**

On November 6, 1991, EPA designated and classified the Nashville Area (Davidson, Rutherford, Sumner, Williamson and Wilson counties) as a moderate ozone nonattainment area for the 1-hour ozone NAAQS. *See* 56 FR 56694, 56829. As mentioned above, the “moderate” classification triggered various statutory requirements for this Area, including the requirement pursuant to section 182(b)(3) of the CAA for the Area to require all owners and operators of gasoline dispensing systems to install and operate a system for gasoline vapor recovery of emissions from the fueling of motor vehicles known as “Stage II.”<sup>6</sup> On November 5, 1992, May 18, 1993, and July 6, 1993, the State of Tennessee submitted SIP revisions to EPA for Stage I and II vapor recovery in the Nashville Area.<sup>7</sup>

On February 9, 1995, EPA approved Tennessee’s November 5, 1992, May 18, 1993, and

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<sup>4</sup> As noted above, EPA found, pursuant to CAA section 202(a)(6), that ORVR systems are in widespread use in the motor vehicle fleet and waived the CAA section 182(b)(3) Stage II vapor recovery requirement for serious and higher ozone nonattainment areas on May 16, 2012. Thus, in its implementation rule for the 2008 ozone NAAQS, EPA removed the section 182(b)(3) Stage II requirement from the list of applicable requirements in 40 CFR 51.1100(o). *See* 80 FR 12264 for additional information.

<sup>5</sup> This guidance document is available at: <http://www.epa.gov/groundlevelozone/pdfs/20120807guidance.pdf>.

<sup>6</sup> As discussed above, Stage II is a system designed to capture displaced vapors that emerge from inside a vehicle’s fuel tank when gasoline is dispensed into the tank. There are two basic types of Stage II systems, the balance type and the vacuum assist type.

<sup>7</sup> “Gasoline Dispensing Facility, Stage I” under Section 7-13, covering Nashville/Davidson County was first submitted on February 16, 1990 for EPA approval into the SIP and was approved March 11, 1991. *See* 56 FR 10171. The last revision for regulations related to Nashville/Davidson County was submitted on July 3, 1991, and later approved by EPA on June 26, 1992. *See* 57 FR 28625

July 6, 1993, SIP revision containing Tennessee Air Pollution Control Regulations (TAPCR) rule 1200-03-18-.24, Gasoline Dispensing Facilities, Stage I and Stage II Vapor Recovery which regulates the emissions of VOCs from petroleum product storage and distribution network. 60 FR 7713.<sup>8</sup> TAPCR 1200-03-18-.24 includes requirements for control of VOC emissions from filling of certain gasoline storage tanks in several Tennessee counties using Stage I vapor recovery systems. Subsequently, on January 10, 2008, EPA promulgated similar requirements for Stage I vapor recovery as 40 CFR part 63, subpart CCCCCC. 73 FR 1945.

On November 14, 1994, TDEC submitted to EPA a request (later supplemented on August 9, 1995, and January 19, 1996) to redesignate the Middle Tennessee Area to attainment for the 1-hour ozone standard and an associated maintenance plan. The maintenance plan, as required under section 175A of the CAA, showed that nitrogen oxides and VOC emissions in the Area would remain below the 1994 “attainment year” levels through the greater than ten-year period from 1994–2006. In making these projections, TDEC factored in the emissions benefit of the Area’s Stage II program, thereby maintaining this program as an active part of its 1-hour ozone SIP. The redesignation request and maintenance plan was approved by EPA, effective October 30, 1996. *See* 61 FR 55903. Subsequently, the maintenance plan was extended by TDEC to 2016, and this extension was approved by EPA, effective January 3, 2006. *See* 70 FR 65838.

#### **IV. Analysis of the State’s Submittal**

On February 8, 2016, Tennessee submitted a draft SIP revision to EPA seeking modifications of the Stage II and Stage I requirements in the State. First, in relation to Stage II,

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<sup>8</sup> Revisions to this rule were subsequently approved by EPA on April 14, 1997, and August 26, 2005.

TDEC seeks the removal of the Stage II vapor recovery requirements from TAPCR 1200-03-18-.24 through the addition of requirements for decommissioning, and the phase out of the Stage II vapor recovery systems over a 3-year period from January 1, 2016, to January 1, 2019, in Davidson, Rutherford, Sumner, Williamson and Wilson Counties. Second, TDEC seeks to amend the Stage I requirements for gasoline dispensing facilities by adopting by reference the Federal requirements of 40 CFR part 63, subpart CCCCCC and removing most of the State-specific language for Stage I vapor recovery.<sup>9</sup> Below are additional details regarding EPA's rationale for the actions proposed in today's rulemaking in relation to Tennessee's requested changes.

**A. Analysis of Changes to Tennessee's Stage II Requirements for Middle Tennessee**

EPA's primary consideration in determining the approvability of Tennessee's request regarding removal of the Stage II program in the Middle Tennessee Area is whether this requested action complies with section 110(l) of the CAA.<sup>10</sup> Section 110(l) requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act. EPA evaluates each section 110(l) noninterference demonstration on a case-by-case basis, considering the circumstances of each SIP revision. EPA interprets 110(l) as applying to all NAAQS that are in effect, including those that have been promulgated but for which the EPA has not yet made designations. The degree of analysis focused on any particular NAAQS in a

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<sup>9</sup> However, any gasoline dispensing facility with a monthly throughput of 10,000 gallons or more of gasoline that is located in Anderson, Blount, Carter, Cheatham, Davidson, Dickson, Fayette, Hamilton, Hawkins, Haywood, Jefferson, Knox Loudon, Marion, Meigs, Montgomery, Putnam, Robertson, Rutherford, Sevier, Shelby, Sullivan, Sumner, Tipton, Unicoi, Union, Washington, Williamson, or Wilson Counties will be subject to expanded requirements under subpart CCCCCC.

<sup>10</sup> CAA section 193 is not relevant because Tennessee's Stage II rule was not included in the SIP before the 1990 CAA amendments.

noninterference demonstration varies depending on the nature of the emissions associated with the proposed SIP revision. EPA’s analysis of Tennessee’s February 8, 2016, SIP revision pursuant to section 110(l) is provided below.

In its February 8, 2016, draft SIP revision, TDEC used EPA’s guidance entitled “Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures” to conduct a series of calculations to determine the potential impact on air quality of removing the Stage II program.<sup>11</sup> Tennessee’s analysis focused on VOC emissions because, as mentioned above, Stage II requirements affect VOC emissions and because VOCs are a precursor for ozone formation.<sup>12</sup> The results of TDEC’s analysis are provided in the table below.

**Table 1: VOC Emissions per Ozone Season from Stage II Controls**

<b>Year</b>	<b>VOC emissions reduction (tons per year)</b>
2010	510.60
2011	397.39

<sup>11</sup> EPA, Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures, EPA-457/B-12-001 (Aug. 7, 2012), available at: <https://www.epa.gov/ozone-pollution/ozone-stage-two-vapor-recovery-rule-and-guidance>. This guidance document notes that “the potential emission control losses from removing Stage II VRS are transitional and relatively small. ORVR-equipped vehicles will continue to phase in to the fleet over the coming years and will exceed 80 percent of all highway gasoline vehicles and 85 percent of all gasoline dispensed during 2015. As the number of these ORVR-equipped vehicles increase, the control attributed to Stage II VRS will decrease even further, and the potential foregone Stage II VOC emission reductions are generally expected to be no more than one percent of the VOC inventory in the area.”

<sup>12</sup> Several counties in Middle Tennessee are currently designated nonattainment for the 1997 Annual fine particulate matter (PM<sub>2.5</sub>) standard. While VOC is one of the precursors for particulate matter (NAAQS) formation, studies have indicated that, in the southeast, emissions of direct PM<sub>2.5</sub> and the precursor sulfur oxides are more significant to ambient summertime PM<sub>2.5</sub> concentrations than emissions of nitrogen oxides and anthropogenic VOC. See, e.g., *Quantifying the sources of ozone, fine particulate matter, and regional haze in the Southeastern United States*, Journal of Environmental Engineering (June 24, 2009), available at: <https://www.deepdyve.com/lp/elsevier/quantifying-the-sources-of-ozone-fine-particulate-matter-and-regional-yYzp0F1KBu>.

2012	281.97
2013	188.45
2014	107.28
2015	38.62
2016	-20.50
2017	-67.19
2018	-106.81
2019	-137.24
2020	-154.83

The removal of Stage II vapor recovery systems in the five-county Middle Tennessee area starting in 2016 will result in a VOC emission decrease, with emission reduction benefits increasing over time. Conversely, as Table 1 shows, if Stage II requirements are kept in place, an increase in VOC emissions will occur beyond 2015, and it will become detrimental to air quality in the five-county Middle Tennessee area to keep Stage II systems in operation.<sup>13</sup>

The affected sources covered by Tennessee’s Stage II vapor recovery requirements are sources of VOCs. Other criteria pollutants (carbon monoxide, sulfur dioxide, nitrogen dioxide, particulate matter, and lead) are not emitted by gasoline dispensing facilities and will not be affected by the removal of Stage II controls.

The proposed revisions to TAPCR 1200-03-18-.24 include that gasoline dispensing facilities located in Davidson, Rutherford, Sumner, Williamson, and Wilson counties shall decommission and remove the systems no later than 3 years from the effective date of this rule.

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<sup>13</sup>The emissions-reduction disbenefit associated with continued implementation of Stage II requirements is due to the incompatibility of some Stage II and ORVR systems. Compatibility problems can result in an increase in emissions from the underground storage tank (UST) vent pipe and other system fugitive emissions related to the refueling of ORVR vehicles with some types of vacuum assist-type Stage II systems. This occurs during refueling an ORVR vehicle when the vacuum assist system draws fresh air into the UST rather than an air vapor mixture from the vehicle fuel tank. Vapor flow from the vehicle fuel tank is blocked by the liquid seal in the fill pipe which forms at a level deeper in the fill pipe than can be reached by the end of the nozzle spout. The fresh air drawn into the UST enhances gasoline evaporation in the UST which increases pressure in the UST. Unless it is lost as a fugitive emission, any tank pressure in excess of the rating of the pressure/vacuum valve is vented to the atmosphere over the course of a day. *See* EPA, Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures, EPA-457/B-12-001 (Aug. 7, 2012), available at: <https://www.epa.gov/ozone-pollution/ozone-stage-two-vapor-recovery-rule-and-guidance>. Thus, as ORVR technology is phased in, the amount of emission control that is gained through Stage II systems decreases.

Tennessee noted in its submission that procedures to decommission and remove systems will be conducted in accordance with Petroleum Equipment Institute (PEI) guidance, “Recommended Practices for Installation and Testing of Vapor Recovery Systems at Vehicle Refueling Sites,” PEI/RP300-09.

EPA is proposing to determine that TDEC’s technical analysis is consistent with EPA’s guidance on removing Stage II requirements from a SIP, including those provisions related to the decommissioning and phasing out of the Stage II requirements for the Middle Tennessee Area. EPA is also making the preliminary determination that Tennessee’s SIP revision is consistent with the CAA and with EPA’s regulations related to removal of Stage II requirements from the SIP and that these changes will not interfere with any applicable requirement concerning attainment or any other applicable requirement of the CAA, and therefore satisfy section 110(l).

**B. Analysis of Changes to Tennessee’s Stage I Requirements**

Tennessee’s Stage I requirements are in TAPCR 1200-03-18-.24, and provide for the control of VOC emissions from filling stations of certain gasoline storage tanks in Blount, Carter, Cheatham, Davidson, Dickinson, Fayette, Hamilton, Hawkins, Haywood, Jefferson, Knox, Loudon, Marion, Meigs, Montgomery, Putnam, Robertson, Rutherford, Sullivan, Sumner, Tipton, Unicoi, Union, Washington, Williamson, and Wilson Counties. EPA promulgated similar requirements for Stage I vapor recovery at 40 CFR part 63, subpart CCCCCC. To eliminate overlap of State and Federal requirements, Tennessee proposes to adopt by reference 40 CFR part 63, subpart CCCCCC and remove the Stage I SIP requirements of TAPCR 1200-03-18-.24. Tennessee provided a section 110(l) demonstration that includes a comparison demonstrating the equivalence of State and Federal Stage I requirements, i.e., showing that the

State requirements will be as stringent as or more stringent than the comparable Federal requirements. Tennessee's submittal proposes to lower the applicability threshold of the Federal requirements to apply to smaller facilities based on monthly throughput, rather than the equivalent Federal requirements for the subject counties listed above. Thus the State rule (1200-03-18-.24(1)) is more stringent than the Federal Rule.

EPA has preliminarily determined that these changes to Tennessee's Stage I requirements will not interfere with any applicable requirement concerning attainment or any other applicable requirement of the CAA, and therefore satisfy section 110(l), because they remove obsolete language due, in part, to superseding Federal requirements in 40 CFR part 63, subpart CCCCCC.

#### **V. Incorporation By Reference**

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference TDEC Regulation TAPCR 1200-03-18-.24, Gasoline Dispensing Facilities. EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the EPA Region 4 office (see the ADDRESSES section of this preamble for more information).

#### **VI. Proposed Action**

EPA is proposing to approve Tennessee's February 8, 2016, draft SIP revision that changes Tennessee Gasoline Dispensing Facilities, Stage I and II Vapor Recovery, TAPCR rule

1200-03-18-.24. to: (1) allow for the removal of the Stage II requirement and the orderly decommissioning of Stage II equipment; and (2) incorporate by reference Federal rule 40 CFR part 63, subpart CCCCCC, and remove certain non-state-specific requirements for the Stage I. EPA is proposing this approval because the Agency has made the preliminary determination that Tennessee's February 8, 2016, draft SIP revision related to the State's Stage I and II rule is consistent with the CAA and with EPA's regulations and guidance.

## **VII. 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);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the 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).

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

Ozone, Reporting and Recordkeeping Requirements, Volatile Organic Compounds.

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

Dated: May 19, 2106.

Heather McTeer Toney

Regional Administrator,

Region 4

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