



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2018-0073; FRL-9978-92-Region 4]**

**Air Plan Approval; SC; Regional Haze Plan and Prong 4 (Visibility) for the 2012 PM<sub>2.5</sub>,  
2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2008 Ozone 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 South Carolina State Implementation Plan (SIP): approve the portion of South Carolina's September 5, 2017, 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 South Carolina's regional haze plan to a full approval; remove EPA's Federal Implementation Plan (FIP) for South Carolina, which replaced reliance on CAIR with reliance on CSAPR to address the deficiencies identified in the limited disapproval of South Carolina's regional haze plan; and convert the conditional approvals of the visibility prong of South Carolina's infrastructure SIP submittals for the 2012 Fine Particulate Matter (PM<sub>2.5</sub>), 2010 Nitrogen Dioxide (NO<sub>2</sub>), 2010 Sulfur Dioxide (SO<sub>2</sub>), and 2008 8-hour Ozone National Ambient Air Quality Standards (NAAQS) to full approvals.

**DATES:** 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-2018-

0073 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).

**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 South Carolina, 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

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<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 South Carolina, 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.

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, EPA finalized a limited disapproval of South Carolina’s regional haze plan on June 7, 2012 (77 FR 33642), and in the same action, promulgated a FIP to replace reliance on CAIR with reliance on CSAPR to address the deficiencies in South Carolina’s regional haze plan. EPA finalized a limited approval of South Carolina’s regional haze plan on June 28, 2012 (77 FR 38509), as meeting the remaining applicable regional haze requirements set forth in the CAA and the RHR.

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

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<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.

promulgated this amendment, numerous states covered by CSAPR have come to rely on the provision through either SIPs or FIPs.<sup>3</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, South Carolina, 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

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<sup>3</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 (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.

criteria for an alternative to the application of source-specific BART.<sup>4</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>5</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.

A portion of South Carolina's September 5, 2017, SIP submittal seeks to correct the deficiencies identified in the June 7, 2012, limited disapproval of its regional haze plan submitted on December 17, 2007, by replacing reliance on CAIR with reliance on CSAPR.<sup>6</sup> EPA is proposing to approve South Carolina's request that EPA amend the State's regional haze plan by replacing its reliance on CAIR with CSAPR. EPA is proposing to approve the regional haze portion of the SIP submittal and amend the SIP accordingly.

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<sup>4</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>5</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>6</sup> On October 13, 2017 (82 FR 47936), EPA approved the portions of the September 5, 2017, SIP submission incorporating into South Carolina's SIP the State's regulations requiring South Carolina EGUs to participate in CSAPR state trading programs for annual NO<sub>x</sub> and SO<sub>2</sub> emissions integrated with the CSAPR federal trading programs and thus replacing the corresponding FIP requirements. In the October 13, 2017, action, EPA did not take any action regarding South Carolina's request in this September 5, 2017, SIP submission to revise the State's regional haze plan nor regarding the prong 4 element of the 2008 8-hour ozone, 2010 1-hour NO<sub>2</sub>, 2010 1-hour SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS.

## **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 South Carolina's infrastructure SIP submissions for the 2008 8-hour Ozone, 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 notice.<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 notices 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 99<sup>th</sup> 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. South Carolina submitted an infrastructure SIP submission for the 2010 1-hour SO<sub>2</sub>

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<sup>7</sup> On August 22, 2016, EPA conditionally approved the prong 4 portions of South Carolina's July 17, 2012, 2008 8-hour Ozone submission; April 30, 2014, 2010 1-hour NO<sub>2</sub> submission; May 8, 2014, 2010 1-hour SO<sub>2</sub> submission; and December 18, 2015, 2012 annual PM<sub>2.5</sub> NAAQS submission. *See* 81 FR 56512. The notice of final rulemaking for the conditional approval inadvertently identified the date of South Carolina's infrastructure SIP for the 2008 8-hour ozone NAAQS as July 17, 2008, rather than the correct date of July 17, 2012, presented in the notice of proposed rulemaking (81 FR 36842 (June 8, 2016)).

NAAQS on May 8, 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. South Carolina submitted an infrastructure SIP submission for the 2010 1-hour NO<sub>2</sub> NAAQS on April 30, 2014. This proposed action only addresses the prong 4 element of this 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 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. South Carolina submitted an infrastructure SIP submission for the 2012 PM<sub>2.5</sub> NAAQS on December 18, 2015. This proposed action only addresses the prong 4 element of that submission.<sup>10</sup>

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<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 South Carolina's May 8, 2014, 2010 1-hour SO<sub>2</sub> infrastructure submission were addressed in a separate action. *See* 81 FR 32651 (May 24, 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 requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2, and 4), the other portions of South Carolina's April 30, 2014, 2010 1-hour NO<sub>2</sub> infrastructure submission were addressed in a separate action. *See* 81 FR 63704 (September 16, 2016). EPA previously acted on the PSD elements of sections 110(a)(2)(C), prong 3 of D(i), and (J) of South Carolina's April 30, 2014, SIP submission in a separate action. *See* 80 FR 14019 (March 18, 2015). EPA acted on South Carolina's December 7, 2016, SIP submission addressing prongs 1 and 2 for the 2010 NO<sub>2</sub> NAAQS in a separate action. *See* 82 FR 45995 (October 3, 2017).

<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 South Carolina's December 18, 2015, PM<sub>2.5</sub> infrastructure submission were addressed in a separate action. *See* 82 FR 16930 (April 7, 2017). No action has been taken with respect to prongs 1 and 2 for the 2012 annual PM<sub>2.5</sub> NAAQS.

#### 4. 2008 8-hour Ozone NAAQS

On March 12, 2008, EPA revised the 8-hour Ozone NAAQS to 0.075 parts per million. *See* 73 FR 16436 (March 27, 2008). States were required to submit infrastructure SIP submissions for the 2008 8-hour Ozone NAAQS to EPA no later than March 12, 2011. South Carolina submitted an infrastructure SIP for the 2008 8-hour Ozone NAAQS on July 17, 2012. This proposed action only addresses the prong 4 element of that submission.<sup>11</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>12</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

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<sup>11</sup> With the exception of the PSD permitting requirements for major sources of sections 110(a)(2)(C) and (J), the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1 through 4), and the visibility requirements of section 110(a)(2)(J), the other portions of South Carolina's July 17, 2012, 2008 ozone infrastructure SIP submission were addressed in a separate action. *See* 80 FR 11136 (March 2, 2015). EPA subsequently acted on the PSD elements of sections 110(a)(2)(C), prong 3 of D(i), and (J) of South Carolina's July 17, 2012, SIP submission in a separate action. *See* 80 FR 14019 (March 18, 2015).

<sup>12</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.

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 South Carolina Addressed Prong 4 and Regional Haze?**

South Carolina's July 17, 2012, 2008 8-hour Ozone submission; April 30, 2014, 2010 1-hour NO<sub>2</sub> submission; May 8, 2014, 2010 1-hour SO<sub>2</sub> submission; and December 18, 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.<sup>13</sup> However, EPA has not fully approved South Carolina's regional haze plan, as the Agency issued a limited disapproval of the State's original regional haze plan on June 7, 2012, due to its reliance on CAIR.

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<sup>13</sup> The April 30, 2014, 2010 1-hour NO<sub>2</sub> submission; May 8, 2014, 2010 1-hour SO<sub>2</sub> submission; and December 18, 2015, 2012 annual PM<sub>2.5</sub> submission also cite to the State's December 2012 regional haze progress report.

On April 19, 2016, South Carolina submitted a commitment letter to EPA to submit a SIP revision that adopts provisions for participation in the CSAPR annual NO<sub>x</sub> and annual SO<sub>2</sub> trading programs, including annual NO<sub>x</sub> and annual SO<sub>2</sub> budgets that are at least as stringent as the budgets codified for South Carolina, and revises its regional haze plan to replace reliance on CAIR with CSAPR for certain regional haze provisions. In its letter, South Carolina 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 August 22, 2016 (81 FR 56512), EPA conditionally approved the prong 4 portion of South Carolina's infrastructure SIP submissions for the 2008 8-hour Ozone, 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 April 19, 2016, commitment letter, South Carolina submitted a SIP revision on September 5, 2017, to adopt provisions for participation in the CSAPR annual NO<sub>x</sub> and annual SO<sub>2</sub> trading programs and to replace reliance on CAIR with reliance on CSAPR for certain regional haze provisions. As noted above, EPA approved the portion of South Carolina's September 5, 2017, SIP revision adopting CSAPR. *See* 82 FR 47936 (October 13, 2017).

EPA is proposing to approve the regional haze portion of the State's September 5, 2017, SIP revision replacing reliance on CAIR with CSAPR, and to convert EPA's previous action on South Carolina's regional haze plan from a limited approval/limited disapproval to a full approval because final approval of this portion 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 the regional haze portion of South Carolina's September 5, 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 South Carolina which replaced reliance on CAIR with reliance on CSAPR to address the deficiencies identified in the limited disapproval of South Carolina'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 South Carolina's July 17, 2012, 2008 8-hour Ozone submission; April 30, 2014, 2010 1-hour NO<sub>2</sub> submission; May 8, 2014, 2010 1-hour SO<sub>2</sub> submission; and December 18, 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 the regional haze plan portion of South Carolina's September 5, 2017, SIP submission to change reliance from CAIR to CSAPR; 2) convert EPA's limited approval/limited disapproval of South Carolina's December 17, 2007, regional haze plan to a full approval; 3) remove EPA's FIP for South Carolina which replaced reliance on CAIR with reliance on CSAPR to address the deficiencies identified in the limited disapproval of South Carolina's regional haze plan; and 4) convert EPA's September 26, 2016, conditional approvals to full approvals of the prong 4 portion of South Carolina's July 17, 2012, 2008 8-hour Ozone submission; April 30, 2014, 2010 1-hour NO<sub>2</sub> submission; May 8, 2014, 2010 1-hour SO<sub>2</sub> submission; and December 18, 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. Accordingly, these proposed 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);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because SIP approvals are exempted 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 (Public Law 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).

In addition, these proposed actions for South Carolina do not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) because they do not have substantial direct effects on an Indian Tribe. The Catawba Indian Nation Reservation is located within the boundary of York County, South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27-16-120, “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” However, EPA has determined that this proposed rule does not have substantial direct effects on an Indian Tribe because, as it relates to prong 4, this proposed action is not approving any specific rule, but rather proposing to determine that South Carolina’s already approved SIP meets certain CAA requirements. As it relates to the regional haze SIP, the proposal to replace reliance on CAIR with reliance on CSAPR has no substantial direct effects because the reliance on CSAPR for regional haze purposes in South Carolina already existed through a FIP. EPA notes that these proposed actions will not 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: May 18, 2018.

Onis “Trey” Glenn, III  
Regional Administrator,  
Region 4.

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