



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

**[EPA-R05-OAR-2019-0394; FRL-9999-96-Region 5]**

**Designation of Areas for Air Quality Planning Purposes; Ohio;**

**Redesignation of the Ohio Portion of the Steubenville Sulfur**

**Dioxide Nonattainment Area**

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

**ACTION:** Proposed rule.

**SUMMARY:** In accordance with the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is proposing to redesignate the Ohio portion of the Steubenville Ohio-West Virginia interstate sulfur dioxide (SO<sub>2</sub>) nonattainment area (Steubenville nonattainment area) from nonattainment to attainment. EPA is also proposing to approve Ohio's maintenance plan. Emissions of SO<sub>2</sub> in the area have been reduced and the air quality in the nonattainment area is currently well below the SO<sub>2</sub> national ambient air quality standard (NAAQS).

**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-R05-OAR-2019-0394 at <http://www.regulations.gov> or via email to [Blakley.pamela@epa.gov](mailto:Blakley.pamela@epa.gov). For comments submitted at

Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, 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, please contact the person identified in the "For Further Information Contact" section. For 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:** Mary Portanova, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-5954, [portanova.mary@epa.gov](mailto:portanova.mary@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background and redesignation requirements
- II. Relationship between this rulemaking and the nonattainment plan rulemaking
- III. Determination of attainment
- IV. Approval of Ohio's SIP
- V. Permanent and enforceable emission reductions
- VI. Requirements for the area under section 110 and part D
- VII. Maintenance plan
- VIII. What action is EPA taking?
- IX. Statutory and Executive Order reviews.

**I. Background and redesignation requirements**

In 2010, EPA established a revised primary SO<sub>2</sub> NAAQS of 75 parts per billion (ppb) (75 FR 35520, June 22, 2010). EPA designated the Steubenville nonattainment area as nonattainment for the 2010 SO<sub>2</sub> NAAQS on August 5, 2013 (78 FR 47191), based upon air quality monitoring data for calendar years 2009–2011. The Steubenville nonattainment area is comprised of a portion of Jefferson County, Ohio and a portion of Brooke County, West Virginia. The Ohio portion of the nonattainment area includes

Cross Creek Township, Steubenville Township, Warren Township, Wells Township, and Steubenville City in Jefferson County. The West Virginia portion of the nonattainment area is the Cross Creek Tax District in Brooke County.

Ohio and West Virginia were required to prepare nonattainment State Implementation Plans (SIPs) that would provide for attainment of the SO<sub>2</sub> NAAQS in the Steubenville nonattainment area by the SO<sub>2</sub> attainment date of October 4, 2018. The plans must also meet the additional requirements of sections 172(c) and 191-192 of the CAA. Ohio submitted its nonattainment SIP on April 3, 2015, and supplemented it on October 13, 2015, March 13, 2017, March 25, 2019, and June 25, 2019. EPA proposed to approve the nonattainment plans from Ohio and West Virginia on June 24, 2019 (84 FR 29456). Ohio submitted its request to redesignate the Ohio portion of the Steubenville nonattainment area on June 25, 2019.

Under CAA section 107(d)(3)(E), five criteria must be met before a nonattainment area may be redesignated to attainment. Although the Steubenville nonattainment area includes portions in two states, today's action only proposes to redesignate the Ohio portion of this area.

The following identifies the interpretation EPA is applying as to the extent to which these criteria must be met in the full

two-state area or only in Ohio. EPA anticipates a separate redesignation request from West Virginia, addressing the West Virginia portion of the area, which EPA anticipates evaluating using similar criteria. The criteria are that:

1. EPA has determined that the relevant NAAQS has been attained in the area. In this rulemaking, EPA is evaluating whether the entire two-state area is attaining the SO<sub>2</sub> NAAQS.
2. The applicable implementation plan has been fully approved by EPA under section 110(k). In this rulemaking, EPA is evaluating redesignation for the Ohio portion of the area on the basis of whether Ohio's applicable implementation plan has been fully approved.
3. EPA has determined that improvement in air quality is due to permanent and enforceable reductions in emissions resulting from the SIP, Federal regulations, and other permanent and enforceable reductions. In this rulemaking, EPA is evaluating this criterion on a two-state area-wide basis.
4. EPA has determined that the state has met all applicable requirements for the area under section 110 and part D. In this rulemaking, EPA is evaluating redesignation for the Ohio portion of the area on the basis of whether Ohio has

met all applicable requirements.

5. EPA has fully approved a maintenance plan, including a contingency plan, for the area under section 175A of the CAA. In this rulemaking, EPA is evaluating whether Ohio's maintenance plan provides for its share of actions to assure maintenance in the two-state area.

## **II. Relationship between this rulemaking and the nonattainment plan rulemaking**

Some of the criteria for today's proposed redesignation are met by elements of the Ohio and West Virginia nonattainment plans. In particular, part of the evidence that the area is attaining the SO<sub>2</sub> NAAQS is based on modeling included in the two states' nonattainment plans; the limits that assure the permanence and enforceability of the air quality improvement in the area were submitted as part of the nonattainment plans; and EPA's evaluations of whether the applicable Ohio implementation plan is fully approved and whether Ohio has met the applicable planning requirements are predicated on completion of the proposed rulemaking on Ohio's nonattainment plan.

As noted above, EPA proposed to approve the Ohio and West Virginia nonattainment plans on June 24, 2019, at 84 FR 29456. Today's rulemaking does not reevaluate any portion of that rulemaking. Thus, for example, today's rulemaking does not

solicit any additional comments on the modeling in the two states' nonattainment plans, on the adequacy of the limits in those plans for assuring attainment, or generally on whether those plans warrant being approved. Comments on these topics are germane to the nonattainment plan rulemaking and were solicited in that rulemaking. EPA received no such comments, and EPA is addressing these topics in the context of that rulemaking. EPA's proposed rulemaking on Ohio's redesignation request is based on a premise that EPA will issue final rulemaking approving the Ohio and West Virginia plans, as proposed on June 24, 2019. EPA will finalize this proposed redesignation of the Ohio portion of the Steubenville nonattainment area only if and only after EPA has published final approval of the Ohio and West Virginia nonattainment plans.

### **III. Determination of attainment**

The first requirement for redesignation is to demonstrate that the NAAQS has been attained in the area. As stated in EPA's April 2014 "Guidance for 1-Hour SO<sub>2</sub> Nonattainment Area SIP Submissions," for SO<sub>2</sub>, there are two components needed to support an attainment determination: a review of representative air quality monitoring data and a further analysis, generally requiring air quality modeling, to demonstrate that the entire

area is attaining the applicable NAAQS, based on current actual emissions or the fully implemented control strategy. Ohio has addressed both components.

Under EPA regulations at 40 CFR 50.17, the SO<sub>2</sub> NAAQS is met at an ambient air quality monitoring site when the three-year average of the annual 99th percentile of one-hour daily maximum concentrations is less than or equal to 75 ppb, as determined in accordance with appendix T of 40 CFR part 50 at all relevant monitoring sites in the subject area. EPA has reviewed the ambient air monitoring data for the Steubenville nonattainment area. Monitoring data for the area includes three SO<sub>2</sub> monitoring sites in Jefferson County, Ohio and three SO<sub>2</sub> monitoring sites in Brooke County, West Virginia. The data from these monitors have been certified and recorded in EPA's Air Quality System database. Ohio and West Virginia have committed to continue monitoring for SO<sub>2</sub> at these locations. EPA's review addresses air quality data collected through 2018, which includes the most recent three years of complete, quality-assured data.

Table 1 shows the 99<sup>th</sup> percentile results and three-year average design values for the Steubenville nonattainment area monitors for 2016-2018, which are the most recent three years of complete, quality-assured data. The overall 2016-2018 design value for the Steubenville nonattainment area is 37 ppb, which

is below the 2010 SO<sub>2</sub> NAAQS of 75 ppb. This design value, which was measured at the Weirton-Marland Heights monitor 54-009-0011, in Brooke County, West Virginia, represents the highest monitored design value in the Steubenville nonattainment area. Therefore, Ohio has demonstrated that the Steubenville nonattainment area's SO<sub>2</sub> monitors currently show attainment of the 2010 SO<sub>2</sub> NAAQS. For every 3-year period since the 2013-2015 design value period, all six monitors have had design values below the 2010 SO<sub>2</sub> NAAQS. Preliminary monitoring data for 2019 indicate that the area is continuing to attain the 2010 SO<sub>2</sub> NAAQS.

**Table 1. Monitoring data for the Steubenville nonattainment area for 2016-2018.**

Site ID	Location	Year and 99 <sup>th</sup> percentile value (ppb)			Design Value: Average 2016-2018 (ppb)
		2016	2017	2018	
39-081-0017	Jefferson County, OH	27	18	34	26
39-081-0018	Jefferson County, OH	31	34	9	25
39-081-0020	Jefferson County, OH	20	13	8	14
54-009-0005	Brooke County, WV	33	28	48	36
54-009-0007	Brooke County, WV	39	23	24	29
54-009-0011	Brooke County, WV	49	27	35	<b>37</b>

The states also submitted an analysis demonstrating that

the area's control strategy will provide for attainment of the SO<sub>2</sub> NAAQS in the entire area. Ohio and West Virginia developed a joint attainment demonstration using a dispersion modeling analysis. Ohio provided this attainment demonstration in its March 25, 2019 submittal. The March 25, 2019 analysis showed that revised SO<sub>2</sub> emission limits at four SO<sub>2</sub> sources in the Steubenville nonattainment area will provide for attainment. Ohio has confirmed that the modeled facilities are currently in full compliance with their emission limits. Current actual emissions at these facilities are therefore at or below the levels Ohio used in its modeling analysis. The modeling analysis was discussed in detail in the June 24, 2019 (84 FR 29456) notice of proposed rulemaking for the Steubenville SO<sub>2</sub> nonattainment SIPs. Since this modeling shows that compliance with the emission limits in the states' plans yields attainment in the entire nonattainment area, and since the sources are complying with these limits, this modeling supports EPA's proposed conclusion that the two-state area is attaining the SO<sub>2</sub> NAAQS. EPA's proposed conclusion is based on the premise that EPA will issue final rulemaking approving the Ohio and West Virginia plans, including the associated modeling analysis, as proposed on June 24, 2019.

#### **IV. Approval of Ohio's SIP**

On June 24, 2019, EPA proposed to approve Ohio's nonattainment SIP for Jefferson County, including emission limits which were demonstrated to provide for attainment in Jefferson County. In that action, EPA also proposed to find that Ohio had satisfied requirements for providing for attainment of the SO<sub>2</sub> NAAQS in the Steubenville nonattainment area. Ohio has adopted its SO<sub>2</sub> SIP regulations, including those which cover Jefferson County, at Ohio Administrative Code 3745-18, and Ohio has shown that it maintains an active enforcement program to ensure ongoing compliance. Ohio's new source review/prevention of significant deterioration program will address emissions from new sources. Therefore, EPA proposes to conclude that this redesignation criterion has been met by Ohio. EPA's proposed conclusion is based on the premise that EPA will issue final rulemaking approving Ohio's plan and emission limits as proposed on June 24, 2019.

#### **V. Permanent and enforceable emission reductions**

For an area to be redesignated, the state must be able to reasonably attribute the improvement in air quality to emission reductions which are permanent and enforceable. The primary sources in the Steubenville nonattainment area are the Cardinal Power Plant (Cardinal), located in Brilliant, Ohio; the JSW

Steel USA Ohio facility, formerly Wheeling-Pittsburgh Steel, formerly Mingo Junction Steel Works (JSW Steel), in Mingo Junction, Ohio; the Mingo Junction Energy Center, also in Mingo Junction, Ohio; and Mountain State Carbon, in Follansbee, West Virginia.

These facilities have all significantly reduced emissions since the time the area was monitoring violations, and these emission reductions have been made permanent and enforceable by the limits that Ohio and West Virginia adopted and submitted in their respective SIP submittals. Cardinal implemented flue gas desulfurization (FGD) between 2010 and 2012, resulting in a reduction of SO<sub>2</sub> emissions from 32,500 tons in 2010 to 9,700 tons in 2018, a reduction that Ohio's limit requires to be maintained. The JSW Steel facility has been closed for several years. Ohio considered its previous allowable emissions in developing revised emission limits for the facility which would still provide for attainment in the Steubenville nonattainment area. In 2018, JSW Steel began to resume some operations, but Ohio's revised emission limits require that SO<sub>2</sub> emissions from this facility must remain at levels which were set to provide for attainment and maintenance of the SO<sub>2</sub> NAAQS. Mingo Junction Energy Center has also shut down, but Ohio considered that facility's previous allowable emissions in developing revised

emission limits and fuel restrictions for the facility which would still provide for attainment. If the Mingo Junction Energy Center restarts, it must meet Ohio's revised emission limits which were set to provide for attainment and maintenance of the SO<sub>2</sub> NAAQS. Mountain State Carbon has improved its coke oven gas desulfurization equipment to reduce its emissions, as mandated by West Virginia's emission limits and work practice requirements.

At the time of Steubenville's nonattainment designation, the monitored design values (2009-2011) in the area were 109 ppb at the Jefferson County monitor 39-081-0017 and 174 ppb at the Brooke County, West Virginia monitor 54-009-0011. More recent monitoring data indicate that ambient SO<sub>2</sub> levels have improved significantly. The highest monitored design value for the Steubenville nonattainment area for 2016-2018 is 37 ppb. This value was measured at monitor 54-009-0011 in Brooke County, West Virginia. The highest monitored design value for 2016-2018 in the Ohio portion of the Steubenville nonattainment area was 26 ppb, at the Jefferson County monitor 39-081-0017. These monitored values are well below the SO<sub>2</sub> NAAQS of 75 ppb. This air quality improvement is attributable to the substantial emission reductions noted above, which the Ohio and West Virginia nonattainment plans require to be permanent and

enforceable. Thus, EPA proposes to find that the improvement in air quality in the Steubenville nonattainment area can be attributed to permanent and enforceable emission reductions at facilities in Ohio and West Virginia.

#### **VI. Requirements for the area under section 110 and part D**

Ohio has submitted information demonstrating that it meets the requirements of the CAA for the Steubenville nonattainment area. EPA approved Ohio's June 7, 2013 infrastructure SIP for SO<sub>2</sub> on August 14, 2015 (80 FR 48733). This infrastructure SIP approval confirms that Ohio's SIP meets the requirements of CAA section 110(a)(1) and 110(a)(2) to contain the basic program elements, such as an active enforcement program and permitting program.

Section 191 of the CAA requires Ohio to submit a part D SIP for the its portion of the Steubenville nonattainment area by April 4, 2015. Ohio submitted its part D SIP on April 3, 2015, and supplemented it on October 13, 2015, March 13, 2017, March 25, 2019, and June 25, 2019. The SIP included a demonstration of attainment and revised SO<sub>2</sub> emission limits. EPA proposed to approve the Steubenville nonattainment area SO<sub>2</sub> nonattainment plans from Ohio and West Virginia on June 24, 2019 (84 FR 29456). In its proposed rulemaking, EPA proposed to find that Ohio satisfied the various requirements under CAA section 110

and part D for the Steubenville nonattainment area, such as the requirements for an attainment inventory of the SO<sub>2</sub> emissions from sources in the nonattainment area (required under section 173(c)(3)), reasonably available control measures (required under section 173(c)(1)), and reasonable further progress (required under section 173(c)(2)).

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement, and enforceability that EPA promulgated pursuant to its authority under the CAA. On August 20, 2014, Ohio submitted documentation establishing transportation conformity procedures in its SIP. EPA approved these procedures on March 2, 2015 (80 FR 11133).

Based on the above, EPA is proposing to find that Ohio has

satisfied the applicable requirements for the redesignation of its portion of the Steubenville nonattainment area under section 110 and part D of title I of the CAA.

#### **VII. Maintenance plan**

CAA section 175A sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the nonattainment area is redesignated to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the ten years following the initial ten-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to assure prompt correction of any future one-hour violations. Specifically, the maintenance plan should address five requirements: the attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. Ohio's June 25, 2019 redesignation request contains its maintenance plan, which Ohio has committed to review eight years after redesignation.

Ohio submitted an attainment emission inventory which

addresses the Steubenville nonattainment area's 2011 base year emissions of 26,289 tons per year (tpy) and projections of future emissions, for point, area, and mobile sources. While the attainment date for the Steubenville nonattainment area was October 4, 2018, Ohio selected 2014 as the attainment year for its June 25, 2019 maintenance plan emission inventory, because 2014 was one of the years contributing to the 2014-2016 and 2015-2017 design values which demonstrated the achievement of attainment of the SO<sub>2</sub> NAAQS in the Steubenville nonattainment area. The 2014 attainment year also corresponds to the year when the improvement in air quality leading to attainment (subsequently made permanent and enforceable by the Ohio and West Virginia plans) occurred due to Cardinal's installation of the FGD system for its only remaining uncontrolled unit (operating beginning in 2012), the ceasing of operations at the Mingo Junction Energy Center (last operated in 2012), and the enforceable emission reduction measures at Mountain State Carbon (discussed in greater detail in West Virginia's SIP submittal). Total SO<sub>2</sub> emissions in the Steubenville nonattainment area for the attainment year were 11,336 tpy (10,722 tpy from Ohio sources).

Ohio projected SO<sub>2</sub> emissions for an interim future year, 2023, and for the maintenance year, 2030. Ohio projected that

total SO<sub>2</sub> emissions in the Steubenville nonattainment area in the maintenance year would drop to 10,382 tpy, with 9,858 tpy from Ohio sources.

Ohio's maintenance demonstration consists of the nonattainment SIP air quality analysis which demonstrated that the emission reductions in effect in the Steubenville nonattainment area will provide for attainment of the SO<sub>2</sub> NAAQS. The permanent and enforceable SO<sub>2</sub> emission reductions described above ensure that Jefferson County emissions will be equal to or less than the emission levels which were evaluated in the air quality analysis, and Ohio's enforcement program will ensure that the Jefferson County SO<sub>2</sub> emission limits are met continuously.

For continuing verification, Ohio has committed to track the SO<sub>2</sub> emissions and compliance status of the facilities in Jefferson County so that future emissions will not exceed the attainment inventory. All major sources in Ohio are required to submit annual emissions data, which the state uses to update its emission inventories as required by the CAA. Ohio has also committed to continue ambient SO<sub>2</sub> monitoring in Jefferson County to verify attainment of the SO<sub>2</sub> NAAQS.

The requirement to submit contingency measures in accordance with section 172(c)(9) can be adequately addressed

for SO<sub>2</sub> by the operation of a comprehensive enforcement program which can quickly identify and address sources that might be causing exceedances of the NAAQS level. Ohio's enforcement program is active and capable of prompt action to remedy compliance issues or NAAQS exceedances. Ohio's June 25, 2019 redesignation request submittal discusses the state's plan to respond to increasing SO<sub>2</sub> concentrations or new exceedances of the SO<sub>2</sub> NAAQS in the maintenance area. Ohio commits to study SO<sub>2</sub> emission trends and identify areas of concern and potential additional measures, particularly if an annual average 99<sup>th</sup> percentile maximum daily one-hour SO<sub>2</sub> concentration of 79 ppb or greater occurs. In the case of a two-year average greater than 75 ppb occurring in the maintenance area, Ohio will consider additional control measures which can be implemented quickly. Ohio has the authority to expeditiously adopt, implement and enforce any subsequent emissions control measures deemed necessary to correct any future SO<sub>2</sub> violations. Ohio commits to adopt and implement such corrective actions as necessary to address trends of increasing emissions or ambient impacts. The public will have the opportunity to participate in the contingency measure implementation process.

Based on the above, EPA proposes to find that Ohio has addressed the contingency measure requirement. Further, EPA

proposes to find that Ohio's maintenance plan adequately addresses the five basic components necessary to maintain the SO<sub>2</sub> NAAQS in the Steubenville nonattainment area.

**VIII. What action is EPA taking?**

In accordance with Ohio's June 25, 2019 request, EPA is proposing to redesignate the Ohio portion of the Steubenville nonattainment area from nonattainment to attainment of the SO<sub>2</sub> NAAQS. The Ohio portion of the nonattainment area includes Cross Creek Township, Steubenville Township, Warren Township, Wells Township, and Steubenville City in Jefferson County. Ohio has demonstrated that this area is attaining the SO<sub>2</sub> NAAQS, and that the improvement in air quality is due to permanent and enforceable SO<sub>2</sub> emission reductions in the nonattainment area. EPA is also proposing to approve Ohio's maintenance plan, which is designed to ensure that the Steubenville nonattainment area will continue to maintain the SO<sub>2</sub> NAAQS.

As noted previously, EPA is conducting separate rulemaking on whether the Ohio and West Virginia nonattainment plans provide for attainment and meet other applicable planning requirements. That rulemaking addresses, for example, the merits of modeling indicating that compliance with emission limits in the plans yields attainment of the SO<sub>2</sub> NAAQS throughout the area. The public comment period for that rulemaking has

closed, and EPA is evaluating the comments it received. Thus, EPA plans to determine the adequacy of the nonattainment plan in the context of the nonattainment plan rulemaking and not in the context of today's rulemaking. Today's rulemaking does not prejudge the outcome of that separate rulemaking. Nevertheless, today's rulemaking is premised on completion of the nonattainment plan rulemaking, approving the states' plans.

EPA will publish final action on today's proposed redesignation only if, and only after, it publishes final approval of the nonattainment plans, and EPA will reevaluate action on Ohio's redesignation request if EPA concludes either that the Ohio and West Virginia plans cannot be approved or that reevaluation of these plans is necessary.

#### **IX. Statutory and Executive Order reviews.**

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is

required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 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 action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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 (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 and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

**List of Subjects**

*40 CFR Part 52*

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

*40 CFR Part 81*

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: September 5, 2019.

Cheryl L Newton,  
Acting Regional Administrator, Region 5.

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