



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R06-OAR-2013-0465; FRL-12681-02-R6]**

### **Air Plan Approval; Louisiana; Interstate Transport Requirements for the 2010 SO<sub>2</sub> NAAQS**

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

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving the portion of the State Implementation Plan (SIP) submittal from the State of Louisiana demonstrating that the State satisfies the interstate transport requirements of section 110(a)(2)(D)(i)(I), also known as the “good neighbor” provision of the CAA, for the 2010 1-hour sulfur dioxide (SO<sub>2</sub>) primary National Ambient Air Quality Standard (NAAQS). The good neighbor provision requires each State's implementation plan to include adequate provisions prohibiting the interstate transport of air pollution in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of a NAAQS in any other State.

**DATES:** This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2013-0465. All documents in the docket are listed on the <https://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted

material, is not placed on the Internet. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Nevine Salem, EPA Region 6 Office, Ozone and Infrastructure SIP Section, 214-665-7222, [salem.nevine@epa.gov](mailto:salem.nevine@epa.gov). Please call or e-mail the contact listed above if you need alternative access to material indexed but not provided in the docket.

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” means the EPA.

## **I. Background**

Section 110(a)(2)(D)(i)(I) of the CAA requires a State’s SIP to include provisions prohibiting any source or other type of emission activity in the State from emitting any air pollutant in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in any other State. EPA has long interpreted this language to enact a “functional prohibition” on certain emission from upwind states, necessitating the EPA’s independent assessment whether those emissions will occur or have been adequately controlled in the State where they originate.<sup>1</sup> The EPA often refers to these requirements as Prong 1 (significant contribution to nonattainment of the NAAQS) and Prong 2 (interference with maintenance of the NAAQS).

On June 4, 2013, the State of Louisiana submitted to the EPA a SIP revision to address the requirements of CAA section 110(a)(1) and (2), including section 110(a)(2)(D)(i)(I) for the 2010 SO<sub>2</sub> NAAQS. A copy of the submittal is in the docket for this action. Other portions of this SIP revision were addressed in 81 FR 68322 (October 4, 2016).

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<sup>1</sup> See *Genon Rema LLC v. EPA*, 722 F. 3d 513, 520-24 (3d Cir. 2013); *Appalachian Power Co. v. EPA*, 249 F. 2d 1032, 1045-47 (D.C. Cir. 2001); see also 71 FR 25328, 25335 (April 28, 2006) (explaining that the SIP/FIP process under section 110 and the petitioning process for direct Federal regulation under section 126 provide independent means of effectuating the same “functional prohibition” found CAA section 110(a)(2)(D)(i)(I)).

The EPA proposed to approve Prong 1 and Prong 2 portions of the infrastructure SIP submission submitted by the State of Louisiana on June 4, 2013, addressing interstate transport for the 2010 1-hour SO<sub>2</sub> NAAQS. The details of the SIP revision and rationale for the EPA's action is explained in the April 9, 2025 (90 FR 15213), notice of proposed rulemaking (NPRM).<sup>2</sup>

The EPA provided a 30-day review and comment period for the April 9, 2025, proposed rulemaking. The comment period ended on May 9, 2025. We received three relevant comments in favor/support of our proposed action, one from the Louisiana Public Service Commission, one from an anonymous commentor, and one from a citizen. EPA appreciates the comments. See section II of this preamble for a brief discussion of the comments. A full copy of the comments is included in the docket for this rule.

## **II. Response to Comments**

*Comment:* The Louisiana Public Service Commission (LPSC) submitted a comment letter on May 9, 2025, to request the EPA to consider finalizing the NPRM. The LPSC stated that the rulemaking supports cooperative federalism, preserves the LPSC's authority to regulate retail electric rates and services, and avoids the reliability and cost challenges associated with Federal mandates.

*Response:* We appreciate the LPSC's comments supporting the EPA's rulemaking.

*Comment:* An anonymous public comment was received on April 14, 2025, that supports the EPA's NPRM. The commentor recognized the environmental and health impacts associated with SO<sub>2</sub> emissions and encouraged the EPA to proceed with this regulation.

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<sup>2</sup> Additional details regarding EPA's review of updated available data, weight of evidence analysis approach and evaluation are provided in the Technical Support Document (TSD) available in the docket supporting this final action.

*Response:* EPA appreciates the comments of support. EPA is committed to successful implementation of CAA required NAAQS standards.

*Comment:* A citizen submitted a comment on April 16, 2025, to express an appreciation of the benefits that America receives from the CAA and its regulatory requirements. The citizen expressed concerns with actions that would reduce regulations such as the “Good Neighbor Plan”. The commentor stated that the elimination of the Good Neighbor plan would result in a deterioration in air quality and citizens health.

*Response:* EPA acknowledges the citizen’s concerns, we are committed to protecting the air quality, environment and human health through implementation of various regulations and programs, and it should be noted that this action was taken under the “Good Neighbor Plan.”

### **III. Final Action**

The EPA is approving the portions of the Louisiana’s June 4, 2013, SIP that address two of the interstate transport requirements for the 2010 1-hour SO<sub>2</sub> NAAQS, prong 1 and prong 2, as these portions meet the requirements in CAA section 110 and specifically in 110(a)(2)(D)(i)(I). EPA determines that the Louisiana SIP contains adequate provisions to ensure that the air emissions in the state will not significantly contribute to nonattainment or interfere with maintenance of the 2010 SO<sub>2</sub> NAAQS in any other state. This action is being taken under section 110 of the Act.

### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because State Implementation Plan approvals under the CAA are exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has

jurisdiction. In those areas of Indian country, the proposed 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).

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Incorporation by reference, Interstate transport of pollution, Sulfur oxide.

**Dated:** June 26, 2025.

**Walter Mason**  
*Regional Administrator, Region 6.*

For the reasons stated in the preamble, the Environmental Protection Agency amends 40

CFR part 52 as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION  
PLANS**

1. The authority citation for part 52 continues to read as follows:

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

**Subpart T— Louisiana**

2. In § 52.970(e), the second table titled “EPA Approved Louisiana Nonregulatory Provisions and Quasi-Regulatory Measures” is amended by adding the entry “Interstate Transport for the 2010 SO<sub>2</sub> NAAQS (contribute to nonattainment or interfere with maintenance)” at the end of the table to read as follows:

**§52.970 Identification of plan.**

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(e) \* \* \*

**EPA APPROVED LOUISIANA NONREGULATORY PROVISIONS AND QUASI-REGULATORY  
MEASURES**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
* * *	* *	* *		
Interstate transport for the 2010 SO <sub>2</sub> NAAQS (contribute to nonattainment or interfere with maintenance)	Statewide	06/04/2013	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], 90 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]	Adequate provisions prohibiting emissions which will contribute significantly to nonattainment in or interfere with maintenance of the 2010 SO <sub>2</sub> NAAQS

				in any other State.
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