

(b) Tolls established by agreement between Canada and the United States, and known as the *St. Lawrence Seaway Schedule of Tolls*, shall be paid by pleasure crafts with prepaid tickets purchased in Canadian funds using credit card ticket dispensers located at pleasure craft docks or Paypal on the Seaway Web site. At U.S. locks, the toll is paid in U.S. funds or the pre-established equivalent in Canadian funds or through payment via Pay.gov on the Seaway Web site.

\* \* \* \* \*

(d) Vessel representatives with past due toll accounts, unpaid after 45 days, may be subject to the suspension of preclearance for each vessel of which a preclearance has been given and/or the immediate removal of the waved security for the toll charges set in § 401.26(c) and § 401.26(d.)

■ 18. In § 401.79, add a new paragraph (b)(5) to read as follows:

**§ 401.79 Advance notice of arrival, vessels requiring inspection.**

\* \* \* \* \*

(b) \* \* \*

(5) A tall ship or vessel of an unusual design is subject to Seaway yearly inspection.

Issued at Washington, DC, on January 22, 2014. Saint Lawrence Seaway Development Corporation.

**Carrie Lavigne,**  
*Chief Counsel.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2011-0500; FRL-9905-83-Region 6]

#### Approval and Promulgation of Implementation Plans; Louisiana; Interstate Transport of Fine Particulate Matter

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a portion of a State Implementation Plan (SIP) submittal from the State of Louisiana to address Clean Air Act (CAA or Act) requirements that prohibit air emissions which will contribute significantly to nonattainment or interfere with maintenance in any other state for the 2006 fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS). EPA proposes to

determine that the existing SIP for Louisiana contains adequate provisions to prohibit air pollutant emissions from significantly contributing to nonattainment or interfering with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS (2006 PM<sub>2.5</sub> NAAQS) in any other state as required by the Act.

**DATES:** Written comments must be received on or before February 27, 2014.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2011-0500, by one of the following methods:

- *www.regulations.gov.* Follow the online instructions.

- *Email:* Mr. Carl Young at [young.carl@epa.gov](mailto:young.carl@epa.gov).

- *Mail or delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

*Instructions:* Direct your comments to Docket No. EPA-R06-OAR-2011-0500. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all

documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253.

**FOR FURTHER INFORMATION CONTACT:** Carl Young, (214) 665-6645, [young.carl@epa.gov](mailto:young.carl@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

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#### I. Background

##### A. Interstate Transport and the 2006 PM<sub>2.5</sub> NAAQS

In 2006, we established a revised 24-hour NAAQS for PM<sub>2.5</sub> of 35 micrograms per cubic meter (µg/m<sup>3</sup>) (October 17, 2006, 71 FR 6114). Section 110(a)(2)(D)(i) of the CAA identifies four distinct elements related to the evaluation of impacts of interstate transport of air pollutants with respect to a new or revised NAAQS. In this action for the state of Louisiana, we are addressing the first two elements of section 110(a)(2)(D)(i)(I) with respect to the 2006 PM<sub>2.5</sub> NAAQS.<sup>1</sup> The first element of section 110(a)(2)(D)(i)(I) requires that each SIP for a new or revised NAAQS contain adequate measures to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will "contribute significantly to nonattainment" of the NAAQS in another state. The second element of CAA section 110(a)(2)(D)(i)(I) requires that each SIP for a new or revised NAAQS prohibit any source or other type of emissions activity in the state from emitting pollutants that will "interfere with maintenance" of the applicable NAAQS in any other state.

##### B. EPA Rules Addressing Interstate Transport for the 2006 PM<sub>2.5</sub> NAAQS

EPA has addressed the requirements of section 110(a)(2)(D)(i)(I) in past

<sup>1</sup> This proposed action does not address the two elements of the transport SIP provision (in CAA section 110(a)(2)(D)(i)(II)) regarding interference with measures required to prevent significant deterioration of air quality or to protect visibility in another state.

regulatory actions.<sup>2</sup> The final Cross-State Air Pollution Rule (Transport Rule) addressed the first two elements of CAA section 110(a)(2)(D)(i)(I) in the eastern United States with respect to the 2006 24-hour PM<sub>2.5</sub> NAAQS, the 1997 annual PM<sub>2.5</sub> NAAQS, and the 1997 8-hour ozone NAAQS (August 8, 2011, 76 FR 48208). The Transport Rule was intended to replace the earlier Clean Air Interstate Rule (CAIR) which was judicially remanded.<sup>3</sup> See *North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir. 2008) modified on rehearing, 550 F.3d 1176 (D.C. Cir. 2008). On August 21, 2012, the U.S. Court of Appeals for the D.C. Circuit issued a decision vacating the Transport Rule. See *EME Homer City Generation, L.P. v. E.P.A.*, 696 F.3d 7 (D.C. Cir. 2012). The court also ordered EPA to continue implementing CAIR in the interim. On June 24, 2013, the Supreme Court granted the United States' petition for certiorari and agreed to review the D.C. Circuit's decision in *EME Homer City*. The Supreme Court held oral arguments on December 10, 2013. In the meantime, and unless the *EME Homer City* decision is reversed or otherwise modified by the Supreme Court, EPA intends to act in accordance with the D.C. Circuit opinion in *EME Homer City*.

### C. Louisiana's Submittals

On May 16, 2011, Louisiana submitted a SIP revision to address the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 PM<sub>2.5</sub> NAAQS. The submittal stated that the State had adequate provisions to prohibit air pollutant emissions from within the State that significantly contribute to nonattainment or interfere with maintenance of the 2006 PM<sub>2.5</sub> NAAQS based on Louisiana having EPA-approved CAIR SIPs requiring certain electric generating units to participate in sulfur dioxide and nitrogen oxide trading programs (72 FR 39741; 72 FR 55064). On May 21, 2013, the State submitted a letter to EPA serving as a technical supplement for

the 2006 PM<sub>2.5</sub> NAAQS. The letter stated that because the more recent and improved air quality modeling evaluating interstate transport for the 2006 PM<sub>2.5</sub> NAAQS conducted by EPA for the Transport Rule is now available and supports the conclusion that emissions in Louisiana do not significantly contribute to nonattainment or interfere with maintenance of the 2006 PM<sub>2.5</sub> NAAQS in any other State, it was being submitted as the basis for the conclusions in lieu of the previous technical information provided in the May 16, 2011 submission. The submittal and technical supplement document the State's assessments that Louisiana emissions will not contribute significantly to nonattainment, or interfere with maintenance, in any other state for the 2006 PM<sub>2.5</sub> NAAQS. The submittals and technical supplement are available electronically through the [www.regulations.gov](http://www.regulations.gov) Web site (Docket No. EPA-R06-OAR-2011-0500).

## II. EPA's Evaluation

### A. EPA's Approach for Evaluating Interstate Transport of Air Pollution

To determine whether the CAA section 110(a)(2)(D)(i)(I) requirement is satisfied, EPA must determine whether a state's emissions contribute significantly to nonattainment or interfere with maintenance in any other state. If this factual finding is in the negative, then section 110(a)(2)(D)(i)(I) does not require any changes to a state's SIP. EPA is proposing to determine that the existing SIP for Louisiana is adequate to satisfy the requirements of 110(a)(2)(D)(i)(I) of the CAA to address interstate transport requirements with regard to the 2006 PM<sub>2.5</sub> NAAQS. This proposed conclusion is based on air quality modeling originally conducted by EPA to quantify each individual eastern state's (including Louisiana's) contributions to downwind nonattainment and maintenance areas during the rulemaking process for the Transport Rule.

In the Transport Rule rulemaking, we used air quality modeling to: (1) identify locations projected to be nonattainment or have maintenance problems in 2012 for the 2006 24-hour PM<sub>2.5</sub> NAAQS (nonattainment and maintenance receptors) and (2) quantify the air

quality contributions of emissions from upwind states on downwind 24-hour PM<sub>2.5</sub> concentrations at the receptors for the 2006 24-hour PM<sub>2.5</sub> NAAQS in 2012.<sup>4</sup> As detailed in the Air Quality Modeling TSDs, we used a threshold of 1 percent of the NAAQS to identify linkages between upwind states and downwind nonattainment and maintenance receptors. With respect to the 2006 24-hour PM<sub>2.5</sub> NAAQS, our analysis for the Transport Rule found that the 1 percent threshold captures a high percentage of the total pollution transport affecting downwind states with nonattainment/maintenance receptors.<sup>5</sup> The air quality threshold used for the 2006 24-hour PM<sub>2.5</sub> NAAQS was 0.35 µg/m<sup>3</sup> (1 percent of 35.0 µg/m<sup>3</sup>). If a state's air quality contribution to downwind nonattainment/maintenance receptors in all other states did not exceed the threshold, it was concluded that its emissions do not contribute significantly to nonattainment or interfere with maintenance in another state for the NAAQS.

### B. Evaluation of the State's Submittals

EPA's evaluation confirms Louisiana's analysis provided in the SIP submittal for the State of Louisiana submitted on May 16, 2011, and the technical supplement submitted on May 21, 2013. The air quality modeling performed for the Transport Rule found that the impact from Louisiana emissions on both downwind nonattainment and maintenance receptors was less than the 1 percent threshold for the 2006 PM<sub>2.5</sub> NAAQS. EPA therefore did not find emissions from Louisiana linked to any downwind nonattainment or maintenance receptors for the 2006 24-hour PM<sub>2.5</sub> NAAQS.

Below is a summary of the air quality modeling results for Louisiana from Table IV-9 of EPA's Air Quality Modeling TSD regarding Louisiana's largest contribution to both downwind PM<sub>2.5</sub> nonattainment and maintenance areas.

<sup>2</sup> See NO<sub>x</sub> SIP Call, 63 FR 57371 (October 27, 1998); Clean Air Interstate Rule (CAIR), 70 FR 25172 (May 12, 2005); and Transport Rule or Cross-State Air Pollution Rule, 76 FR 48208 (August 8, 2011).

<sup>3</sup> CAIR addressed the 1997 annual and 24-hour PM<sub>2.5</sub> NAAQS, and the 1997 8-hour ozone NAAQS. It did not address the 2006 24-hour PM<sub>2.5</sub> NAAQS.

<sup>4</sup> See the Technical Support Documents for the Transport Rule (proposal and final) found in the [regulations.gov](http://www.regulations.gov) e-docket for this action (EPA-R06-OAR-2011-0500).

<sup>5</sup> See section IV.F (Analysis of Contributions Captured by Various Thresholds) of the Air Quality Modeling TSD.

LOUISIANA'S LARGEST CONTRIBUTION TO DOWNWIND PM<sub>2.5</sub> NONATTAINMENT AND MAINTENANCE AREAS

NAAQS	Air quality threshold (µg/m <sup>3</sup> )	Largest downwind contribution to nonattainment (µg/m <sup>3</sup> )	Largest downwind contribution to maintenance (µg/m <sup>3</sup> )
2006 24-hour PM <sub>2.5</sub> NAAQS (35 µg/m <sup>3</sup> ) .....	0.35	0.11	0.13

Based on this analysis, we propose to approve the portion of the May 16, 2011 Louisiana SIP submittal, and the technical supplement submitted on May 21, 2013, determining that the existing SIP for Louisiana contains adequate provisions to prohibit air pollutant emissions from contributing significantly to nonattainment or interfering with maintenance of the 2006 PM<sub>2.5</sub> NAAQS in any other state as required by CAA section 110(a)(2)(D)(i)(I).

We continue to believe it is appropriate to rely on the modeling conducted during the rulemaking for the Transport Rule even though the rule itself was vacated by the D.C. Circuit. *EME Homer City Generation L.P. v. EPA*, 696 F.3d 7 (D.C. Cir. 2012).<sup>6</sup> Nothing in the *EME Homer City* opinion suggests that the air quality modeling on which our proposal relies is flawed or invalid for any reason. In addition, nothing in that opinion undermines or calls into question our proposed conclusion that, because emissions from Louisiana do not contribute more than one percent of the 2006 PM<sub>2.5</sub> NAAQS to any downwind area with nonattainment or maintenance problems, Louisiana does not contribute significantly to nonattainment or interfere with maintenance in another state for this NAAQS. Further, EPA is not proposing to rely on any requirements of the Transport Rule or emission reductions associated with that rule to support its conclusion that Louisiana has met its 110(a)(2)(D)(i)(I) obligations with respect to the 2006 PM<sub>2.5</sub> NAAQS.

C. Section 110(l) of the Act

Section 110(l) of the Act prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Act. The SIP submittal from the State of Louisiana contains no new regulatory provisions and does not affect any requirement in Louisiana's applicable implementation plan. Therefore, the submission does not interfere with any applicable requirement concerning

attainment and reasonable further progress or any other applicable requirement of the Act. EPA has concluded, based on Louisiana's and EPA's technical analysis, that the existing Louisiana SIP is sufficient to meet the requirements of 110(a)(2)(D)(i)(I) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

III. Proposed Action

We are proposing to approve a portion of a SIP submittal for the State of Louisiana submitted on May 16, 2011, and the technical supplement submitted on May 21, 2013, to address interstate transport for the 2006 PM<sub>2.5</sub> NAAQS. Based on our evaluation we propose to approve the portion of the SIP submittal determining the existing SIP for Louisiana contains adequate provisions to prohibit air emissions from contributing significantly to nonattainment or interfering with maintenance of the 2006 PM<sub>2.5</sub> NAAQS in any other state as required by CAA section 110(a)(2)(D)(i)(I). 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, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is 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; 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, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: January 15, 2014.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2014-01587 Filed 1-27-14; 8:45 am]

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<sup>6</sup>On June 24, 2013, the Supreme Court granted EPA's petition for certiorari and agreed to review the D.C. Circuit's decision in *EME Homer City*.