II. Final Action

EPA is taking final action to disapprove the prong 4 portions of Mississippi’s May 29, 2012, 2008 8-hour Ozone infrastructure SIP submission; July 26, 2012, 2008 8-hour Ozone infrastructure SIP resubmission; February 28, 2013, 2010 1-hour NO₂ infrastructure SIP submission; June 20, 2013, 2010 1-hour SO₂ infrastructure SIP submission; and December 8, 2015, 2012 annual PM₂.₅ NAAQS. The details of Mississippi’s submissions and the rationale for EPA’s actions are explained in the NPRM. Comments on the proposed rulemaking were due on or before April 21, 2016. EPA received no comments on the NPRM.

III. 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. This action disapproves the prong 4 portions of the aforementioned SIP submissions as not meeting Federal
requirements. Therefore, this action 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);
- 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 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 25, 2016. 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


Dated: May 12, 2016.
Heather McTeer Toney, Regional Administrator, Region 4.

40 CFR part 52 is amended 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 Z—Mississippi

2. Section 52.1279 is amended by adding paragraph (b) to read as follows:

§52.1279 Visibility protection.

(a) Disapproval. EPA has disapproved the portions of Mississippi’s May 29, 2012, 2008 8-hour Ozone infrastructure SIP submission; July 26, 2012, 2008 8-hour Ozone infrastructure SIP resubmission; February 28, 2013, 2010, 1-hour NO2 infrastructure SIP submission; June 20, 2013, 2010 1-hour SO2 infrastructure SIP submission; and December 8, 2015, 2012, Annual PM2.5 infrastructure SIP submission that address the visibility protection (prong 4) requirements of Clean Air Act section 110(a)(2)(D)(i)(II). EPA disapproved the