submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule 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).

K. Petitions for Judicial Review

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 August 27, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: June 13, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart II—North Carolina

■ 2. Section 52.1770(c) is amended:

■ a. By adding a new entry to Table 1 in paragraph (c) for ''Sect .0543'' in numerical order, and

■ b. By adding a new entry to the table in paragraph (e) for ''Regional Haze Plan'' at the end of the table.

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

TABLE 1—EPA-APPROVED NORTH CAROLINA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
Subchapter 2D Air Pollution Control Requirements				
*	*	*	*	*
Section .0500 Emission Control Standards				
*	*	*	*	*
Sect .0543	Best Available Retrofit Technology	9/6/2006	6/27/2012 [Insert citation of publication].	
*	*	*	*	*

(e) * * *

EPA-APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	**Federal Register** citation
*	*	*	*
Regional Haze Plan	11/17/2007	6/27/2012	[Insert citation of publication].

[FR Doc. 2012–15468 Filed 6–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2009–0784; FRL–9691–9]

Approval and Promulgation of Implementation Plans; State of Mississippi; Regional Haze State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval of revisions to the Mississippi State Implementation Plan (SIP) submitted by the State of Mississippi through the Mississippi Department of Environmental Management (MDEQ) on September 22, 2008, and May 9, 2011. Mississippi's SIP revisions address regional haze for the first implementation period. Specifically, these SIP revisions address the requirements of the Clean Air Act (CAA

or Act) and EPA's rules that require states to prevent any future and remedy any existing anthropogenic impairment of visibility in mandatory Class I areas (national parks and wilderness areas) caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the ''regional haze program''). States are required to assure reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. EPA is finalizing a limited approval of Mississippi's SIP revisions to implement the regional haze requirements for Mississippi on the basis that these SIP revisions, as a whole, strengthen the Mississippi SIP. In a separate action published on June 7, 2012, EPA finalized a limited disapproval of this same SIP revision because of the deficiencies in the State's regional haze SIP revision arising from the remand by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) to EPA of the Clean Air Interstate Rule (CAIR).

DATES: *Effective Date:* This rule will be effective July 27, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2009–0784. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., 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 and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for further information. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Michele Notarianni can be reached at telephone number (404) 562–9031 and by electronic mail at *notarianni.michele@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What is the background for this final action?

Regional haze is visibility impairment that is produced by a multitude of sources and activities which are located across a broad geographic area and emit fine particles (e.g., sulfates, nitrates, organic carbon, elemental carbon, and soil dust), and their precursors (e.g., sulfur dioxide (SO_2), nitrogen oxides (NO_X), and in some cases, ammonia and volatile organic compounds. Fine particle precursors react in the atmosphere to form fine particulate matter ($PM_{2.5}$) which impairs visibility by scattering and absorbing light. Visibility impairment reduces the clarity, color, and visible distance that one can see. $PM_{2.5}$ can also cause serious health effects and mortality in humans and contributes to environmental effects such as acid deposition and eutrophication.

In section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the ''prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I areas which impairment results from manmade air pollution.'' On December 2, 1980, EPA promulgated regulations to address visibility impairment in Class I areas that is ''reasonably attributable'' to a single source or small group of sources, i.e., ''reasonably attributable visibility impairment.'' *See* 45 FR 80084. These regulations represented the first phase in addressing visibility impairment. EPA deferred action on regional haze that emanates from a variety of sources until monitoring, modeling, and scientific knowledge about the relationships between pollutants and visibility impairment were improved.

Congress added section 169B to the CAA in 1990 to address regional haze issues. EPA promulgated a rule to address regional haze on July 1, 1999 (64 FR 35713), the Regional Haze Rule (RHR). The RHR revised the existing visibility regulations to integrate into the regulation provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in EPA's visibility protection regulations at 40 CFR 51.300–309. The requirement to submit a regional haze SIP applies to all 50 states, the District of Columbia, and the Virgin Islands. 40 CFR 51.308(b) requires states to submit the first implementation plan addressing regional haze visibility impairment no later than December 17, 2007.

On September 22, 2008, and May 9, 2011, MDEQ submitted revisions to Mississippi's SIP to address regional haze in the State's and other states' Class I areas. On February 28, 2012, EPA published an action proposing a limited approval of Mississippi's SIP revisions to address the first implementation period for regional haze.[1] *See* 77 FR 11879. EPA proposed a limited approval of Mississippi's SIP revisions to implement the regional haze requirements for Mississippi on the basis that this revision, as a whole, strengthens the Mississippi SIP. See section II of this rulemaking for a summary of the comments received on the proposed actions and EPA's responses to these comments. Detailed background information and EPA's rationale for the proposed action is provided in EPA's February 28, 2012, proposed rulemaking. *See* 77 FR 11879.

Following the remand of CAIR, EPA issued a new rule in 2011 to address the interstate transport of NO_X and SO_2 in the eastern United States. *See* 76 FR 48208 (August 8, 2011) (''the Transport Rule,'' also known as the Cross-State Air Pollution Rule (CSAPR)). On December 30, 2011, EPA proposed to find that the trading programs in the Transport Rule would achieve greater reasonable progress towards the national goal of achieving natural visibility conditions than would Best Available Retrofit Technology (BART) in the states in which the Transport Rule applies. *See* 76 FR 82219. Based on this proposed finding, EPA also proposed to revise the RHR to allow states to substitute participation in the trading programs under the Transport Rule for source-

[1] In a separate action, published June 7, 2012 (77 FR 33642), EPA finalized a limited disapproval of the Mississippi regional haze SIP because of deficiencies in the State's regional haze SIP submittal arising from the State's reliance on CAIR to meet certain regional haze requirements. This final limited disapproval triggers a 24-month clock by which a Federal Implementation Plan (FIP) or EPA-approved SIP must be in place to address the deficiencies.

specific BART. EPA finalized this finding and RHR revision on June 7, 2012 (77 FR 33642).

Also on December 30, 2011, the D.C. Circuit stayed the Transport Rule (including the provisions that would have sunset CAIR and the CAIR FIPs) and instructed the EPA to continue to administer CAIR pending the outcome of the court's decision on the petitions for review challenging the Transport Rule. *EME Homer City* v. *EPA,* No. 11–1302.

II. What is EPA's response to comments received on this action?

EPA received three sets of comments on the February 28, 2012, rulemaking proposing a limited approval of Mississippi's regional haze SIP revisions. Specifically, the comments were received from the National Park Service, Sierra Club, and the Chevron Products Company. Full sets of the comments provided by all of the aforementioned entities (hereinafter referred to as ''the Commenter'') are provided in the docket for today's final action. A summary of the comments and EPA's responses are provided below.

Comment 1: The Commenter believes that Mississippi's regional haze SIP is inadequate because it does not properly identify sources that should be subject to a reasonable progress analysis and disagrees with MDEQ's decision to not subject Mississippi Power Company—Plant Watson (Plant Watson) and the DuPont Delisle facility to a reasonable progress control evaluation on the basis that Louisiana did not identify these plants as potentially impacting the Breton Wilderness Area (Breton). The Commenter recognizes that it should be the responsibility of the state in which a federal Class I area is located to determine which sources should be evaluated for reasonable progress but also states its belief that, when a state fails to adequately address the federal Class I areas within its borders, the responsibility for protecting visibility at that federal Class I area shifts to those states who have identified sources within their boundaries that impact that federal Class I area. Therefore, the Commenter contends that MDEQ should consider applying some level of control to the two aforementioned facilities even though the Louisiana regional haze SIP submittal did not specifically identify them in its control strategy for Breton. The Commenter also states that there is no evidence that Mississippi consulted or corresponded with Louisiana regarding the potential visibility impacts from these two facilities.

Response 1: EPA disagrees with the Commenter's conclusion that the responsibility for developing an adequate long-term strategy (LTS) shifts from states with federal Class I areas within their boundaries to neighboring states. EPA's regulations are clear that ''[w]here the State has emissions that are reasonably anticipated to contribute to visibility impairment in any mandatory Class I Federal area located in another State or States, the State must consult with the other State(s) in order to develop coordinated emission management strategies.'' 40 CFR 52.308(d)(3)(i).

MDEQ has met its obligation to consult with Louisiana. In December 2006 and in May 2007, the State Air Directors from the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) states held formal interstate consultation meetings to discuss the methodology proposed by VISTAS for identifying sources to evaluate for reasonable progress. The states invited Federal Land Managers (FLMs) and EPA representatives to participate and to provide additional feedback, and the State Air Directors discussed the results of analyses showing contributions to visibility impairment from states to each of the federal Class I areas in the VISTAS region. Mississippi received letters from Louisiana and Alabama transmitting prehearing drafts of their regional haze SIPs and provided documentation of this correspondence and summaries of formal consultation meetings in Appendix J of the September 2008 Mississippi SIP submittal. MDEQ concurred on the reasonable progress goals (RPGs) for Breton and the Sipsey Wilderness Area and committed to continue collaboration with these states in the preparation of future VISTAS studies and analyses and in addressing regional haze issues in future implementation periods.

In addition, 40 CFR 51.308(d)(3)(ii) requires each state that causes or contributes to impairment in a mandatory federal Class I area to demonstrate that it has included in its implementation plan all measures necessary to obtain its share of the emissions reductions needed to meet the progress goals for the area. MDEQ has met its obligations with regard to obtaining emissions reductions since no additional control measures specific to Mississippi were identified by the Louisiana reasonable progress analysis. As noted in the proposal, after the time of Mississippi's original 2008 SIP submittal, Louisiana completed and submitted a regional haze SIP to address visibility at Breton. Neither Plant Watson nor the DuPont DeLisle facility were identified by Louisiana, either through consultations with Mississippi or in the Louisiana regional haze SIP, as sources potentially impacting Breton for which a reasonable progress control evaluation would be needed. Thus, EPA believes it is appropriate for Mississippi to determine that no further control analysis was necessary at these facilities at this time. Since Breton is in Louisiana, EPA believes that Mississippi appropriately relied on Louisiana's determination of which sources to prioritize for reasonable progress control evaluation during this implementation period. Mississippi has committed to continue to consult with Louisiana to assess the potential impact of facilities in Mississippi to help meet the visibility goals for Breton for future implementation periods.

Comment 2: The Commenter states that MDEQ improperly estimated emissions reductions for 2018 and that Mississippi's projection of future visibility conditions for 2018 is based on ''uncertain federal and state pollution control projects, including, in large part, on the emissions reductions anticipated from CAIR.'' The Commenter also believes that anticipated emissions reductions resulting from the other control programs considered by Mississippi (e.g., Industrial Boiler Maximum Achievable Control Technology, the Atlanta/Birmingham/Northern Kentucky 1997 8-hour ozone nonattainment area SIP) are just as uncertain as those resulting under CAIR and the Transport Rule, and that Mississippi ''need[s] to base its LTS on concrete, definite emissions reductions.'' The Commenter requests that, at a minimum, EPA should ensure that MDEQ follows through on its commitment to re-evaluate its ability to meet its RPGs in the five-year progress review.

Response 2: The technical information provided in the record demonstrates that the emissions inventory in the SIP adequately reflects projected 2018 conditions and that the LTS meets the requirements of the RHR and is approvable. Mississippi's 2018 projections are based on the State's technical analysis of the anticipated emissions rates and level of activity for electric generating units (EGUs), other point sources, nonpoint sources, on-road sources, and off-road sources based on their emissions in the 2002 base year, considering growth and additional emissions controls to be in place and federally enforceable by 2018. The emissions inventory used in the regional

haze technical analyses that was developed by VISTAS with assistance from Mississippi projected 2002 emissions (the latest region-wide inventory available at the time the submittal was being developed) and applied reductions expected from federal and state regulations affecting the emissions of volatile organic compounds and the visibility impairing pollutants NO_X, PM, and SO_2.

To minimize the differences between the 2018 projected emissions used in the Mississippi regional haze submittal and what actually occurs in 2018, the RHR requires that the five-year review address any expected significant differences due to changed circumstances from the initial 2018 projected emissions, provide updated expectations regarding emissions for the implementation period, and evaluate the impact of these differences on RPGs. It is expected that individual projections within a statewide inventory will vary from actual emissions over a 16-year period. For example, some facilities may shut down whereas others may expand operations. Furthermore, economic projections and population changes used to estimate growth often differ from actual events; new rules are modified, changing their expected effectiveness; and methodologies to estimate emissions improve, modifying emissions estimates. The five-year review is a mechanism to assure that these expected differences from projected emissions are considered and their impact on the 2018 RPGs is evaluated. In the regional haze program, uncertainties associated with modeled emissions projections into the future are addressed through the requirement under the RHR to submit periodic progress reports in the form of a SIP revision. Specifically, 40 CFR 51.308(g) requires each state to submit a report every five years evaluating progress toward the RPGs for each mandatory federal Class I area located in the state and for each federal Class I area outside the state that may be affected by emissions from the state. Since this five-year progress re-evaluation is a mandatory requirement, it is unnecessary for EPA to take additional measures to ''ensure'' that the State meets its reporting obligation. In the specific instances of uncertainty of future reductions cited by the Commenter, the State's analysis of projected emissions and its reliance on these projections to address its share of the emissions reductions needed to meet the RPGs for Breton in accordance with 40 CFR 51.308(d)(3)(ii) satisfy EPA guidance and the requirements of the regional haze regulations.

Comment 3: The Commenter does not believe that MDEQ can rely on CAIR or the Transport Rule to exempt the seven power plants with BART-eligible EGUs from an SO_2 and NO_X BART analysis. The Commenter enclosed letters that it submitted to EPA on February 28, 2012, with its comments on the Agency's proposed December 30, 2011, rulemaking to find that the Transport Rule is ''Better than BART'' and to use the Transport Rule as an alternative to BART for Mississippi and other states subject to the Transport Rule. *See* 76 FR 82219. The Commenter incorporates the comments in these letters by reference and repeats a subset of those comments, including the following: The Transport Rule cannot serve as the BART-alternative for the regional haze SIP process in Mississippi; EPA has not demonstrated that the Transport Rule assures greater reasonable progress than source-specific BART; EPA failed to account for the geographical and temporal uncertainties in emissions reductions inherent in a cap-and-trade program such as the Transport Rule; EPA underestimated the visibility improvements from BART using ''presumptive BART rather than actual BART;'' EPA did not consider subsequent revisions to the Transport Rule budget that increase emission allocations for EGUs in Mississippi; and EPA has not accounted for the differences in averaging time under BART, the Transport Rule, and in measuring visibility impacts.

Response 3: These comments are beyond the scope of this rulemaking. In today's action, EPA is finalizing a limited approval of Mississippi's regional haze SIP. EPA did not propose to find that participation in the Transport Rule is an alternative to BART in this action nor did EPA reopen discussions on the CAIR provisions as they relate to BART.[2] As noted above, EPA proposed to find that the Transport Rule is ''Better than BART'' and to use the Transport Rule as an alternative to BART for certain states in a separate action on December 30, 2011, and the Commenter is merely reiterating and incorporating comments submitted on that separate action. EPA addressed the Commenter's February 28, 2012, comments concerning the Transport Rule as a BART alternative in a final action that was published on June 7, 2012, and has determined that they do not affect the Agency's ability to finalize a limited approval of Mississippi's regional haze SIP. EPA's response to these comments can be found in Docket ID No. EPA–HQ–OAR–2011–0729 at *www.regulations.gov.*

Comment 4: The Commenter asserts that because ''the BART component of Mississippi's RH SIP is an essential element to the state's LTS for achieving its RPGs, Mississippi's treatment of CAIR (and now EPA's proposed substitution of CSAPR for CAIR) as an acceptable BART-alternative must be addressed in this present comment process. Separating the BART analysis from the remaining portion of the RH SIP would result in an inadequate SIP.'' The Commenter supports its position by repeating statements made in its February 28, 2012, comments on the Agency's proposed December 30, 2011, rulemaking to find that the Transport Rule is ''Better than BART'' and to use the Transport Rule as an alternative to BART for Mississippi and other states subject to the Transport Rule. For example, the Commenter states that ''EPA cannot exempt sources from the RHR's BART requirements without full consideration of how that exemption would affect the overarching reasonable progress mandate.''

Response 4: As discussed in the response to Comment 3, today's action does not address reliance on CAIR or CSAPR to satisfy BART requirements. Comments related to the approvability of CAIR or CSAPR for the Mississippi regional haze SIP are therefore beyond the scope of this rulemaking and were addressed by EPA in a separate action published on June 7, 2012 (77 FR 33642). EPA addressed the Commenter's repeated statements regarding the interrelatedness of BART, the LTS, and RPGs in that final rulemaking action and those responses support this limited approval action.[3]

EPA believes the Commenter overstates the overarching nature of the changes due to CAIR or CSAPR. The reliance on CAIR in the Mississippi submittal was consistent with EPA policy at the time the submittal was

[2] In a final action published on July 6, 2005, EPA addressed similar comments related to CAIR and determined that CAIR makes greater reasonable progress than BART for certain EGUs and pollutants (70 FR 39138). EPA did not reopen comment on that issue through this rulemaking.

[3] *See* EPA, Response to Comments Document, Regional Haze: Revisions to Provisions Governing Alternatives to Source-Specific Best Available Retrofit Technology (BART) Determinations, Limited SIP Disapprovals, and Federal Implementation Plans (76 FR 82219; December 30, 2011), Docket Number EPA–HQ–OAR–2011–0729 (May 30, 2012), pages 49–51 (noting that EPA ''disagree[s] with comments that we cannot evaluate the BART requirements in isolation from the reasonable progress requirements. We have on several occasions undertaken evaluations of a state's BART determination or promulgated a FIP separately from our evaluation of whether the SIP as a whole will ensure reasonable progress.'').

prepared. CSAPR is a replacement for CAIR, addressing the same regional EGU emissions, with many similar regulatory attributes. The need to address changes to the LTS resulting from the replacement of CAIR with CSAPR was acknowledged in the proposal, and as stated in the proposal, EPA believes that the five-year progress report is the appropriate time to address any changes to the RPG demonstration and, if necessary, the LTS. EPA expects that this demonstration will address the impacts on the RPG due to the replacement of CAIR with CSAPR as well as other adjustments to the projected 2018 emissions due to updated information on the emissions for other sources and source categories. If this assessment determines an adjustment to the regional haze plan is necessary, EPA regulations require a SIP revision within a year of the five-year progress report.

Comment 5: The Commenter believes that EPA's December 30, 2011, proposed substitution of CSAPR for source-specific BART is uniquely problematic in Mississippi since CSAPR only covers ozone season NO_X emissions in the State. According to the Commenter, EPA should require year-round NO_X controls since any controls that might be installed to meet CSAPR will not protect Breton, the Sipsey Wilderness Area, or other nearby federal Class I areas during the seven months outside of the ozone season. The Commenter reiterates that Mississippi must address BART for SO_2 and PM since the State is no longer included in a trading program for SO_2. One of the Commenters also expressed concern with EPA's statement that the disapproval of the BART provisions for SO_2 will trigger a 24-month clock for EPA to either implement a FIP to address those requirements or approve a revised SIP from the State that addresses SO_2 BART. The Commenter believes that this approach allows the State to further delay conducting SO_2 BART analyses for its BART-eligible EGUs and that these analyses must be conducted immediately.

Response 5: As discussed in the response to Comment 3, today's rule takes final action on the limited approval of Mississippi's regional haze SIP revisions. EPA did not propose to find that participation in the Transport Rule is an alternative to BART in this rulemaking. As noted above, EPA made this proposed finding in a separate action on December 30, 2011. These comments are therefore beyond the scope of this rulemaking and were addressed, as appropriate, by EPA in its final action (published on June 7, 2012) on the December 30, 2011, proposed rule. EPA has determined that the comments do not affect the Agency's ability to finalize a limited approval of Mississippi's regional haze SIP. Regarding the timing of a FIP, the EPA statement identified by the Commenter is a summary of the statutory requirements in section 110(c) of the CAA.

Comment 6: According to the Commenter, Mississippi should have considered the cumulative impacts of the PM emissions from the Moselle and D Morrow facilities when performing BART determinations and should not have modeled these sources in isolation of one another or without regard to PM emissions from sources in other states impacting any federal Class I area. The Commenter also believes that MDEQ should have considered both filterable and condensable PM when conducting its modeling.

Response 6: As discussed in the proposal, (see section IV.C.6.B.2, February 28, 2012, 77 FR 11889), Mississippi adequately justified its contribution threshold of 0.5 deciview. While states have the discretion to set an appropriate contribution threshold considering the number of emissions sources affecting the federal Class I area at issue and the magnitude of the individual sources' impacts, the states' analysis must be consistent with the CAA, the Regional Haze regulations and EPA's *Guidelines for BART Determinations Under the Regional Haze Rule* at Appendix Y to 40 CFR Part 51 (BART Guidelines). Consistent with the regulations and EPA's guidance, ''the contribution threshold should be used to determine whether an individual source is reasonably anticipated to contribute to visibility impairment. You should not aggregate the visibility effects of multiple sources and compare their collective effects against your contribution threshold because this would inappropriately create a 'contribution to contribution' test.'' *See also* 70 FR 39121. Mississippi's analyses in its regional haze SIP revisions were consistent with EPA's regulations and guidance on the issue of cumulative analyses.

It is unclear what condensable PM emissions the Commenter believes that the State should have included in its visibility modeling. Each of the units evaluated for BART in Mississippi's regional haze SIP submittal followed the VISTAS modeling protocol and considered the contribution of total PM_{10} and $PM_{2.5}$ (as a subset of the total PM_{10}) as well as condensable PM (primarily sulfuric acid mist) (see Appendix L of Mississippi's regional haze SIP submittal). Regarding modeling in Mississippi's submittal that uses PM only for its BART-eligible EGUs, EPA previously determined that this approach is appropriate for EGUs where the State proposed to rely on CAIR to satisfy the BART requirements for SO_2 and NO_X.[4]

Comment 7: The Commenter states that Mississippi's BART analyses for Chevron Products' Pascagoula refinery (Chevron) and Mississippi Phosphates Corporation (MPC) are insufficient, and therefore, EPA cannot approve the State's regional haze SIP. Regarding Chevron, the Commenter disagrees with MDEQ's determination that significant visibility improvement could not be gained at reasonable cost over the improvements already attained through the facility's air permits and a June 7, 2005, consent decree. The Commenter contends that a more robust cost analysis is necessary to assure that the costs outweigh the visibility benefits from the evaluated pollution controls and that Mississippi should have considered additional pollution control technologies in its analysis such as selective catalytic reduction and selective non-catalytic reduction for NO_X. Regarding MPC, the Commenter believes that the best available control technology (BACT) emissions limits for SO_2 (determined to be BART) are not sufficiently stringent because it believes that emissions limits determined to be BACT for sulfuric acid plants at other facilities have been set at lower levels. The Commenter does not believe that Mississippi provided an adequate explanation as to why it did not set its BACT level as low as those set for similar facilities. The Commenter is also concerned that Mississippi's regional haze SIP does not discuss enforceable limits for NO_X, particulates, or sulfuric acid mist at the facility and states that MDEQ should have analyzed emissions limits at other facilities when evaluating BART.

Response 7: As stated in Appendix Y of 40 CFR part 51, available retrofit control options are those air pollution control technologies with a practical potential for application to the emissions unit and the regulated pollutant under evaluation. In identifying ''all'' options, a state must identify the most stringent option and a reasonable set of options for analysis that reflects a comprehensive list of available technologies. It is not

[4] *Regional Haze Regulations and Guidelines for Best Available Retrofit Technology (BART) Determinations,* EPA Memorandum from Joseph Paisie, Group Leader, Geographic Strategies Group, OAQPS, to Kay Prince, Branch Chief, EPA Region 4, July 19, 2006, located at *http://www.epa.gov/visibility/pdfs/memo_2006_07_19.pdf.*

necessary to list all permutations of available control levels that exist for a given technology; the list is complete if it includes the maximum level of control that each technology is capable of achieving.[5]

For Chevron, MDEQ concluded that all the planned controls in the aforementioned consent decree for the Chevron facility were BART. The State then evaluated additional control options for BART for the most significant units that remain uncontrolled after the planned emissions controls were installed. The costs and visibility impacts were assessed in accordance with EPA guidance. Emissions reductions from the evaluated control options are projected to provide limited visibility improvements ranging from 0.043 deciview to 0.16 deciview, which are beyond those expected from the already planned emissions reductions. For each option, the total cost effectiveness and incremental cost effectiveness exceed $29 million per deciview; therefore, Mississippi determined that these options are not BART. A detailed analysis is provided in Appendix L10 of Mississippi's regional haze SIP submittal.

Regarding MPC, BACT and BART are both case-specific determinations. MDEQ determined BACT to be the replacement of vanadium catalyst with cesium catalyst in the third and fourth converter passes, yielding emissions of 3.0 pounds of SO_2 per ton of sulfuric acid produced. MDEQ believes that this BACT determination is sufficient because sulfuric acid plants with more stringent limits had a 3/1 converter design as compared to MPC's current 2/2 converter design. Even though the technology being applied is identical to that applied to other facilities, the 3/1 design achieves a higher conversion rate resulting in approximately a 50 percent reduction of SO_2 in the exhaust compared to the exhaust from a 2/2 converter design. MPC identified mist eliminators as the most effective sulfuric acid mist control technology, and MDEQ determined BART to be vertical tube mist eliminators in the interpass absorption tower. The final absorption tower already has these mist eliminators installed. MPC also proposed to replace the economizer prior to the final absorption tower with a larger one which will have the effect of lowering the exhaust gas temperature and thus reducing sulfuric acid mist emissions. Since the vertical tube mist eliminators are the most efficient add-on control technology, no additional control technologies were considered. MPC has determined a sulfuric acid mist limit of 0.10 pound sulfuric acid mist per ton of sulfuric acid produced, and MDEQ considers this limit consistent with recent BACT determinations since it is among the most stringent achieved in practice. Concerning NO_X and particulates, sulfuric acid plants are not a primary source of NO_X or PM emissions. See Mississippi's May 9, 2011, regional haze SIP submittal for a detailed discussion of the determination and the permit to construct.

EPA has reviewed MDEQ's analyses and concluded they were conducted in a manner that is consistent with EPA's BART Guidelines and reflect a reasonable application of EPA's guidance to these sources.

Comment 8: The Commenter contends that Mississippi's regional haze SIP must be revised to address Reasonably Attributable Visibility Impairment (RAVI) within three years of a FLM certifying visibility impairment and that the State's commitment to address RAVI, should a FLM certify visibility impairment, is not enough.

Response 8: The State's regional haze SIP revisions do not address RAVI requirements since RAVI is addressed by a different regulation than the RHR. EPA's visibility regulations direct states to coordinate their RAVI LTS provisions with those for regional haze and require the RAVI portion of a SIP to address any integral vistas identified by the FLMs. However, as stated in the March 28, 2012, proposed rulemaking, there are no federal Class I areas in Mississippi. There are no integral vistas in Mississippi or nearby federal Class I areas, no federal Class I areas near Mississippi are experiencing RAVI, nor are any Mississippi sources affected by the RAVI provisions. Thus, the Mississippi regional haze SIP revisions did not explicitly address the coordination of the regional haze with the RAVI LTS, although Mississippi did commit to ongoing consultation with the FLMs throughout the implementation process. EPA finds that Mississippi's regional haze SIP appropriately addresses the RAVI visibility provisions in its LTS. The commitments in Mississippi's SIP are consistent with the regulatory requirements for this provision.

Comment 9a: The Commenter claims that EPA must disapprove Mississippi's regional haze SIP because the SIP does not explain how monitoring data and other information will be used to determine the contribution of emissions from within the State to regional haze visibility impairment at Class I areas (see combined response below for comments 9a and 9b).

Comment 9b: The Commenter states that the SIP must clearly identify the method by which the State intends to report visibility monitoring to the EPA. If Mississippi plans to rely on the referenced Visibility Information Exchange Web System (VIEWS) Web site for reporting, the Commenter believes that the SIP must clearly state that Mississippi intends to use the Web site as its way of reporting visibility monitoring data and that ''it is not sufficient for Mississippi to 'encourage' VISTAS to maintain the web site.'' The Commenter also believes that Mississippi's SIP needs to have an enforceable mechanism to transmit the Interagency Monitoring of Protected Visual Environments (IMPROVE) data to EPA as well as an enforceable mechanism to ensure that the IMPROVE data is continually gathered by Mississippi ''unless it is gathered by other entities such as VISTAS and the National Park Service'' or EPA ''must disapprove the SIP submittal in this regard.''

Responses 9a, b: As noted by the Commenter, the primary monitoring network for federal Class I areas potentially affected by sources in Mississippi is the IMPROVE network. The responsibility for assuring that there is adequate monitoring and reporting of this data is with the state where the federal Class I area is located, and there are no IMPROVE sites in Mississippi since it has no federal Class I areas. In the SIP submittal, Mississippi states its intention to continue to consult with the FLMs annually on monitoring data from the IMPROVE network for federal Class I areas in adjacent states that might be affected by Mississippi sources. Monitoring data is different from emissions data or analyses conducted to attribute contribution, and these analyses are therefore part of the ten-year implementation period updates conducted by the states.

In its SIP revisions, Mississippi states its intention to rely on the IMPROVE network for complying with the regional haze monitoring requirement in EPA's RHR for the current and future regional haze implementation periods. Data produced by the IMPROVE monitoring network will be used nearly continuously for preparing the five-year progress reports and the 10-year SIP revisions, each of which relies on analysis of the preceding five years of data. The VIEWS Web site has been maintained by VISTAS and the other regional planning organizations (RPOs) to provide ready access to the IMPROVE

[5] EPA's BART Guidelines at 70 FR 39164.

data and data analysis tools. Mississippi is encouraging VISTAS and the other RPOs to maintain the VIEWS or a similar data management system to facilitate analysis of the IMPROVE data. Mississippi cannot legally bind federal and state legislatures to continue to fund the monitoring program for regional haze. Mississippi's SIP adequately addresses this provision and explains how monitoring data and other information has been and will be used to determine the contribution of emissions from within the State to regional haze visibility impairment at federal Class I areas.

III. What is the effect of this final action?

Under CAA sections 301(a) and 110(k)(6) and EPA's long-standing guidance, a limited approval results in approval of the entire SIP revision, even of those parts that are deficient and prevent EPA from granting a full approval of the SIP revision.[6] Today, EPA is finalizing a limited approval of Mississippi's regional haze SIP revisions. This limited approval results in approval of Mississippi's entire regional haze SIP and all its elements. EPA is taking this approach because Mississippi's SIP will be stronger and more protective of the environment with the implementation of those measures by the State and having federal approval and enforceability than it would without those measures being included in its SIP.

IV. Final Action

EPA is finalizing a limited approval of revisions to the Mississippi SIP submitted by the State of Mississippi on September 22, 2008, and May 9, 2011, as meeting some of the applicable regional haze requirements as set forth in sections 169A and 169B of the CAA and in 40 CFR 51.300–308.

V. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* OMB must approve all ''collections of information'' by EPA. The Act defines ''collection of information'' as a requirement for answers to ''* * * identical reporting or recordkeeping requirements imposed on ten or more persons * * *''. 44 U.S.C. 3502(3)(A). The Paperwork Reduction Act does not apply to this action.

C. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the federal-state relationship under the CAA, preparation of flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act (UMRA)

Under sections 202 of the UMRA of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that today's action does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has Federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

[6] *Processing of State Implementation Plan (SIP) Revisions,* EPA Memorandum from John Calcagni, Director, Air Quality Management Division, OAQPS, to Air Division Directors, EPA Regional Offices I–X, September 7, 1992, (''1992 Calcagni Memorandum'') located at *http://www.epa.gov/ttn/caaa/t1/memoranda/siproc.pdf.*

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Protection of Children From Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12 of the NTTAA of 1995 requires federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Congressional Review Act

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, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule 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).

K. Petitions for Judicial Review

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 August 27, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: June 13, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 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 52.1270 is amended by adding two entries for Regional Haze Plan and Regional Haze Plan Update—E. I. Dupont Reasonable Progress and Mississippi Phosphates BART Determinations at the end of the table in paragraph (e) to read as follows:

§ 52.1270 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED MISSISSIPPI NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
* *	* *	*	*	*
Regional Haze Plan	Statewide	9/22/2008	6/27/2012 [Insert citation of publication].	
Regional Haze Plan Update—E. I. Dupont Reasonable Progress and Mississippi Phosphates BART Determinations.	Statewide	5/9/2011	6/27/2012 [Insert citation of publication].	

[FR Doc. 2012–15470 Filed 6–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 93

Determining Conformity of Federal Actions to State or Federal Implementation Plans

CFR Correction

■ In Title 40 of the Code of Federal Regulations, parts 87 to 95, revised as of July 1, 2011, on page 579, in § 93.118, paragraph (e)(2) is corrected to read as follows:

§ 93.118 Criteria and procedures: Motor vehicle emissions budget.

* * * * *

(e) * * *

* * * * *

(2) If EPA has not declared an implementation plan submission's motor vehicle emissions budget(s) adequate for transportation conformity purposes, the budget(s) shall not be used to satisfy the requirements of this section. Consistency with the previously established motor vehicle emissions budget(s) must be demonstrated. If there are no previously approved implementation plans or implementation plan submissions with adequate motor vehicle emissions budgets, the interim emissions tests required by § 93.119 must be satisfied.

* * * * *

[FR Doc. 2012–15869 Filed 6–26–12; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2011–0397; FRL–9350–9]

Propiconazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of propiconazole in or on multiple commodities which are identified and discussed later in this document. This regulation additionally removes an established tolerance on stone fruit crop group 12, as it will be superseded by the new tolerance for stone fruit crop group 12, except plum. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective June 27, 2012. Objections and requests for hearings must be received on or before August 27, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2011–0397, is available either electronically through *http://www.regulations.gov* or in hard copy at the OPP Docket in the Environmental Protection Agency Docket Center (EPA/DC), located in EPA West, Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Andrew Ertman, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–9367; email address: *ertman.andrew@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2011–0397 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before August 27, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2011–0397, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), Mail Code: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket,