

**Mississippi Certification**  
**Clean Air Act Section 110(a)(1) and (2)**  
**Ozone Requirements**

This certification addresses Mississippi’s obligations under Section 110(a)(1) and (2) of the Clean Air Act for the Ozone National Ambient Air Quality Standards (NAAQS). The following state regulations are part of the State Implementation Plan (SIP) and are referred to in this document:

- 11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 1  
Mississippi Commission on Environmental Quality  
“Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants”
  
- 11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 2  
Mississippi Commission on Environmental Quality  
“Permit Regulation for the Construction and/or Operation of Air Emissions Equipment”
  
- 11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 3  
Mississippi Commission on Environmental Quality  
“Mississippi Regulations for the Prevention of Air Pollution Emergency Episodes”
  
- 11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 5  
Mississippi Commission on Environmental Quality  
“Mississippi Regulations for the Prevention of Significant Deterioration of Air Quality”
  
- Appendix A-9            Mississippi Code Title 49
  
- Appendix A-10        State Ethics Law as of July 1, 2011 and Mississippi Ethics Commission Advisory Opinion No. 95-042-E, May 5, 1995
  
- Appendix A-11        State Constitution Provisions as of July 1, 2011
  
- Appendix R            State Implementation Plan Revision Regarding Regional Haze Program Requirements: SIP Narrative Addressing Visibility Improvement in Federal Class I Areas

### **Section 110(a)(1)**

*Each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator, within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof) under section 109 of this title for any air pollutant, a plan which provides for implementation, maintenance, and enforcement of such primary standard in each air quality control region (or portion thereof) within such State. In addition, such State shall adopt and submit to the Administrator (either as a part of a plan submitted under the preceding sentence or separately) within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national ambient air quality secondary standard (or revision thereof), a plan which provides for implementation, maintenance, and enforcement of such secondary standard in each air quality control region (or portion thereof) within such State. Unless a separate public hearing is provided, each State shall consider its plan implementing such secondary standard at the hearing required by the first sentence of this paragraph.*

The submittal of this State Implementation Plan for Mississippi will satisfy the requirements listed above for the primary and secondary ozone standards.

### **Section 110(a)(2)(A)**

*Include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter.*

SIP Appendix A-9, Section 49-17-17(h), provides the Mississippi Department of Environmental Quality (MDEQ) the ability to adopt, modify, or repeal and promulgate ambient air quality standards and emission standards for the state under such conditions as the Mississippi Commission on Environmental Quality (Commission) may prescribe for the prevention, control, and abatement of pollution.

### **Section 110(a)(2)(B)**

*Provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to—*

- (i) monitor, compile, and analyze data on ambient air quality, and*
- (ii) upon request, make such data available to the Administrator.*

SIP Appendix A-9 Section 49-17-17(g) provides MDEQ with the necessary statutory authority to collect and disseminate information relating to air quality and pollution and the prevention, control, supervision, and abatement thereof. The “2011 Annual Monitoring Network Plan for Mississippi” provides the details of the ambient air quality monitoring system in the state.

### **Section 110(a)(2)(C)**

*Include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D of this subchapter.*

11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 5 and 11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 2, Section V. apply to the construction of any new major stationary source or any existing major stationary sources. 11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 2, Section V. also applies to the construction of minor sources. 11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 2, Section VI. provides for the enforcement of measures described in Section 110(a)(2)(A).

The EPA approved the revision to the SIP incorporating nitrogen oxides as an ozone precursor on December 20, 2010 (75 FR 79300). On September 26, 2012, (77 FR 59095) the EPA approved the revision to the SIP to incorporate by reference federal NSR PSD requirements for the fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS) as promulgated in EPA's 2008 NSR PM 2.5 Implementation Rule and the 2010 PM<sub>2.5</sub> PSD Increment, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC) Rule.

### **Section 110(a)(2)(D)**

*Contain adequate provisions—*

*(i) prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will—*

*(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard, or*

*(II) interfere with measures required to be included in the applicable implementation plan for any other State under part C of this subchapter to prevent significant deterioration of air quality or to protect visibility*

- 1. Contribute significantly to nonattainment of NAAQS for areas in another state (Prong 1).*

On March 27, 2018, EPA issued a memorandum titled *Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under CAA §110(a)(2)(D)(i)(I)*. EPA states that the information provided in the memorandum is designed to assist states in their efforts to develop good neighbor SIPs for the 2015 ozone NAAQS to address their interstate transport obligations. EPA conducted photochemical modeling to project ambient ozone levels in 2023, since this date aligns with the anticipated attainment year for Moderate ozone nonattainment areas. The Comprehensive Air Quality Model with Extensions (CAMx, version 6.4) was used with a base year of 2011, and the future year of 2023. Considering a combination of modeling projections and recent monitoring data, EPA identified projected nonattainment and maintenance receptors with respect to the 2015 NAAQS. EPA identified nonattainment receptors as those monitoring sites with current measured ozone values exceeding the NAAQS that also have projected (in 2023) average design values exceeding the NAAQS. EPA identified maintenance receptors as those monitoring sites with maximum design values exceeding the NAAQS. Outside of California, there are 26 monitoring sites that were identified as either potential nonattainment or maintenance receptors.

After identifying these receptors, EPA then performed nationwide, state-level ozone source apportionment modeling using the CAMx Anthropogenic Precursor Culpability Analysis (APCA) technique to provide information regarding the expected contribution of 2023 base case nitrogen oxides (NO<sub>x</sub>) and volatile organic compound (VOC) emissions from all sources in each state to projected 2023 ozone concentrations at each air quality monitoring site. In previous federal regulatory actions, such as the Clean Air Interstate Rule (CAIR), the Cross-State Air Pollution Rule (CSAPR), and the CSAPR Update Rule, EPA has used a threshold of 1% of the ozone NAAQS standard to determine if a state significantly contributes to nonattainment or interferes

with maintenance of a downwind receptor. One percent (1%) of the 70 ppb standard is 0.70 ppb.

The following table lists Mississippi’s model Ozone O<sub>3</sub> contributions (ppb) to 2023 Nonattainment and Maintenance Sites.

Site ID	County	State	2014-16 Design Value	Projected Status in 2023	Mississippi O <sub>3</sub> Contribution (ppb)
80590006	Jefferson	CO	77	Nonattainment	0.01
80590011	Jefferson	CO	80	Maintenance	0.01
81230009	Weld	CO	70	Maintenance	0.01
90010017	Fairfield	CT	80	Maintenance	0.03
90013007	Fairfield	CT	81	Nonattainment	0.07
90019003	Fairfield	CT	85	Nonattainment	0.07
90099002	New Haven	CT	76	Maintenance	0.04
240251001	Harford	MD	73	Maintenance	0.08
260050003	Allegan	MI	75	Maintenance	0.40
261630019	Wayne	MI	72	Maintenance	0.09
360810124	Queens	NY	69	Maintenance	0.04
360850067	Richmond	NY	76	Maintenance	0.08
361030002	Suffolk	NY	72	Nonattainment	0.06
480391004	Brazoria	TX	75	Nonattainment	0.63
481210034	Denton	TX	80	Maintenance	0.33
482010024	Harris	TX	79	Maintenance	0.50
482011034	Harris	TX	73	Maintenance	0.39
482011039	Harris	TX	67	Nonattainment	0.79
484392003	Tarrant	TX	73	Nonattainment	0.27
550790085	Milwaukee	WI	71	Nonattainment	0.28
551170006	Sheboygan	WI	79	Nonattainment	0.30

Table 1: Mississippi’s model Ozone (O<sub>3</sub>) contributions (ppb) to 2023 Nonattainment and Maintenance Sites.

Mississippi’s modeled contributions is below 1% of the NAAQS to all monitors modeled to be in nonattainment or in maintenance of the 2015 O<sub>3</sub> NAAQS except for Site ID# 482011039 in Harris County, TX. For this monitor, Mississippi’s contribution is modeled to be 0.79 ppb, which is 1.12% of the standard but below 1.0 ppb of O<sub>3</sub>. It must be noted, however, that though the design value for this monitored was projected to be over the 2015 O<sub>3</sub> NAAQS, the actual design value is 68 ppb for 2015-2017. The table below lists the design values for 2015-2017.

Years	Design Value (ppb)
2013-2015	69
2014-2016	67
2015-2017	68

Table 2: Design Values for Site ID# 482011039 - Harris County, TX

On August 31, 2018, EPA released a memorandum titled *Analysis of Contribution Thresholds for Use in Clean Air Act Section 110(a)(2)(D)(i)(I) Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards*. In this memorandum, EPA

provided analytical information regarding the degree to which certain air quality threshold amounts capture the collective amount of upwind contribution from upwind states to downwind receptors for the 2015 O<sub>3</sub> NAAQS. Because the amount of upwind collective contribution captured with the 1% and 1 ppb thresholds is generally comparable, EPA concluded that it may be reasonable and appropriate for states to use a 1 ppb contribution threshold as an alternative to a 1% threshold in developing SIP revisions addressing the good neighbor provision for the 2015 O<sub>3</sub> standard.

Based on EPA's modeling, Mississippi is below the 1ppb threshold for all monitoring sites in Table 1, which are projected to be nonattainment or maintenance, indicating that Mississippi does not significantly contribute to the nonattainment of the 2015 Ozone Standard in another state. MDEQ hereby confirms that the SIP contains adequate provisions to prevent sources and other types of emissions activities within the state from contributing significantly to nonattainment in (prong 1) any other state with respect to the 2015 Ozone NAAQS.

## *2. Interfere with maintenance of NAAQS by any other State (Prong 2).*

On March 27, 2018, EPA issued a memorandum titled *Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under CAA §110(a)(2)(D)(i)(I)*. EPA states that the information provided in the memorandum is designed to assist states in their efforts to develop good neighbor SIPs for the 2015 ozone NAAQS to address their interstate transport obligations. EPA conducted photochemical modeling to project ambient ozone levels in 2023, since this date aligns with the anticipated attainment year for Moderate ozone nonattainment areas. The Comprehensive Air Quality Model with Extensions (CAMx, version 6.4) was used with a base year of 2011, and the future year of 2023. Considering a combination of modeling projections and recent monitoring data, EPA identified projected nonattainment and maintenance receptors with respect to the 2015 NAAQS. EPA identified nonattainment receptors as those monitoring sites with current measured ozone values exceeding the NAAQS that also have projected (in 2023) average design values exceeding the NAAQS. EPA identified maintenance receptors as those monitoring sites with maximum design values exceeding the NAAQS. Outside of California, there are 26 monitoring sites that were identified as either potential nonattainment or maintenance receptors.

After identifying these receptors, EPA then performed nationwide, state-level ozone source apportionment modeling using the CAMx Anthropogenic Precursor Culpability Analysis (APCA) technique to provide information

regarding the expected contribution of 2023 base case nitrogen oxides (NO<sub>x</sub>) and volatile organic compound (VOC) emissions from all sources in each state to projected 2023 ozone concentrations at each air quality monitoring site. In previous federal regulatory actions, such as the Clean Air Interstate Rule (CAIR), the Cross-State Air Pollution Rule (CSAPR), and the CSAPR Update Rule, EPA has used a threshold of 1% of the ozone NAAQS standard to determine if a state significantly contributes to nonattainment or interferes with maintenance of a downwind receptor. One percent (1%) of the 70 ppb standard is 0.70 ppb. Additionally, the EPA issued final guidance entitled *Guidance on Significant Impact Levels for Ozone and Fine Particles in the Prevention of Significant Deterioration Permitting Program*. In that guidance, the EPA recommends an ozone significant impact level (SIL) of 1.0 ppb, based on an air quality variability analysis and the fourth highest daily maximum 8-hour concentration (averaged over three years).

Table 1 lists Mississippi's model nitrogen oxide (NO<sub>x</sub>) contributions (ppb) to 2023 Nonattainment and Maintenance Sites.

Mississippi's modeled contributions is below 1% of the NAAQS to all monitors modeled to be in nonattainment or in maintenance of the 2015 O<sub>3</sub> NAAQS except for Site ID# 482011039 in Harris County, TX. For this monitor, Mississippi's contribution is modeled to be 0.79 ppb, which is 1.12% of the standard but below 1.0 ppb of O<sub>3</sub>. It must be noted, however, that though the design value for this monitored was projected to be over the 2015 O<sub>3</sub> NAAQS, the actual design value is 68 ppb for 2015-2017. The Table 2 lists the design values for 2015-2017.

On August 31, 2018, EPA released a memorandum titled *Analysis of Contribution Thresholds for Use in Clean Air Act Section 110(a)(2)(D)(i)(I) Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards*. In this memorandum, EPA provided analytical information regarding the degree to which certain air quality threshold amounts capture the collective amount of upwind contribution from upwind states to downwind receptors for the 2015 O<sub>3</sub> NAAQS. Because the amount of upwind collective contribution captured with the 1% and 1 ppb thresholds is generally comparable, EPA concluded that it may be reasonable and appropriate for states to use a 1 ppb contribution threshold as an alternative to a 1% threshold in developing SIP revisions addressing the good neighbor provision for the 2015 O<sub>3</sub> standard.

Based on EPA's modeling, Mississippi is below the 1ppb threshold for all monitoring sites in Table 1, which are projected to be nonattainment or maintenance, indicating that Mississippi does not significantly contribute to nonattainment or interfere with maintenance of a downwind receptor in another state.

Additionally, on October 19, 2018, EPA released a memorandum titled *Considerations for Identifying Maintenance Receptors for Use in Clean Air Act Section 110(a)(2)(D)(i)(I) Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards*. In this memorandum, EPA stated its conclusion that “states may, in some cases, eliminate a site as a maintenance receptor if the site is currently measuring clean data.”

Furthermore, the memo states: “EPA would expect states to include with their SIP demonstration technical analyses showing that:

- (a) meteorological conditions in the area of the monitoring site were conducive to ozone formation during the period of clean data or during the alternative base period design value used for projections;
- (b) ozone concentrations have been trending downward at the site since 2011 (and ozone precursor emissions of nitrogen oxide (NOx) and volatile organic compounds (VOC) have also decreased); and
- (c) emissions are expected to continue to decline in the upwind and downwind states out to the attainment date of the receptor.”

- (a) The ozone 8-Hour design values for Deer Park (site ID 482011039) in Houston has been meeting the 2015 ozone standard of 70ppb since 2015. In 2014, the site met attainment status for the 2008 standard of 75ppb. Analysis of additional information provided within the memorandum (Table 3) show that during the 2014-17 timeframe, two out of the four summers, temperatures were above average, specifically 2015 and 2016 while the summers of 2014 and 2017, temperatures were near normal.

Year	Ozone DV	JJA Temp Trend
2014	72	Near Normal
2015	69	Above Normal
2016	67	Above Normal
2017	68	Near Normal

Table 3: Ozone Design Values and Temperature Anomalies for Houston, TX - Deer Park (Site ID 48201139)  
Source: National Oceanic and Atmospheric Administration – National Weather Service



- (b) Ozone concentration at the Deer Park site have been trending downward since 2011. Table 4 lists the ozone design values for the site.

Year	Ozone DV (ppb)
2011	83
2012	84
2013	79
2014	72
2015	69
2016	67
2017	68

Table 4: Ozone Design Values for Houston, TX - Deer Park (Site ID 48201139)

Source: EPA AirNow Database

Ozone precursor emissions of nitrogen oxide (NOx) and volatile organic compounds (VOC) in Texas and in Mississippi have been trending downward since 2011. Table 5 lists the NOx and VOC emissions for the Houston, TX Metropolitan Statistical Area (MSA). Table 6 and Table 7 lists the NOx and VOC emissions in Texas and Mississippi.

Houston, TX MSA Emissions		
Year	NOX (tons)	VOC (tons)
2008	196,341	261,388
2011	163,013	190,976
2014	155,620	166,618

Table 5: NOx and VOC emissions in the Houston, TX MSA

Source: EPA National Emissions Inventory

Texas Emissions		
Year	NOX (tons)	VOC (tons)
2008	1,515,343	2,184,281
2011	1,266,530	1,740,849
2014	1,224,196	1,750,979

Table 6: NOx and VOC emissions in Texas

Source: EPA National Emissions Inventory

Mississippi Emissions		
Year	NOx (tons)	VOC (tons)
2008	230,289	163,383
2011	196,856	193,753
2014	166,226	139,237

Table 7: NOx and VOC emissions in Mississippi  
Source: EPA National Emissions Inventory

Additional resources provided with the October 18, 2018 memorandum also show analysis of emissions decreasing throughout the region.

- (c) Based on national and regional emissions trends, and current regulations on point sources and mobile sources, emissions are expected to continue to decline in the upwind and downwind states.

Therefore, under the criteria set in the October 19, 2018 memorandum, Mississippi proposes to eliminate the Deer Park site in Harris County, TX (site ID 48201139) as a maintenance receptor.

Based on the information provide above for Prong 2 (Interfere with maintenance of NAAQS by any other State), Mississippi does not significantly interfere with maintenance of the 2015 Ozone Standard in another state. MDEQ hereby confirms that the SIP contains adequate provisions to continue maintenance of the 2010 1-hour SO2 NAAQS and prevent sources and other types of emissions activities within the state from interfering with maintenance (prong 2) in any other state with respect to the 2015 Ozone NAAQS.

*(ii) Each such Plan shall [...] contain adequate provisions insuring compliance with the applicable requirements of sections 115 and 126(b) that involve ozone precursor emissions (relating to interstate and international pollution abatement).” EPA has no reason to approve or disapprove any existing state rules with regard to these provisions.*

11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 5 shows where 40 CFR 51.166 was adopted by reference into the SIP. These regulations require notification of potential impacts from new or modified sources to state and local agencies of neighboring states. Therefore, the SIP meets the requirements of this criterion.

### Section 110(a)(2)(E)

*Provide*

*(i) necessary assurances that the State (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof).*

SIP Appendix A-9, Section 49-17-17(d), grants MDEQ statutory authority to accept and administer laws and grants from the federal government and from other sources, public and private, for carrying out any of its functions, which loans and grants shall not be expended for other than the purposes for which provided.

*(ii) requirements that the State comply with the requirements respecting State boards under section 128 of this title.*

EPA proposed to approve in part, and disapprove in part, a draft revision of this section for the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS infrastructure SIP submitted by MDEQ on July 13, 2012. EPA proposed to approve the MDEQ submission as it related to the public interest requirements of Clean Air Act (CAA) Section 128(a)(1) and the conflict of interest disclosure provisions of CAA Section 128(a)(2). EPA also proposed to disapprove the submission as it pertained to compliance with the significant portion of income requirements of CAA Section 128(a)(1). These EPA actions are detailed in Federal Register Vol. 77, No. 154, 47573. The MDEQ submission is stated below.

SIP Appendix A-9, Section 49-17-17(a), states that the Mississippi Commission on Environmental Quality shall have powers and duties to issue and supervise enforcement orders. SIP Appendix A-9, Section 49-17-28, states the Mississippi Department of Environmental Quality (MDEQ) Permit Board has the power to issue, modify, revoke, or deny permits. These are the only boards that have authorization to issue enforcement orders and permits.

MDEQ is proposing that provisions of the Mississippi State Constitution and of the Mississippi Code are substantially equivalent to the requirements of the Federal Program by providing for unbiased decisions of the Commission on all matters, including final decisions on permits, and the disclosure of any potential conflicts of interest.

SIP Appendix A-11, Article 4, Section 109 of the Mississippi Constitution provides “No public officer or member of the legislature shall be interested, directly or indirectly, in any contract with the state, or any district, county, city, or town thereof, authorized by any law passed or order made by any board of which he may be or may have been a member, during the term for which he shall have been chosen, or within one year after the expiration of such term.” Simply being a commission member constitutes a violation

of Constitutional Section 109 regardless of voting or not voting if the interest being voted on is a contract prohibited by the provision. Thus, there can be no Commission member with any interest in a governmental contract with the agency.

In addition to the Constitutional prohibition, Mississippi has an ethical charter set forth in SIP Appendix A-10 Mississippi Code Section 25-4-101, *et. seq.* These Code sections define the terms used and prohibit conflicts of interests by Commission members.

SIP Appendix A-10 Mississippi Code Section 25-4-103 provides the following definitions, in pertinent part:

- (b) “Benefit” means any gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the desire or consent of the beneficiary.
- (c) “Business” means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, self-employed individual, joint-stock company, receivership, trust or other legal entity or undertaking organized for economic gain, a nonprofit corporation or other such entity, association or organization receiving public funds.
- (d) “Business with which he is associated” means any business of which a public servant or his relative is an officer, director, owner, partner, employee or is a holder of more than ten percent (10%) of the fair market value or from which he or his relative derives more than Two Thousand Five Hundred Dollars (\$2,500.00) in annual income or over which such public servant or his relative exercises control.
- (f) “Contract” means:
  - (i) Any agreement to which the government is a party;  
or
  - (ii) Any agreement on behalf of the government which involves the payment of public funds.
- (g) “Government” means the state and all political entities thereof, both collectively and separately, including, but not limited to:
  - (v) Any department, agency, board, commission, institution, instrumentality, or legislative or administrative body of the state, counties or municipalities created by statute, ordinance or

executive order including all units that expend public funds.

- (h) “Governmental entity” means the state, a county, a municipality or any other separate political subdivision authorized by law to exercise a part of the sovereign power of the state.
- (l) “Pecuniary benefit” means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain. Expenses associated with social occasions afforded public servants shall not be deemed a pecuniary benefit.
- (p) “Public servant” means:
  - (i) Any elected or appointed official of the government;
  - (ii) Any officer, director, commissioner, supervisor, chief, head, agent or employee of the government or any agency thereof, or of any public entity created by or under the laws of the State of Mississippi or created by an agency or governmental entity thereof, any of which is funded by public funds or which expends, authorizes or recommends the use of public funds; or
  - (iii) Any individual who receives a salary, per diem or expenses paid in whole or in part out of funds authorized to be expended by the government.

SIP Appendix A-10 Mississippi Code Section 25-4-105(1), (3) and (5) state, in pertinent part:

- (1) No public servant shall use his official position to obtain, or attempt to obtain, pecuniary benefit for himself other than that compensation provided for by law, or to obtain, or attempt to obtain, pecuniary benefit for any relative or any business with which he is associated.
- (3) No public servant shall:
  - (d) Perform any service for any compensation during his term of office or employment by which he attempts to influence a decision of the authority of the governmental entity of which he is a member.

- (5) No person may intentionally use or disclose information gained in the course of or by reason of his official position or employment as a public servant in any way that could result in pecuniary benefit for himself, any relative, or any other person, if the information has not been communicated to the public or is not public information.

The interests of each of the Board member are made public by the required filing of a statement of economic interest pursuant to SIP Appendix A-10 Mississippi Code Section 25-4-25, which provides in pertinent part:

Each of the following individuals shall file a statement of economic interest with the commission in accordance with the provisions of this chapter:

- (e) Members of any state board, commission or agency, including the Mississippi Ethics Commission, charged with the administration or expenditure of public funds, with the exception of advisory boards or commissions; provided, however, in order to fulfill the legislative purposes of this chapter, the commission may require, upon a majority vote, the filing of a statement of economic interest by members of an advisory board or commission;
- (f) Executive directors, heads, or members of any board, committee, commission or council of any of the following entities, by whatever name designated:

The application of the above referenced statutes has been addressed by the Mississippi Ethics Commission in SIP Appendix A-10 Advisory Opinion 95-042-E, as follows:

State commission members [should] not use their official positions to obtain a pecuniary benefit for themselves, their relatives or any business with which they are associated in violation of SIP Appendix A-10 Code Section 25-4-105(1).

Public servants must keep the performance of their official duties entirely separate and distinct from any private interests. In order for the private interests to remain separate and distinct, public servants must recuse themselves from discussing or acting on any subject matter in which they have a pecuniary interest.

A proper recusal occurs when the public servant totally removes himself or herself from the pertinent matter by not officially or unofficially taking part or action regarding the subject matter and leaves the room or area where such discussions, considerations or actions take

place. The minutes of the state commission should state that the member left the meeting by showing him or her absent for that matter.

A commission member(s) should not vote on or take part in a matter concerning regulations or licensing restrictions that would affect the pecuniary interest and/or benefit of the commission member, a relative or a business in which he or she is associated.

Violations of SIP Appendix A-10 Code Section 25-4-105 are punishable in accordance with SIP Appendix A-10 Code Sections 25-4-109, which provides in pertinent part:

- (1) Upon a finding by clear and convincing evidence that any elected public servant or other person has violated any provision of this article, the commission may censure the elected public servant or impose a civil fine of not more than Ten Thousand Dollars (\$10,000.00), or both. The commission may further recommend to the Circuit Court for Hinds County that the elected public servant be removed from office.
- (2) Upon a finding by clear and convincing evidence that any nonelected public servant has violated any provision of this article, the commission may censure the nonelected public servant or impose a civil fine of not more than Ten Thousand Dollars (\$10,000.00), or both. The commission may further recommend to the Circuit Court for Hinds County that the nonelected public servant be removed from office, suspended, or subjected to a demotion or reduction in pay.
- (3) The commission may order restitution or other equitable or legal remedies to recover public funds or property unlawfully taken, as well as unjust enrichment, although not public funds. Any pecuniary benefit received by a public servant in violation of this article may be declared forfeited by the commission for the benefit of the governmental entity injured.
- (4) In the event a public servant does not appeal the decision or recommendation of the commission, the commission may petition the Circuit Court for Hinds County for the removal, suspension, demotion or reduction of pay of the public servant as provided by law.

Under the provisions of its Ethics laws, members of the Mississippi Commission on Environmental Quality and the MDEQ Permit Board are considered public servants, bound by all the provisions of the State's Ethics laws. It is clear that members of the Commission and Permit Board are prohibited taking any action in their personal interests, on penalty of removal, sanction, fines and restitution orders.

MDEQ is proposing that SIP Appendix A-10 Code Sections 25-4-25, as stated above, 25-4-27 and 25-4-29 meet the requirements of Clean Air Act Section 128(a)(2). As fore stated, Code Section 24-4-25 provides for the filing of a statement of economic interest by every Commission member. Code Section 25-4-27(a) through (f) define the information required to be submitted by filers of the statement of economic interest. The MDEQ Executive Director, the Mississippi Commission on Environmental Quality, and the MDEQ Permit Board are required to file such statements. The failure to file such a statement is addressed in Code Section 25-4-29(2), which sets a monetary penalty for failing to file.

(i) Mississippi proposes that the combination of SIP Appendix A-11 Mississippi Constitution, Article 4, Section 109, and the SIP Appendix A-10 Mississippi Code Sections of the State's ethical charter is substantially equivalent to the requirements of the Federal program by providing for unbiased decisions of the Board on all matters, including final decisions on permits, and the disclosure of any potential conflicts of interest.

*(iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision*

SIP Appendix A-9, Section 49-17-17(h), provides for authority under State law to carry out its SIP and related issues. The State does not rely on a local regional government, agency, or instrumentality for the implementation of any plan provision.



### **Section 110(a)(2)(F)**

*Require, as may be prescribed by the Administrator—*

- (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources,*

SIP Appendix A-9, Section 49-17-21, states that the Commission may require the installation, maintenance, and use of such monitoring equipment and methods at such locations and intervals as the Commission deems necessary.

- (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and*

11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 2, Section VI lists requirements for compliance testing and reporting that is required to be included in any MDEQ air pollution permit.

- (iii) correlation of such reports by the State agency with any emission limitations or standards established pursuant to this chapter, which reports shall be available at reasonable times for public inspection.*

SIP Appendix A-9, Section 49-17-21, states that MDEQ has the authority to require the maintenance of records related to the operation of air contaminant sources and any authorized representative of the Commission may examine and copy any such records or memoranda pertaining to the operation of such contaminant source. 11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 2, Section IX requires that copies of records relating to the operation of air contamination sources shall be submitted to the Permit Board as required by the permit or upon request.

### **Section 110(a)(2)(G)**

*Provide for authority comparable to that in section 303 of this title and adequate contingency plans to implement such authority.*

SIP Appendix A-9, Section 49-17-27, states that in the event an emergency is found to exist by the Commission, it may issue an emergency order as circumstances may require.

11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 3 states then the MDEQ Director determines that an Air Pollution Emergency Episode condition exists at one or more monitoring sites solely because of emissions from a limited number of sources, he may order such source or sources to put into effect the emission control programs which are applicable for each episode stage. 11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 3 also lists regulations to prevent the excessive buildup of air pollutants during air pollution episodes.

### **Section 110(a)(2)(H)**

*Provide for revision of such plan—*

*(i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and*  
*(ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this chapter.*

- (i) SIP Appendix A-9, Section 49-17-17(h) provides MDEQ with the necessary statutory authority to revise the SIP to accommodate changes to the NAAQS.
- (ii) SIP Appendix A-9, Section 49-17-17(h) provides MDEQ with the necessary statutory authority to revise the SIP if the Administrator finds the plan to be substantially inadequate to attain the NAAQS.

### **Section 110(a)(2)(I)**

*In the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D of this subchapter (relating to nonattainment areas).*

Currently, Mississippi is in attainment with the ozone NAAQS. However, if the State is designated as nonattainment in the future, SIP Appendix A-9, Section 49-17-17, provides MDEQ with the necessary statutory authority to revise the SIP.

### **Section 110(a)(2)(J)**

*Meet the applicable requirements of section 121 of this title (relating to consultation), section 127 of this title (relating to public notification), and part C of this subchapter (relating to prevention of significant deterioration of air quality and visibility protection).*

11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 5, in addition to provisions in separate implementation plans (such as the Regional Haze Implementation Plan) provide for continued consultation with government officials. SIP Appendix A-9, Section 49-17-17(c), provides MDEQ with the necessary statutory authority to advise, consult, cooperate, or enter into contracts, grants, and cooperative agreements with any federal or state agency or subdivision thereof.

MDEQ has public notice mechanisms in place to notify the public of ozone. These include the MDEQ web site where changes in regulations, air quality summary data, and daily AQI reports. Also, certain regulatory actions may also be published in newspapers and/or public hearings. 11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 3 requires that MDEQ notify the public of any air pollution alert, warning, or emergency.

11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 5 addresses PSD applicable requirements of Part C. The EPA approved the revision to the SIP incorporating nitrogen oxides as an ozone precursor on December 20, 2010 (75 FR 79300). On September 26, 2012, (77 FR 59095) the EPA approved the revision to the SIP to incorporate by reference federal NSR PSD requirements for the fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS) as promulgated in EPA's 2008 NSR PM 2.5 Implementation Rule and the 2010 PM<sub>2.5</sub> PSD Increment, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC) Rule.

SIP Appendix R addresses visibility protection applicable requirements of Part C. Mississippi maintains continual consultation procedures with the Federal Land Managers, per 40 CFR 51.308(i)(4), regarding any regional haze plan or plan revisions.

Per EPA's September 13, 2013 memorandum, "Guidance on Infrastructure State Implementation Plan (SIP) Elements under CAA Sections 110(a)(1) and 110(a)(2)", there are no other applicable visibility protection obligations under Section 110(a)(2)(J) as a result of the 2015 8-hour ozone NAAQS.

**Section 110(a)(2)(K)**

*Provide for—*

- (i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and*
- (ii) the submission, upon request, of data related to such air quality modeling to the Administrator.*

*11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 2, V.B. and 11 MISSISSIPPI ADMINISTRATIVE CODE, PART 2, CHAPTER 5 require that air modeling be conducted to determine permit applicability.*

**Section 110(a)(2)(L)**

*Require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this chapter, a fee sufficient to cover—*

- (i) the reasonable costs of reviewing and acting upon any application for such a permit, and*
- (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under subchapter V of this chapter.*

SIP Appendix A-9, Section 49-17-30, provides for the assessment of Title V permit fees to cover these costs.

**Section 110(a)(2)(M)**

*Provide for consultation and participation by local political subdivisions affected by the plan.*

SIP Appendix A-9, Section 49-17-17(c), gives the Commission the statutory authority to advise and consult with any political subdivisions in the State. SIP Appendix A-9, Section 49-17-19(b) requires the Commission to conduct public hearings in accordance with EPA regulations prior to establishing, amending, or repealing standards of air quality. SIP Appendix R is an example of providing for consultation and participation with local entities.