

avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a “SIP call” whenever the Agency determines that a state’s SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.<sup>11</sup> Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.<sup>12</sup> Significantly, EPA’s determination that an action on a state’s infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA’s subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director’s discretion provisions in the course of acting on an infrastructure SIP submission, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.<sup>13</sup>

### III. Proposed Action

EPA is proposing to approve the following elements or portions thereof of West Virginia’s June 25, 2013 SIP revision: section 110(a)(2)(A), (B), (C) (enforcement and minor new source review), (D)(i)(II) (visibility protection),

(D)(ii), (E)(i) and (iii), (F), (G), (H), (J), (K), (L), and (M). West Virginia’s SIP revision provides the basic program elements specified in section 110(a)(2) necessary to implement, maintain, and enforce the 2010 SO<sub>2</sub> NAAQS. This proposed rulemaking action does not include action on section 110(a)(2)(I) which pertains to the nonattainment planning requirements of part D, Title I of the CAA, because this element is not required to be submitted by the 3-year submission deadline of section 110(a)(1) of the CAA, and will be addressed in a separate process.

Additionally, EPA will take separate action on the portions of CAA section 110(a)(2) infrastructure elements for the 2010 SO<sub>2</sub> NAAQS as they relate to West Virginia’s PSD program, as required by part C of Title I of the CAA. This includes portions of the following infrastructure elements: section 110(a)(2)(C), (D)(i)(II), and (J). Finally, EPA will take later separate action on section 110(a)(2)(D)(i)(I) (interstate transport of emission), (D)(i)(II) (visibility protection), and (E)(ii) (section 128, “State Boards”) for the 2010 SO<sub>2</sub> NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

### IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, pertaining to West Virginia’s section 110(a)(2) infrastructure requirements for the 2010 SO<sub>2</sub> NAAQS, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Sulfur oxides, Reporting and recordkeeping requirements.

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

Dated: April 30, 2014.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2014–11085 Filed 5–13–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R10–OAR–2011–0446; FRL–9910–82–Region–10]

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

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

**ACTION:** Proposed rule.

<sup>11</sup> For example, EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. See “Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revisions,” 74 FR 21639 (April 18, 2011).

<sup>12</sup> EPA has used this authority to correct errors in past actions on SIP submissions related to PSD programs. See “Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,” 75 FR 82536 (December 30, 2010). EPA has previously used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See, e.g., 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062, November 16, 2004 (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

<sup>13</sup> See, e.g., EPA’s disapproval of a SIP submission from Colorado on the grounds that it would have included a director’s discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). See, e.g., 75 FR 42342 at 42344 (July 21, 2010) (proposed disapproval of director’s discretion provisions); 76 FR 4540 (January 26, 2011) (final disapproval of such provisions).

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a portion of the State Implementation Plan submittal from the State of Oregon to address Clean Air Act interstate transport requirements in section 110(a)(2)(D)(i)(I) for the 2006 24-hour fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standards. The Clean Air Act requires that each State Implementation Plan contain adequate provisions prohibiting air emissions that will have certain adverse air quality effects in other states. The EPA is proposing to determine that Oregon's existing State Implementation Plan contains adequate provisions to ensure that air emissions in Oregon do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> National Ambient Air Quality Standard in any other state.

**DATES:** Written comments must be received on or before June 13, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2011-0446, by any of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *Email*: [R10-Public\\_Comments@epa.gov](mailto:R10-Public_Comments@epa.gov).
- *Mail*: Dr. Karl Pepple, EPA Region 10, Office of Air, Waste and Toxics (AWT-107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.
- *Hand Delivery/Courier*: EPA Region 10 9th Floor Mailroom, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Dr. Karl Pepple, Office of Air, Waste and Toxics, AWT-107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R10-OAR-2011-0446. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email

comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which 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. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

**FOR FURTHER INFORMATION CONTACT:** Dr. Karl Pepple at (206) 553-1778, [pepple.karl@epa.gov](mailto:pepple.karl@epa.gov), or the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever "we," "us," or "our" are used, it is intended to mean the EPA. Information is organized as follows:

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## I. Background

### A. 2006 24-Hour PM<sub>2.5</sub> NAAQS and Interstate Transport

On September 21, 2006, the EPA promulgated a final rule revising the

1997 24-hour primary and secondary National Ambient Air Quality Standards (NAAQS) for PM<sub>2.5</sub> from 65 micrograms per cubic meter (µg/m<sup>3</sup>) to 35 µg/m<sup>3</sup> (October 17, 2006, 71 FR 61144).

The interstate transport provisions in Clean Air Act (CAA) section 110(a)(2)(D)(i) (also called "good neighbor" provisions) require each state to submit a State Implementation Plan (SIP) that prohibits emissions that will have certain adverse air quality effects in other states. CAA section 110(a)(2)(D)(i) identifies four distinct elements related to the impacts of air pollutants transported across state lines. In this action, the EPA is addressing the first two elements of this section, specified at CAA section 110(a)(2)(D)(i)(I),<sup>1</sup> for the 2006 24-hour PM<sub>2.5</sub> NAAQS.

The first element of CAA section 110(a)(2)(D)(i)(I) requires that each SIP for a new or revised NAAQS contain adequate measures to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will "contribute significantly to nonattainment" of the NAAQS in another state. The second element of CAA section 110(a)(2)(D)(i)(I) requires that each SIP prohibit any source or other type of emissions activity in the state from emitting pollutants that will "interfere with maintenance" of the applicable NAAQS in any other state.

### B. Rules Addressing Interstate Transport for the 2006 24-Hour PM<sub>2.5</sub> NAAQS

The EPA has previously addressed the requirements of CAA section 110(a)(2)(D)(i)(I) in past regulatory actions.<sup>2</sup> The EPA published the final Cross-State Air Pollution Rule (Transport Rule) to address the first two elements of CAA section 110(a)(2)(D)(i)(I) in the eastern portion of the United States with respect to the 2006 PM<sub>2.5</sub> NAAQS, the 1997 PM<sub>2.5</sub> NAAQS, and the 1997 8-hour ozone NAAQS (August 8, 2011, 76 FR 48208). The Transport Rule was intended to replace the earlier Clean Air Interstate Rule (CAIR) which was judicially

<sup>1</sup> This proposed action does not address the two elements of the interstate transport SIP provision in CAA section 110(a)(2)(D)(i)(II) regarding interference with measures required to prevent significant deterioration of air quality or to protect visibility in another state. We previously published a notice approving the Oregon SIP for purposes of CAA section 110(a)(2)(D)(i)(II) for the 2006 24-hour PM<sub>2.5</sub> NAAQS on August 1, 2013 (78 FR 46514).

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

remanded.<sup>3</sup> See *North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir. 2008). On August 21, 2012, the U.S. Court of Appeals for the D.C. Circuit issued a decision vacating the Transport Rule, see *EME Homer City Generation, L.P. v. E.P.A.*, 696 F.3d 7 (D.C. Cir. 2012), and ordering the EPA to continue implementing CAIR in the interim. However, on April 29, 2014, the U.S. Supreme Court reversed and remanded the D.C. Circuit's ruling and upheld the EPA's approach in the Transport Rule. *EPA v. EME Homer City Generation, L.P.*, No. 12–1182, 572 U.S. \_\_\_\_ slip op. (2014). The State of Oregon was not covered by either CAIR or the Transport Rule, and the EPA made no determinations in either rule regarding whether emissions from sources in Oregon significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in another state.

### C. Guidance

On September 25, 2009, the EPA issued a guidance memorandum that addresses the requirements of CAA section 110(a)(2)(D)(i) for the 2006 24-hour PM<sub>2.5</sub> NAAQS (“2006 24-hour PM<sub>2.5</sub> NAAQS Infrastructure Guidance” or “Guidance”).<sup>4</sup> With respect to the requirement in CAA section 110(a)(2)(D)(i)(I) to prohibit emissions that would contribute significantly to nonattainment of the NAAQS in any other state, the 2006 24-hour PM<sub>2.5</sub> NAAQS Infrastructure Guidance essentially reiterated the recommendations for western states made by the EPA in previous guidance addressing the CAA section 110(a)(2)(D)(i) requirements for the 1997 8-hour Ozone and 1997 PM<sub>2.5</sub> NAAQS.<sup>5</sup> The 2006 24-hour PM<sub>2.5</sub> NAAQS Infrastructure Guidance advised states outside of the CAIR region to include in their CAA section 110(a)(2)(D)(i)(I) SIPs

adequate technical analyses to support their conclusions regarding interstate pollution transport, e.g., information concerning emissions in the state, meteorological conditions in the state and in potentially impacted states, monitored ambient pollutant concentrations in the state and in potentially impacted states, distances to the nearest areas not attaining the NAAQS in other states, and air quality modeling.<sup>6</sup> With respect to the requirement in CAA section 110(a)(2)(D)(i)(I) to prohibit emissions that would interfere with maintenance of the NAAQS in any other state, the Guidance stated that SIP submissions must address this independent requirement of the statute and provide technical information appropriate to support the state's conclusions, such as information concerning emissions in the state, meteorological conditions in the state and in potentially impacted states, monitored ambient concentrations in the state and in potentially impacted states, and air quality modeling. See footnotes 5 and 6. In this action, the EPA is proposing to use the conceptual approach to evaluating interstate pollution transport under CAA section 110(a)(2)(D)(i)(I) that the EPA explained in the 2006 24-hour PM<sub>2.5</sub> NAAQS Infrastructure Guidance. For the 2006 24-hour PM<sub>2.5</sub> NAAQS, the EPA believes that nonattainment and maintenance problems in the western United States are generally relatively local in nature with only limited impacts from interstate transport. The EPA believes that the CAA section 110(a)(2)(D)(i)(I) SIP submission from Oregon may be evaluated using a “weight of the evidence” approach that takes into account available relevant information. Such information may include, but is not limited to, the amount of emissions in the state relevant to the NAAQS in question, the meteorological conditions in the area, the distance from the state to the nearest monitors in other states that are appropriate receptors, or such other information as may be probative to consider whether sources in the state may contribute significantly to nonattainment or interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub>

NAAQS in other states. These submissions can rely on modeling when acceptable modeling technical analyses are available, but the EPA does not believe that modeling is necessarily required if other available information is sufficient to evaluate the presence or degree of interstate transport in a specific situation.<sup>7</sup>

## II. The State Submittal

CAA sections 110(a)(1) and (2) and section 110(l) require that revisions to a SIP be adopted by the state after reasonable notice and public hearing. The EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of notices, by prominent advertisement in the relevant geographic area, a public comment period of at least 30 days, and an opportunity for a public hearing.

On June 28, 2010, the State of Oregon submitted a SIP revision to update the State's SIP for ozone and PM<sub>2.5</sub>. The State's SIP submittal cover letter indicated the SIP revision included the “Oregon SIP Infrastructure for Addressing the Interstate Transport of Ozone and Fine Particulate Matter” to address the interstate transport SIP requirements of CAA section 110(a)(2)(D)(i) for the 8-hour ozone and PM<sub>2.5</sub> NAAQS (2010 Interstate Transport SIP). The State's June 28, 2010 submittal included public process documentation for the 2010 Interstate Transport SIP, including documentation of a duly noticed public hearing held on December 22, 2009. The State subsequently notified the EPA that a clerical error was made and that the 2010 Interstate Transport SIP had not been attached to the June 28, 2010, cover letter. The State transmitted the 2010 Interstate Transport SIP to the EPA on December 23, 2010. The State then transmitted a letter to the EPA on March 14, 2011, confirming that the 2010 Interstate Transport SIP was submitted for purposes of meeting the requirements of CAA section 110(a)(2)(D)(i) for the 1997 ozone NAAQS, 1997 PM<sub>2.5</sub> NAAQS, 2006 24-hour PM<sub>2.5</sub> NAAQS, and 2008 ozone NAAQS.

We find that the process followed by the State in adopting the 2010 Interstate Transport SIP complies with the procedural requirements for SIP revisions under CAA section 110 and the EPA's implementing regulations.

To address whether emissions from sources in Oregon significantly contribute to nonattainment of the 2006

<sup>3</sup> CAIR addressed the 1997 annual and 24-hour PM<sub>2.5</sub> NAAQS, and the 1997 8-hour ozone NAAQS. It did not address the 2006 24-hour PM<sub>2.5</sub> NAAQS. For more information on CAIR, see the July 30, 2012 proposal for Arizona regarding interstate transport for the 2006 PM<sub>2.5</sub> NAAQS (77 FR 44551, 44552).

<sup>4</sup> See Memorandum from William T. Harnett entitled “Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS),” September 25, 2009, available at [http://www.epa.gov/ttn/caaa/t1/memoranda/20090925\\_harnett\\_pm25\\_sip\\_110a12.pdf](http://www.epa.gov/ttn/caaa/t1/memoranda/20090925_harnett_pm25_sip_110a12.pdf).

<sup>5</sup> See Memorandum from William T. Harnett entitled “Guidance for State Implementation Plan (SIP) Submission to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-hour ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards,” August 15, 2006, available at [http://www.epa.gov/ttn/caaa/t1/memoranda/section110a2di\\_sip\\_guidance.pdf](http://www.epa.gov/ttn/caaa/t1/memoranda/section110a2di_sip_guidance.pdf).

<sup>6</sup> The 2006 24-hour PM<sub>2.5</sub> NAAQS Infrastructure Guidance states that EPA was working on a new rule to replace CAIR to address issues raised by the court in the *North Carolina* case and to provide guidance to states in addressing the requirements related to interstate transport in CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour PM<sub>2.5</sub> NAAQS. It also notes that states could not rely on the CAIR rule for section 110(a)(2)(D)(i)(I) submissions for the 2006 24-hour PM<sub>2.5</sub> NAAQS because the CAIR rule did not address this NAAQS. See 2006 PM<sub>2.5</sub> NAAQS Infrastructure Guidance at 4.

<sup>7</sup> See “2006 24-hour PM<sub>2.5</sub> NAAQS Infrastructure Guidance,” issued September 25, 2009.

24-hour PM<sub>2.5</sub> NAAQS in another state, the State stated in the 2010 Interstate Transport SIP that meteorological and other characteristics of any areas designated nonattainment for the 2006 24-hour PM<sub>2.5</sub> NAAQS in the surrounding states of Washington, Idaho, Nevada, and California support a finding that emissions from Oregon sources do not significantly contribute to violations of the 2006 24-hour PM<sub>2.5</sub> NAAQS in other states. The State explained that the closest 2006 24-hour PM<sub>2.5</sub> designated nonattainment areas in neighboring states are the Tacoma area (Pierce County) in Washington; the Chico area (portions of Butte County) in California; and the Cache Valley area in Southeast Idaho (portions of Cache County, Utah and Franklin County, Idaho). Oregon stated that the area of highest Oregon emission densities (Portland Metro area) is separated from these 2006 24-hour PM<sub>2.5</sub> nonattainment areas by significant distances and major mountain ranges up to approximately 7000 feet. The State identified one exception—the Portland, Oregon-Vancouver, Washington metro area, which shares a common air shed between Oregon and Washington. Oregon noted however that both Portland, Oregon and Vancouver, Washington are in attainment with the 2006 24-hour PM<sub>2.5</sub> NAAQS.

Additionally, the State described typical wind patterns during the winter when PM<sub>2.5</sub> levels are the highest. It noted that the majority of wind speeds occur at less than eight miles per hour, and a significant portion of low winds occur at less than five miles per hour. The State explained that these low wind speeds and air stagnation conditions do not lend themselves to long distance air pollution transport. The State concluded that general meteorology supports the conclusion that high winter time PM<sub>2.5</sub> levels in Pacific Northwest communities are typically dominated by local emission sources.

Oregon's 2010 Interstate Transport SIP also pointed to its CAA section 110 infrastructure SIP to demonstrate that Oregon Department of Environmental Quality (ODEQ) has the ability to participate as needed in future studies on regional air pollution issues, can collaborate with other states if air quality concerns are identified that require a case-specific evaluation of interstate transport, and has the legal mechanism to take action as needed to reduce emissions to help attain compliance with Federal NAAQS. Oregon stated that that high PM<sub>2.5</sub> levels that threaten the NAAQS are investigated as needed to identify

contributing sources, including any potential role of interstate transport.

Finally, the State explained that it had consulted with air agencies in Washington, Idaho, Nevada, and California and other agencies to evaluate case-specific air quality problems that may involve regional transport of air pollution. These staff-level communications indicated no impacts on PM<sub>2.5</sub> concentrations in other states caused by transport from Oregon.

Based on the information provided in its 2010 Interstate Transport SIP, the State concluded that emissions from air pollution sources in Oregon do not significantly contribute to nonattainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS in other states.

### III. The EPA Evaluation

To determine whether the CAA section 110(a)(2)(D)(i)(I) requirement is satisfied, the EPA must determine whether a state's emissions contribute significantly to nonattainment or interfere with maintenance of the NAAQS in other states. If this factual finding is in the negative, then CAA section 110(a)(2)(D)(i)(I) does not require any changes to a state's SIP. Consistent with the EPA's approach in the 1998 NO<sub>x</sub> SIP Call, the 2005 CAIR, and the 2011 Transport Rule, the EPA is evaluating these impacts with respect to specific monitors identified as having nonattainment and/or maintenance problems, which we refer to as "receptors." See footnote 2.

This proposed approval addresses the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour PM<sub>2.5</sub> NAAQS in several ways. The EPA notes that no single piece of information is by itself dispositive of the issue. Instead, the total weight of all the evidence taken together is used to evaluate significant contributions to nonattainment or interference with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in another state. Our proposed approval takes into account Oregon's 2010 Interstate Transport SIP which explains that meteorological and other characteristics in Oregon and in the surrounding areas reduce the likelihood that emissions from sources in Oregon contribute significantly to nonattainment or interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in any downwind state. In addition, we are supplementing the evaluation of the State's submittal with a review of the monitors in other states that are appropriate "nonattainment receptors" or "maintenance receptors" and additional technical information to consider whether sources in Oregon contribute significantly to

nonattainment or interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in other states.

Our Technical Support Document (TSD) contains a more detailed evaluation and is available in the public docket for this rulemaking, which may be accessed online at [www.regulations.gov](http://www.regulations.gov), docket number EPA-R10-OAR-2011-0446. Below is a summary of our analysis.

#### A. Identification of Nonattainment and Maintenance Receptors

The EPA evaluated data from existing monitors over three overlapping three-year periods (i.e., 2008–2010, 2009–2011, and 2010–2012) to determine which areas were violating the 2006 24-hour PM<sub>2.5</sub> NAAQS and which areas might have difficulty maintaining attainment. If a monitoring site measured a violation of the 2006 24-hour PM<sub>2.5</sub> NAAQS during the most recent three-year period (2010–2012), then this monitor location was evaluated for purposes of the significant contribution to nonattainment element of CAA section 110(a)(2)(D)(i)(I). If, on the other hand, a monitoring site shows attainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS during the most recent three-year period (2010–2012) but a violation in at least one of the previous two three-year periods (2008–2010 or 2009–2011), then this monitor location was evaluated for purposes of the interference with maintenance element of the statute.

The State of Oregon was not covered by the original modeling analyses conducted for the CAIR and the Transport Rule. The approach described above is similar to the approach utilized by the EPA in promulgating the CAIR and the Transport Rule. By this method, the EPA has identified those areas with monitors to be considered "nonattainment receptors" or "maintenance receptors" for evaluating whether the emissions from sources in another state could significantly contribute to nonattainment in, or interfere with maintenance in, that particular area.

#### B. Evaluation of Significant Contribution to Nonattainment

The EPA reviewed Oregon's 2010 Interstate Transport SIP and additional technical information to evaluate the potential for emissions from sources in Oregon to contribute significantly to nonattainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS at specified monitoring

sites in the western United States.<sup>8</sup> The EPA first identified as “nonattainment receptors” all monitoring sites in the western states that had recorded PM<sub>2.5</sub> design values above the level of the 2006 24-hour PM<sub>2.5</sub> NAAQS (35 µg/m<sup>3</sup>) during the years 2010–2012.<sup>9</sup> See Section III of the TSD for more a more detailed description of the EPA’s methodology for selection of nonattainment receptors. All of the nonattainment receptors identified in western states are in California, Idaho, Oregon, and Utah. Because geographic distance is a relevant factor in the assessment of potential pollution transport, the EPA focused its review on information related to potential transport of PM<sub>2.5</sub> pollution from Oregon to nonattainment receptors in the states bordering Oregon: Idaho and California.<sup>10 11</sup> As detailed in the TSD, the EPA believes that the following factors support a finding that emissions from Oregon do not significantly contribute to nonattainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS in these states: (1) Technical information indicating that elevated PM<sub>2.5</sub> levels at nonattainment receptors are predominantly caused by local emission sources and (2) air quality data indicating that regional background levels of PM<sub>2.5</sub> are generally low during the time periods of elevated PM<sub>2.5</sub> at these receptors. In addition, as detailed in the TSD with respect to California, technical information indicating that the dominant air flows across California are from the west to the east additionally supports a finding that emissions from Oregon do not significantly contribute

to nonattainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS in California.

The EPA also evaluated potential PM<sub>2.5</sub> transport to nonattainment receptors in the more distant western state of Utah. The EPA believes that the following factors support a finding that emissions from Oregon do not significantly contribute to nonattainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS in Utah: (1) The significant distance from Oregon to the nonattainment receptors in Utah, (2) technical information indicating that elevated PM<sub>2.5</sub> levels at nonattainment receptors in Utah are predominantly caused by local emission sources, and (3) air quality data indicating that regional background levels of PM<sub>2.5</sub> are generally low during the time periods of elevated PM<sub>2.5</sub> at Utah receptors.

Based on this evaluation of Oregon’s 2010 Interstate Transport SIP and additional technical information, the EPA proposes to conclude that emissions from sources in Oregon do not significantly contribute to nonattainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS in any other state.

#### *C. Evaluation of Interference With Maintenance*

The EPA reviewed Oregon’s 2010 Interstate Transport SIP and additional technical information to evaluate the potential for Oregon emissions to interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS at specified monitoring sites in the western United States. The EPA first identified as “maintenance receptors” all monitoring sites in the western states that had recorded PM<sub>2.5</sub> design values above the level of the 2006 24-hour PM<sub>2.5</sub> NAAQS (35 µg/m<sup>3</sup>) during the 2008–2010 and/or 2009–2011 periods but below this standard during the 2010–2012 period. See section III of the TSD for more information regarding the EPA’s methodology for selection of maintenance receptors. All of the maintenance receptors in the western states are located in California, Montana, Nevada, Oregon, Utah, and Washington. The EPA focused its evaluation of the potential for transport of Oregon emissions to the maintenance receptors located in three states bordering Oregon: California, Nevada, and Washington.<sup>12 13</sup> As detailed in the TSD, the EPA believes that the following factors support a finding that emissions from sources in Oregon do

not interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in these border states: (1) Technical information indicating that elevated 24-hour PM<sub>2.5</sub> levels at these maintenance receptors are predominantly caused by local emission sources, and (2) air quality data indicating that regional background levels of PM<sub>2.5</sub> are generally low during the time periods of elevated 24-hour PM<sub>2.5</sub> at these receptors. In addition, with respect to California, technical information indicating that elevated 24-hour PM<sub>2.5</sub> levels at the maintenance receptors are predominantly caused by local emission sources and that the dominant air flows across California are from the west to the east additionally supports a finding that emissions from sources in Oregon do not interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in California.

The EPA also evaluated the potential for transport of Oregon emissions to maintenance receptors in the more distant states of Montana and Utah. As detailed in the TSD, the EPA believes that the following factors support a finding that emissions from sources in Oregon do not interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in these more distant states: (1) The significant distance from the Oregon to the maintenance receptors in these states, (2) technical information indicating that elevated 24-hour PM<sub>2.5</sub> levels at these maintenance receptors are predominantly caused by local emission sources, and (3) air quality data indicating that regional background levels of PM<sub>2.5</sub> are generally low during the time periods of elevated 24-hour PM<sub>2.5</sub> at these receptors.

Based on this evaluation of Oregon’s 2010 Interstate Transport SIP and additional technical information, the EPA proposes to conclude that emissions from sources in Oregon do not interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in any other state.

#### **IV. Proposed Action**

The EPA is proposing to approve the portion of the SIP revision submitted by the State of Oregon on June 28, 2010 that addresses the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour PM<sub>2.5</sub> NAAQS. The EPA is proposing to determine that Oregon’s existing State Implementation Plan contains adequate provisions to ensure that air emissions in Oregon do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> National Ambient Air Quality Standard in any other state. This action

<sup>8</sup> EPA has also considered potential PM<sub>2.5</sub> transport from Oregon to the nearest nonattainment and maintenance receptors located in the eastern, midwestern, and southern states covered by the Transport Rule and believes it is reasonable to conclude that, given the significant distance from Oregon to the nearest such receptor (in Illinois) and the relatively insignificant amount of emissions from Oregon that could potentially be transported such a distance, emissions from Oregon sources do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS at this location. These same factors also support a finding that emissions from Oregon sources neither contribute significantly to nonattainment nor interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS at any location further east. See TSD at Section ILC.

<sup>9</sup> Because CAIR did not cover states in the western United States, these data are not significantly impacted by the remanded CAIR at this time and thus could be considered in this analysis.

<sup>10</sup> As this analysis is focused on interstate transport, the EPA did not evaluate the impact of Oregon emissions on nonattainment receptors within Oregon.

<sup>11</sup> Washington and Nevada have no nonattainment receptors. See TSD at Table III.A.1.

<sup>12</sup> As this analysis is focused on interstate transport, the EPA did not evaluate the impact of Oregon emissions on maintenance receptors within Oregon.

<sup>13</sup> Idaho has no maintenance receptors. See TSD at Table III.A.1.

is being taken under section 110 of the CAA.

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and the EPA notes

that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, and Reporting and recordkeeping requirements.

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

**Dated:** April 10, 2014.

**Michelle L. Pirzadeh,**

*Acting Regional Administrator, Region 10.*

[FR Doc. 2014-11075 Filed 5-13-14; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2014-0333, FRL-9910-95-Region 10]

### Approval and Promulgation of Implementation Plans; Washington: Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to partially approve and partially disapprove the State Implementation Plan (SIP) submittal from the State of Washington (Washington or the State) demonstrating that the SIP meets the infrastructure requirements of the Clean Air Act (CAA) for the National Ambient Air Quality Standards (NAAQS) promulgated for lead on October 15, 2008. The CAA requires that each state, after a new or revised NAAQS is promulgated, review their SIP to ensure that it meets the infrastructure requirements necessary to implement the new or revised NAAQS. On April 1, 2014, Washington certified that the Washington SIP meets the infrastructure requirements of the CAA for purposes of the 2008 lead NAAQS, except for those requirements related to the Prevention of Significant Deterioration (PSD) permitting program currently operated under a Federal Implementation Plan (FIP). The EPA is proposing to find that Washington's 2008 lead SIP is adequate for purposes of the infrastructure SIP requirements of CAA section 110, with the exception of the requirements related to PSD permitting and portions of the interstate transport requirements. The EPA finds that the SIP deficiencies related to PSD permitting, however,

have been adequately addressed by the existing EPA FIP and, therefore, no further action is required by Washington or the EPA. The EPA will address the remaining interstate transport requirements in a separate action.

**DATES:** Comments must be received on or before June 13, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2014-0333, by any of the following methods:

- **Email:** [R10-Public\\_Comments@epa.gov](mailto:R10-Public_Comments@epa.gov).
- **www.regulations.gov:** Follow the on-line instructions for submitting comments.
- **Mail:** Jeff Hunt, EPA Region 10, Office of Air, Waste and Toxics (AWT-107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101
- **Hand Delivery:** EPA Region 10 Mailroom, 9th floor, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Jeff Hunt, Office of Air, Waste and Toxics, AWT-107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R10-OAR-2014-0333. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through [www.regulations.gov](http://www.regulations.gov) your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any