

a result, an infrastructure SIP submission for any future new or revised NAAQS for carbon monoxide need only state this fact in order to address the visibility prong of section 110(a)(2)(D)(i)(II).

Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of section 110(a)(1) and (2) because the CAA provides other 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>

<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

#### IV. Proposed Action

EPA is proposing to approve the following infrastructure elements or portions thereof of Maryland’s January 3, 2013 and August 14, 2013 SIP revisions: Sections 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). Maryland’s SIP revisions provide the basic program elements specified in section 110(a)(2) necessary to implement, maintain, and enforce the 2008 Pb NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final rulemaking action.

#### 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 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 approves 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);

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).

- 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, which satisfies certain infrastructure requirements of section 110(a)(2) of the CAA for the 2008 Pb NAAQS for the State of Maryland, 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, Incorporation by reference, Lead, Reporting and recordkeeping requirements.

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

Dated: April 16, 2014.

**W. C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2014–10104 Filed 5–1–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R05–OAR–2014–0242; FRL–9910–25–Region 5]

### Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Revisions to PSD and NNSR Programs

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to its authority under the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is proposing to approve a revision to the Wisconsin State Implementation Plan (SIP), submitted by the Wisconsin Department of Natural Resources (WDNR) to EPA on March 12, 2014, for parallel processing. The SIP revision modifies the definition of the term “major modification” in Wisconsin’s Prevention of Significant Deterioration (PSD) and Nonattainment New Source

Review (NNSR) programs. The changes made to the definition of major modification remove an NSR exemption for fuel changes as major modifications where the source was capable of accommodating the change before January 6, 1975. Additionally, the submittal modifies Wisconsin's PSD program to identify precursors for ozone. WDNR requested these revisions to match Federal requirements. EPA is proposing approval of Wisconsin's March 12, 2014, SIP revision because the Agency has made the preliminary determination that this SIP revision is in accordance with the CAA and applicable EPA regulations regarding PSD and NNSR.

**DATES:** Comments must be received on or before June 2, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2014-0242, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *Email*: [damico.genevieve@epa.gov](mailto:damico.genevieve@epa.gov).
3. *Fax*: (312) 385-5501.
4. *Mail*: Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery*: Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2014-0242. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email

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

**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 whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Andrea Morgan, Environmental Engineer, at (312) 353-6058 before visiting the Region 5 office.

#### FOR FURTHER INFORMATION CONTACT:

Andrea Morgan, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-6058, [Morgan.andrea@epa.gov](mailto:Morgan.andrea@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

- I. What should I consider as I prepare my comments for EPA?
- II. What is the background for this proposed action?
- III. Wisconsin's Submittal for Parallel Processing
- IV. What is EPA's analysis of Wisconsin's proposed SIP revision?
- V. What action is EPA taking?
- VI. Statutory and Executive Order Reviews

### I. What should I consider as I prepare my comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

### II. What is the background for this proposed action?

EPA's "Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; Final Rule for Reformulated Gasoline" (Phase 2 Rule) was published on November 8, 2005 (see 70 FR 71612). Among other requirements, the Phase 2 Rule obligated states to revise their PSD programs to explicitly identify nitrogen oxides (NO<sub>x</sub>) as a precursor to ozone (70 FR 71612 at 71679, 71699–71700).

In a June 17, 2009, letter, EPA notified WDNR that the definition of the term "major modification" in NR 405.02 was inadequate because it failed to identify permits issued under Federal authority. Wisconsin's PSD program was approved into its SIP on June 28, 1999. Prior to that, PSD construction permits were issued under Federal authority. When NR 405.02(21)(b)5., was written the references to Federal authority were inadvertently omitted. Because the Federal citations were omitted from the rule, EPA identified that in limited situations, the state definition could allow a source to make a change to use

a different fuel or raw material without undergoing major new source permit review for the change, even though the change could be prohibited under a Federal permit.

### III. Wisconsin's Submittal for Parallel Processing

On March 12, 2014, WDNR submitted a draft SIP revision request to EPA to revise portions of its PSD and NNSR programs. Once finalized, approval of this SIP revision request will make the Wisconsin SIP consistent with the Federal PSD and NNSR rules. Wisconsin submitted revisions to its rules NR 400, 405, and 408 of the Wisconsin Administrative Code. The submittal requests that EPA approve the following revised rules into Wisconsin's SIP: (1) NR 400.02(123m) and (124); (2) NR 405.02(21)(b)5.a. and b. and 6; (3) NR 405.02(25i)(a); (4) NR 405.02(25i)(ag) and (ar)1–3; and, (5) NR 408.02(20)(e)5.a and b. and 6. At this time EPA is only proposing to take action on the portions that pertain to the definition of “major modification” and explicitly identify NO<sub>x</sub> as a precursor to ozone. Specifically, today's proposed rulemaking is limited to the following provisions: (1) NR 405.02(21)(b)5.a. and b. and 6; (2) NR 405.02(25i)(a); (3) NR 405.02(25i)(ar)(intro) and 1.; and, (4) NR 408.02(20)(e) 5.a and b. and 6. The remainder of WDNR's submission as it relates to the identification of precursors to particulate matter of less than 2.5 micrometers (PM<sub>2.5</sub>) and the definition of PM<sub>2.5</sub> and particulate matter of less than 10 micrometers will be addressed in a separate rulemaking.

Because this SIP revision is not yet effective at the state level, Wisconsin requested that EPA “parallel process” the SIP revision. Under this procedure, the EPA Regional Office works closely with the state while developing new or revised regulations. Generally, the state submits a copy of the proposed regulation or other revisions to EPA before concluding its rulemaking process. EPA reviews this proposed state action and prepares a proposed rulemaking action. EPA publishes this proposed rulemaking in the **Federal Register** and solicits public comment in approximately the same timeframe during which the state finalizes its rulemaking process.

After Wisconsin submits the formal fully adopted SIP revision request, EPA will prepare a final rulemaking action for the SIP revision. If changes are made to the SIP revision after EPA's proposed rulemaking, such changes must be acknowledged in EPA's final rulemaking action. If the changes are

significant, then EPA will repropose the action.

### IV. What is EPA's analysis of Wisconsin's proposed SIP revision?

EPA has evaluated WDNR's proposed revision to the Wisconsin SIP in accordance with the Federal requirements governing state permitting programs. As discussed below, EPA is proposing to approve these revisions because they meet Federal requirements.

EPA regulations contained at 40 CFR 51.166(b)(2)(iii)(e)(1) and (2) and (f) specifically prescribe when use of an alternative fuel or change in hours of operation is not considered a physical change for purposes of defining a “major modification” under the PSD program. WDNR's revisions to the definition of “major modification” in its PSD program in NR 405.02(21)(b)5.a and b. and 6 are consistent with the Federal requirements. EPA has similar regulations for its NNSR program contained at 40 CFR 51.165(a)(1)(v)(C)(5) and (6), and WDNR has revised NR 408.02(20)(e)5.a. and b. and 6 to be consistent with these Federal regulations. Therefore, EPA finds Wisconsin's revisions to the definition of “major modification” in its PSD and NNSR program to be approvable.

WDNR's requested revision to the definition of “regulated NSR air contaminant” in 405.02(25i)(a) and (25i)(ar) and (ar)1 are consistent with the explicit identification of the precursors to ozone in the definition of “regulated NSR air contaminant”, codified at 40 CFR 51.166(b)(49)(i)(b), therefore, we find the revisions to be approvable.

### V. What action is EPA taking?

EPA is proposing to approve WDNR's March 12, 2014, revisions to: Wisconsin rules NR 405.02(21)(b)5.a. and b. and 6; NR 405.02(25i)(a); NR 405.02(25i)(ar)(intro) and 1.; and, NR 408.02(20)(e)5.a and b. and 6. into the SIP. As described above, these revisions are consistent with EPA's own regulations with respect to the definitions of “major modification” and “regulated NSR air contaminant”.

### VI. 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 approves 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 (Public Law 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 rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: April 22, 2014.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2014-10115 Filed 5-1-14; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R02-OAR-2013-0527, FRL-9910-16-Region 2]

### Approval and Promulgation of Implementation Plans; New York; Infrastructure SIP for the 2010 Nitrogen Dioxide Primary Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve certain elements of New York's State Implementation Plan (SIP) revision submitted to demonstrate that the State meets the requirements of section 110(a)(1) and (2) of the Clean Air Act (CAA) for the 2010 National Ambient Air Quality Standard (NAAQS) for nitrogen dioxide (NO<sub>2</sub>). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by the EPA and is commonly referred to as an infrastructure SIP.

**DATES:** Comments must be received on or before June 2, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA-R02-OAR-2013-0527, by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
- Email: [Ruvo.Richard@epa.gov](mailto:Ruvo.Richard@epa.gov).
- Fax: 212-637-3901.
- Mail: Richard Ruvo, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.
- Hand Delivery: Richard Ruvo, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R02-OAR-2013-

0527. 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 whose disclosure 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 EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](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, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866. EPA requests, if at all possible, that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Anthony (Ted) Gardella, Air Programs Branch, Environmental Protection

Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4249, or by email at [gardella.anthony@epa.gov](mailto:gardella.anthony@epa.gov).

#### SUPPLEMENTARY INFORMATION:

- I. What action is EPA proposing?
- II. What is the background information?
- III. What elements are required under section 110(a)(1) and (2)?
- IV. What is EPA's approach to the review of infrastructure SIP submissions?
- V. What did New York submit?
- VI. How has the State addressed the elements of the section 110(a)(1) and (2) "infrastructure" provisions?
- VII. What action is EPA taking?
- VIII. Statutory and Executive Order Reviews

#### I. What action is EPA proposing?

EPA is proposing to approve certain elements of the State of New York Infrastructure SIP as meeting the section 110(a) infrastructure requirements of the Clean Air Act (CAA) for the 2010 NO<sub>2</sub> National Ambient Air Quality Standard (NAAQS or standard). As explained below, the State has the necessary infrastructure, resources, and general authority to implement the 2010 NO<sub>2</sub> standard.

#### II. What is the background information?

On February 9, 2010, EPA promulgated a new, 1-hour primary NAAQS for NO<sub>2</sub> (2010 NO<sub>2</sub> NAAQS) while retaining the annual primary NAAQS for NO<sub>2</sub> (75 FR 6474). The 2010 NO<sub>2</sub> NAAQS is based on 1-hour three year average concentrations.<sup>1</sup> The 2010 NO<sub>2</sub> NAAQS is 100 parts per billion (ppb) and the new standard supplements the existing primary annual standard of 53 ppb. The secondary NO<sub>2</sub> NAAQS remains unchanged and is the same as the primary annual average NO<sub>2</sub> NAAQS, i.e., 53 ppb.<sup>2</sup>

Section 110(a)(1) provides the procedural and timing requirements for State Implementation Plans (SIPs). Section 110(a)(2) lists specific elements that states must meet for SIP requirements related to a newly established or revised NAAQS. Sections 110(a)(1) and (2) of the CAA require, in part, that states submit to EPA plans to implement, maintain and enforce each of the NAAQS promulgated by EPA. By statute, SIPs meeting the requirements of section 110(a)(1) and (2) are to be submitted by states within three years

<sup>1</sup> The 2010 NO<sub>2</sub> NAAQS is expressed as the three year average of the 98th percentile of the annual distribution of daily maximum 1-hour average concentrations.

<sup>2</sup> The official level of the annual NO<sub>2</sub> NAAQS is 0.053 parts per million (ppm), equal to 53 ppb which is shown here for the purpose of clearer comparison to the 1-hour NO<sub>2</sub> NAAQS.