is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL OH E5 Hamilton, OH [Amended]

Butler County Regional Airport-Hogan Field, OH
(Lat. 39°21′50″ N, long. 84°31′19″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Butler County Regional Airport-Hogan Field.

Issued in Fort Worth, Texas, on February 11, 2019.

John Witucki,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2019–02689 Filed 2–19–19; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2018–0748; FRL–9989–41–Region 1]

Air Plan Approval; Massachusetts; Infrastructure State Implementation Plan Requirements for the 2012 $PM_{2.5}$ NAAQS; Transport Provisions for the 1997, 2006, and 2012 $PM_{2.5}$ NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve most elements of a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts for the infrastructure requirements for the 2012 fine particle ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS), including the interstate transport requirements. We are proposing findings of failure to submit for the prevention of significant deterioration (PSD) requirements of infrastructure SIPs for the 2012 $PM_{2.5}$ NAAQS. We are also proposing several actions related to infrastructure SIP requirements for the 1997 and 2006 $PM_{2.5}$ NAAQS, including approvals for previously unaddressed elements and converting certain previous conditional approvals to full approval. We are also proposing to convert to full approvals previous conditional approvals for the 1997 and 2008 ozone, 2008 lead, 2010 sulfur dioxide, and 2010 nitrogen dioxide NAAQS. Finally, EPA is proposing to approve five new or amended definitions regarding the NAAQS and Particulate Matter and a state Executive Order regarding consultation by state agencies with local governments. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before March 22, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2018–0748 at *https://www.regulations.gov,* or via email to *simcox.alison@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.* Publicly available docket materials are available at *https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA Region 1 Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Alison C. Simcox, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109—3912, tel. (617) 918–1684; *simcox.alison@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. Background and Purpose

A. What Massachusetts SIP submissions does this rulemaking address?

This rulemaking addresses a February 9, 2018, submission from the Massachusetts Department of Environmental Protection (MassDEP) regarding the infrastructure SIP requirements of the CAA for the 2012 fine particle ($PM_{2.5}$) [1] National Ambient Air Quality Standard (NAAQS). The February 2018 submission also includes the interstate transport requirements for the 2006 and 2012 $PM_{2.5}$ NAAQS. In addition, this rulemaking addresses the interstate transport requirements for the 1997 $PM_{2.5}$ NAAQS, which the Commonwealth submitted on January 31, 2008. Under sections 110(a)(1) and (2) of the CAA, States are required to provide infrastructure SIP submissions to ensure that State SIPs provide for implementation, maintenance, and enforcement of the NAAQS, including the 1997, 2006, and 2012 $PM_{2.5}$ NAAQS.

Finally, this rulemaking addresses a portion of a Massachusetts SIP submission dated May 14, 2018, which includes five new or amended definitions in 310 Code of Massachusetts Regulations (CMR) 7.00.

B. What is the scope of this rulemaking?

EPA is acting on a February 2018 submission from MassDEP that address the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2012 $PM_{2.5}$ NAAQS. This submission also addresses the ''Good Neighbor'' or interstate transport requirements for infrastructure SIPs for the 2006 and 2012 $PM_{2.5}$ NAAQS. In addition, EPA is acting on a January 31, 2008, submission from the Commonwealth that addresses interstate transport requirements for the 1997 $PM_{2.5}$ NAAQS.

Whenever EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires states to make SIP submissions to provide for the implementation, maintenance, and enforcement of the NAAQS. This particular type of SIP submission is commonly referred to as an ''infrastructure SIP.'' These submissions must meet the various requirements of CAA section 110(a)(2), as applicable. Due to ambiguity in some of the language of CAA section 110(a)(2), EPA believes that it is appropriate to interpret these provisions in the specific context of acting on infrastructure SIP submissions. EPA has previously provided comprehensive guidance on the application of these provisions through a guidance document for infrastructure SIP submissions and through regional actions on infrastructure submissions.[2] Unless otherwise noted below, we are following that existing approach in acting on this submission. In addition, in the context of acting on such infrastructure submissions, EPA evaluates the submitting state's SIP for factual compliance with statutory and regulatory requirements, not for the state's implementation of its SIP.[3] The EPA has other authority to address any issues concerning a state's implementation of the rules, regulations, consent orders, etc. that comprise its SIP.

II. What guidance is EPA using to evaluate these SIP submissions?

EPA highlighted the statutory requirement to submit infrastructure SIPs within 3 years of promulgation of a new NAAQS in an October 2, 2007, memorandum entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards'' (2007 memorandum). EPA has issued additional guidance documents and memoranda, including a September 25, 2009, memorandum entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS)'' (2009 memorandum), and a September 13, 2013, memorandum entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)'' (2013 memorandum).[4]

With respect to the ''Good Neighbor'' or interstate transport requirements for infrastructure SIPs, the most recent relevant EPA guidance is a memorandum published on March 17, 2016, entitled ''Information on the Interstate Transport ''Good Neighbor'' Provision for the 2012 Fine Particulate Matter National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I)'' (2016 memorandum). The 2016 memorandum describes EPA's past approach to addressing interstate transport and provides EPA's general review of relevant modeling data and air quality projections as they relate to the 2012 annual $PM_{2.5}$ NAAQS. The 2016 memorandum provides information relevant to EPA Regional office review of the CAA section 110(a)(2)(D)(i)(I) ''Good Neighbor'' provision requirements in infrastructure SIPs with respect to the 2012 annual $PM_{2.5}$ NAAQS.

III. EPA's Review

EPA is soliciting comment on our evaluation of Massachusetts' infrastructure SIP submissions as presented in this notice of proposed

[1] $PM_{2.5}$ refers to particulate matter of 2.5 microns or less in diameter, often referred to as ''fine'' particles.

[2] EPA explains and elaborates on these ambiguities and its approach to address them in its September 13, 2013 Infrastructure SIP Guidance (available at *https://www3.epa.gov/airquality/urbanair/sipstatus/docs/Guidance_on_Infrastructure_SIP_Elements_Multipollutant_FINAL_Sept_2013.pdf*), as well as in numerous agency actions, including EPA's prior action on Massachusetts' infrastructure SIP to address the 1997 ozone, 2008 lead, 2008 ozone, 2010 nitrogen dioxide, and 2010 sulfur dioxide NAAQS. 81 FR 93627 (December 21, 2016).

[3] See U.S. Court of Appeals for the Ninth Circuit decision in *Montana Environmental Information Center* v. *EPA,* No. 16–71933 (August 30, 2018).

[4] These memoranda and other referenced guidance documents and memoranda are included in the docket for this action.

rulemaking. Massachusetts' February 9, 2018, submission includes a detailed list of Massachusetts Laws and previously SIP-approved Air Quality Regulations to show precisely how the various components of its EPA-approved SIP meet each of the requirements of section 110(a)(2) of the CAA for the 2012 $PM_{2.5}$ NAAQS. The following review evaluates the Commonwealth's submission in light of section 110(a)(2) requirements and relevant EPA guidance.

A. Section 110(a)(2)(A)—Emission Limits and Other Control Measures

This section (also referred to as an element) of the Act requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance, and other related matters. However, EPA has long interpreted emission limits and control measures for attaining the standards as being due when nonattainment planning requirements are due.[5] In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether Massachusetts' SIP has basic structural provisions for the implementation of the NAAQS.

Massachusetts General Law (M.G.L.) c. 21A, § 8, *Executive Office of Energy and Environmental Affairs Organization of Departments; powers, duties and functions,* creates and sets forth the powers and duties of the Department of Environmental Protection (MassDEP) within the Executive Office of Energy and Environmental Affairs. In addition, M.G.L. c.111, §§ 142A through 142N, which, collectively, are referred to as the *Massachusetts Pollution Control Laws,* provide MassDEP with broad authority to prevent pollution or contamination of the atmosphere and to prescribe and establish appropriate regulations. Furthermore, M.G.L. c.21A, § 18, *Permit applications and compliance assurance fees; timeline action schedules; regulations,* authorizes MassDEP to establish fees applicable to the regulatory programs it administers. MassDEP's February 9, 2018, infrastructure SIP for the 2012 $PM_{2.5}$ NAAQS included a request to add M.G.L. c.21A, § 18 to the Massachusetts SIP. In a letter dated February 6, 2019, the state withdrew this request.

MassDEP has adopted numerous regulations within the Code of Massachusetts Regulations (CMR) in furtherance of the objectives set out by these statutes, including 310 CMR 4.00, *Timely Action & Fee Schedule Regulations,* and 310 CMR 7.00, *Air Pollution Control Regulations.* For example, many SIP-approved State air quality regulations within 310 CMR 7.00 provide enforceable emission limitations and other control measures, means or techniques, schedules for compliance, and other related matters that satisfy the requirements of the CAA section 110(a)(2)(A) for the 2012 $PM_{2.5}$ NAAQS, including but not limited to, 7.06, *Visible Emissions;* 7.07, *Open Burning;* 7.08, *Incinerators;* and 7.29, *Emission Standards for Power Plants.*

On May 14, 2018, MassDEP submitted a SIP revision to EPA that included new or amended definitions in 310 CMR 7.00, *Air Pollution Control: Definitions.* Specifically, these definitions include: *National Ambient Air Quality Standards (NAAQS)* or *Federal Ambient Air Quality Standards, PM_{10}* or *Particulate Matter 10, PM_{10} Emissions, $PM_{2.5}$* or *Particulate Matter 2.5,* and *$PM_{2.5}$ Emissions.* In a final rule dated December 21, 2016 (81 FR 93627), EPA conditionally approved several Massachusetts infrastructure submissions[6] for section 110(a)(2)(A) because the SIP-approved version of 310 CMR 7.00 did not contain a definition for ''NAAQS,'' resulting in uncertainty as to which version of the NAAQS the term incorporated. However, the definition of ''NAAQS'' added to 310 CMR 7.00 clarifies that references to NAAQS are to all current NAAQS, including the 2012 $PM_{2.5}$ NAAQS. Therefore, we are proposing to approve this definition plus the additional definitions given above related to Particulate Matter included in MassDEP's May 2018 submission. This action will convert the former conditional approvals[7] of this section to a full approval. The new definitions also address two earlier conditional approvals of this section for the 1997 and 2006 $PM_{2.5}$ NAAQS. 77 FR 63228 (October 16, 2012). Therefore, EPA proposes that Massachusetts meets the infrastructure SIP requirements of section 110(a)(2)(A) for the 2012 $PM_{2.5}$ NAAQS and proposes to convert to full approval conditional approvals of this section for the 1997 ozone, 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, 2008 lead, 2008 ozone, 2010 nitrogen dioxide, and 2010 sulfur dioxide NAAQS.

As previously noted, EPA is not proposing to approve or disapprove any existing State provisions or rules related to SSM or director's discretion in the context of section 110(a)(2)(A).

B. Section 110(a)(2)(B)—Ambient Air Quality Monitoring/Data System

This section requires SIPs to provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, compile, and analyze ambient air quality data, and make such data available to EPA upon request. Each year, States submit annual air monitoring network plans to EPA for review and approval. EPA's review of these annual monitoring plans includes our evaluation of whether the State: (i) Monitors air quality at appropriate locations throughout the State using EPA-approved Federal Reference Methods or Federal Equivalent Method monitors; (ii) submits data to EPA's Air Quality System (AQS) in a timely manner; and (iii) provides EPA Regional Offices with prior notification of any planned changes to monitoring sites or the network plan. Under MGL c.111, §§ 142B to 142D, MassDEP operates an air-monitoring network. EPA approved Massachusetts' most recent Annual Air Monitoring Network Plan (ANP) for $PM_{2.5}$ on May 9, 2018. This approval excluded one monitor in Chelmsford that, under 40 CFR 58.10(a)(iv), was required to be operational by January 1, 2015, but was not operating. However, this monitor began operating in June 2018, measuring $PM_{2.5}$, ozone, and NO_2. In addition to having an adequate air-monitoring network, MassDEP populates AQS with air quality monitoring data in a timely manner and provides EPA with prior notification when considering a change to its monitoring network or plan.

EPA proposes that Massachusetts meets the infrastructure SIP requirements of section 110(a)(2)(B) for the 2012 $PM_{2.5}$ NAAQS.

C. Section 110(a)(2)(C)—Program for Enforcement of Control Measures and for Construction or Modification of Stationary Sources

States are required to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to meet new source review (NSR) requirements under prevention of significant deterioration (PSD) and nonattainment new source review (NNSR) programs. Part C of the CAA (sections 160–169B) addresses PSD, while part D of the CAA (sections 171–193) addresses NNSR requirements.

The evaluation of each State's submission addressing the infrastructure SIP requirements of

[5] See, for example, EPA's final rule on ''National Ambient Air Quality Standards for Lead.'' 73 FR 66964, 67034 (November 12, 2008).

[6] The submissions were for the 1997 ozone, 2008 lead, 2008 ozone, 2010 nitrogen dioxide, and 2010 sulfur dioxide NAAQS.

[7] *See supra,* note 6.

section 110(a)(2)(C) covers the following: (i) Enforcement of SIP measures; (ii) PSD program for major sources and major modifications; and (iii) a permit program for minor sources and minor modifications.

Sub-Element 1: Enforcement of SIP Measures

MassDEP staffs and implements an enforcement program pursuant to authorities provided within the following laws: M.G.L. c.111, § 2C, *Pollution violations; orders of department of environmental protection,* which authorizes MassDEP to issue orders enforcing pollution control regulations generally; M.G.L. c.111, §§ 142A through 142O, *Massachusetts Pollution Control Laws,* which, among other things, more specifically authorize MassDEP to adopt regulations to control air pollution, enforce such regulations, and issue penalties for non-compliance; and, M.G.L. c.21A, § 16, *Civil Administrative Penalties,* which provides additional authorizations for MassDEP to assess penalties for failure to comply with the Commonwealth's air pollution control laws and regulations. Moreover, SIP-approved regulations, such as 310 CMR 7.02(12)(e) and (f), provide a program for the enforcement of SIP measures. Accordingly, EPA proposes that Massachusetts meets the enforcement of SIP measures requirements of section 110(a)(2)(C) for the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: Preconstruction Program for Major Sources and Major Modifications

Sub-element 2 of section 110(a)(2)(C) requires that States provide for the regulation of modification and construction of any stationary source as necessary to assure that the NAAQS are achieved, including a program to meet PSD and NNSR requirements. PSD applies to new major sources or modifications made to major sources for pollutants where the area in which the source is located is in attainment of, or unclassifiable, regarding the relevant NAAQS, and NNSR requires similar actions in nonattainment areas.

Massachusetts does not have an approved State PSD program and has made no submittals addressing the PSD sub-element of section 110(a)(2)(C). The Commonwealth has long been subject to a Federal Implementation Plan (FIP), however, and has implemented and enforced the federal PSD program through a delegation agreement. *See* 76 FR 31241 (May 31, 2011). Accordingly, EPA proposes a finding of failure to submit with respect to the PSD-related requirements of this sub-element for the 2012 $PM_{2.5}$ NAAQS.[8] *See* CAA section 110(c)(1). This finding, however, does not trigger any additional FIP obligation by the EPA under section 110(c)(1), because the deficiency is addressed by the FIP already in place. Moreover, the Commonwealth is not subject to mandatory sanctions solely as a result of this finding because the SIP submittal deficiencies are neither with respect to a sub-element that is required under part D nor in response to a SIP call under section 110(k)(5) of the Act.

Sub-Element 3: Preconstruction Permitting for Minor Sources and Minor Modifications

To address the pre-construction regulation of the modification and construction of minor stationary sources and minor modifications of major stationary sources, an infrastructure SIP submission should identify the existing EPA-approved SIP provisions and/or include new provisions that govern the minor source pre-construction program that regulates emissions of the relevant NAAQS pollutants. EPA's most recent approval of the Commonwealth's minor NSR program occurred on April 5, 1995 (60 FR 17226). Since this date, Massachusetts and EPA have relied on the existing minor NSR program to ensure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the 2012 $PM_{2.5}$ NAAQS.

In summary, we are proposing to find that, for the 2012 $PM_{2.5}$ NAAQS, Massachusetts meets the enforcement-related aspects of Section 110(a)(2)(C) for sub-element 1 and the preconstruction permitting requirements for minor sources for sub-element 3. However, pursuant to section 110(c)(1), we are proposing to find that the Commonwealth has failed to make the required submissions related to major source preconstruction permitting (sub-element 2) for the 2012 $PM_{2.5}$ NAAQS.

D. Section 110(a)(2)(D)—Interstate Transport

This section contains a comprehensive set of air quality management elements pertaining to the transport of air pollution with which States must comply. It covers the following five topics, categorized as sub-elements: Sub-element 1, Significant contribution to nonattainment, and interference with maintenance of a NAAQS; Sub-element 2, PSD; Sub-element 3, Visibility protection; Sub-element 4, Interstate pollution abatement; and Sub-element 5, International pollution abatement. Sub-elements 1 through 3 above are found under section 110(a)(2)(D)(i) of the Act, and these items are further categorized into the four prongs discussed below, two of which are found within sub-element 1. Sub-elements 4 and 5 are found under section 110(a)(2)(D)(ii) of the Act and include provisions insuring compliance with sections 115 and 126 of the Act relating to interstate and international pollution abatement.

Sub-Element 1: Section 110(a)(2)(D)(i)(I)—Contribute to Nonattainment (Prong 1) and Interfere With Maintenance of the NAAQS (Prong 2)

Section 110(a)(2)(D)(i)(I) of the CAA requires a SIP to prohibit any emissions activity in the State that will contribute significantly to nonattainment or interfere with maintenance of the NAAQS in any downwind State. EPA commonly refers to these requirements as prong 1 (significant contribution to nonattainment) and prong 2 (interference with maintenance), or jointly as the ''Good Neighbor'' or ''transport'' provisions of the CAA. This rulemaking proposes action on the portion of Massachusetts' February 2018 SIP submission that addresses the prong 1 and 2 requirements with respect to the 2006 and 2012 $PM_{2.5}$ NAAQS. On December 26, 2017, EPA issued a finding that Massachusetts had failed to submit a SIP addressing the transport provisions (including prongs 1 and 2) for the 2012 $PM_{2.5}$ NAAQS. *See* 82 FR 60870. The February 2018 submittal resolves this issue.

EPA has developed a consistent framework for addressing the prong 1 and 2 interstate-transport requirements with respect to the $PM_{2.5}$ NAAQS in several previous federal rulemakings. The four basic steps of that framework include: (1) Identifying downwind receptors that are expected to have problems attaining or maintaining the NAAQS; (2) identifying which upwind States contribute to these identified problems in amounts sufficient to warrant further review and analysis; (3) for States identified as contributing to downwind air quality problems, identifying upwind emissions reductions necessary to prevent an upwind State from significantly

[8] EPA has previously issued findings of failure to submit infrastructure SIPs addressing the PSD-related requirements of section 110(a)(2) for the 1997 ozone NAAQS, 73 FR 16205 (March 27, 2008), the 2008 ozone NAAQS, 78 FR 2882 (January 15, 2013), the 2008 Pb NAAQS, 78 FR 12961 (February 26, 2013), and the 2010 NO_2 and 2010 SO_2 NAAQS, 81 FR 93627 (December 21, 2016). Massachusetts has made no additional submissions to address the PSD-related requirements for these NAAQS since those previous findings.

contributing to nonattainment or interfering with maintenance of the NAAQS downwind; and (4) for States that are found to have emissions that significantly contribute to nonattainment or interfere with maintenance of the NAAQS downwind, reducing the identified upwind emissions through adoption of permanent and enforceable measures. This framework was most recently applied with respect to $PM_{2.5}$ in the Cross-State Air Pollution Rule (CSAPR), which addressed both the 1997 and 2006 $PM_{2.5}$ standards, as well as the 1997 ozone standard. *See* 76 FR 48208 (August 8, 2011).

EPA's analysis for CSAPR, conducted consistent with the four-step framework, included air-quality modeling that evaluated the impacts of 38 eastern States on identified receptors in the eastern United States. EPA indicated that, for step 2 of the framework, States with impacts on downwind receptors that are below the contribution threshold of 1% of the relevant NAAQS would not be considered to significantly contribute to nonattainment or interfere with maintenance of the relevant NAAQS, and would, therefore, not be included in CSAPR. *See* 76 FR 48220. EPA further indicated that such States could rely on EPA's analysis for CSAPR as technical support to demonstrate that their existing or future interstate transport SIP submittals are adequate to address the transport requirements of 110(a)(2)(D)(i)(I) with regard to the relevant NAAQS. *Id.*

In addition, as noted above, on March 17, 2016, EPA released the 2016 memorandum to provide information to States as they develop SIPs addressing the Good Neighbor provision as it pertains to the 2012 $PM_{2.5}$ NAAQS. Consistent with step 1 of the framework, the 2016 memorandum provides projected future-year annual $PM_{2.5}$ design values for monitors throughout the country based on quality-assured and certified ambient-monitoring data and recent air-quality modeling and explains the methodology used to develop these projected design values. The memorandum also describes how the projected values can be used to help determine which monitors should be further evaluated to potentially address if emissions from other States significantly contribute to nonattainment or interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS at these monitoring sites. The 2016 memorandum explained that the pertinent year for evaluating air quality for purposes of addressing interstate transport for the 2012 $PM_{2.5}$ NAAQS is 2021, the attainment deadline for 2012 $PM_{2.5}$ NAAQS nonattainment areas classified as Moderate. Accordingly, because the available data included 2017 and 2025 projected average and maximum $PM_{2.5}$ design values calculated through the CAMx photochemical model, the memorandum suggests approaches States might use to interpolate $PM_{2.5}$ values at sites in 2021.

For all, but one, monitoring sites in the eastern United States, the modeling data provided in the 2016 memorandum showed that monitors were expected to both attain and maintain the 2012 $PM_{2.5}$ NAAQS in both 2017 and 2025. The modeling results project that this one monitor, the Liberty monitor, (ID number 420030064), located in Allegheny County, Pennsylvania, will be above the 2012 annual $PM_{2.5}$ NAAQS in 2017, but only under the model's maximum projected conditions, which are used in EPA's interstate transport framework to identify maintenance receptors. The Liberty monitor (along with all the other Allegheny County monitors) is projected to both attain and maintain the NAAQS in 2025. The 2016 memorandum suggests that under such a condition (again, where EPA's photochemical modeling indicates an area will maintain the 2012 annual $PM_{2.5}$ NAAQS in 2025, but not in 2017), further analysis of the site should be performed to determine if the site may be a nonattainment or maintenance receptor in 2021 (which, again, is the attainment deadline for moderate $PM_{2.5}$ areas). The memorandum also indicates that for certain States with incomplete ambient monitoring data, additional information including the latest available data, should be analyzed to determine whether there are potential downwind air quality problems that may be impacted by transported emissions. This rulemaking considers these analyses for Massachusetts, as well as additional analysis conducted by EPA during review of Massachusetts' submittal.

To develop the projected values presented in the memorandum, EPA used the results of nationwide photochemical air-quality modeling that it recently performed to support several rulemakings related to the ozone NAAQS. Base-year modeling was performed for 2011. Future-year modeling was performed for 2017 to support the proposed CSAPR Update for the 2008 Ozone NAAQS. *See* 80 FR 75705 (December 3, 2015). Future-year modeling was also performed for 2025 to support the Regulatory Impact Assessment of the final 2015 Ozone NAAQS.[9] The outputs from these model runs included hourly concentrations of $PM_{2.5}$ that were used in conjunction with measured data to project annual average $PM_{2.5}$ design values for 2017 and 2025. Areas that were designated as moderate $PM_{2.5}$ nonattainment areas for the 2012 annual $PM_{2.5}$ NAAQS in 2014 must attain the NAAQS by December 31, 2021, or as expeditiously as practicable. Although neither the available 2017 nor 2025 future-year modeling data correspond directly to the future-year attainment deadline for moderate $PM_{2.5}$ nonattainment areas, EPA believes that the modeling information is still helpful for identifying potential nonattainment and maintenance receptors in the 2017 through 2021 period. Assessing downwind $PM_{2.5}$ air-quality problems based on estimates of air-quality concentrations in a future year aligned with the relevant attainment deadline is consistent with the instructions from the United States Court of Appeals for the District of Columbia Circuit in *North Carolina* v. *EPA,* 531 F.3d 896, 911–12 (D.C. Cir. 2008), that upwind emission reductions should be harmonized, to the extent possible, with the attainment deadlines for downwind areas.

Massachusetts' Submissions for Prongs 1 and 2

The submissions addressed herein pertain to the 1997, 2006, and 2012 $PM_{2.5}$ NAAQS. Below is a brief history of these NAAQS.

On July 18, 1997, EPA promulgated a new NAAQS for $PM_{2.5}$ (62 FR 38652). This new NAAQS established a primary (health-based) annual standard of 15 micrograms per cubic meter ($\mu g/m^3$) based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and a 24-hour standard of 65 $\mu g/m^3$ based on a 3-year average of the 98th percentile of 24-hour concentrations. On October 17, 2006 (71 FR 61144), EPA revised the 24-hour $PM_{2.5}$ NAAQS from 65 $\mu g/m^3$ to 35 $\mu g/m^3$ and retained the annual $PM_{2.5}$ standard at a level of 15 $\mu g/m^3$. On January 15, 2013 (78 FR 3086), EPA revised the annual $PM_{2.5}$ NAAQS from 15 $\mu g/m^3$ to 12 $\mu g/m^3$ and retained the 24-hour $PM_{2.5}$ standard at a level of 35 $\mu g/m^3$.

On January 31, 2008, MassDEP submitted an infrastructure SIP for the 1997 Ozone NAAQS that included interstate transport provisions addressing prongs 1 and 2 with respect to the 1997 $PM_{2.5}$ NAAQS (*i.e.,* ''transport SIP''). This transport SIP relied in part on EPA's analysis

[9] *See* 2015 ozone NAAQS RIA at: *www3.epa.gov/ttnecas1/docs/20151001ria.pdf.*

performed for the Clean Air Interstate Rule (CAIR) rulemaking as well as EPA's newer NONROAD model (version 2005a, February 2006) for modeling non-road motor vehicles in Massachusetts to conclude that the State will not significantly contribute to nonattainment or interfere with maintenance of the 1997 $PM_{2.5}$ NAAQS in any downwind area. CAIR was replaced by CSAPR, which is discussed above, as of January 1, 2015.

On February 9, 2018, MassDEP submitted an infrastructure SIP for the 2012 $PM_{2.5}$ NAAQS that included interstate transport provisions addressing prongs 1 and 2 with respect to the 2006 and 2012 $PM_{2.5}$ NAAQS. These transport SIPs relied in part on EPA's analysis performed for the CSAPR rulemaking to conclude that the State will not significantly contribute to nonattainment or interfere with maintenance of the 2006 or 2012 $PM_{2.5}$ NAAQS in any downwind area.

EPA analyzed Massachusetts' January 2008 and February 2018 submittals to determine whether they fully addressed the prong 1 and 2 transport provisions with respect to the 1997, 2006 and 2012 $PM_{2.5}$ NAAQS. As discussed below, EPA concludes that emissions of $PM_{2.5}$ and $PM_{2.5}$ precursors (NO_X and SO_2) in Massachusetts will not significantly contribute to nonattainment or interfere with maintenance of the 1997, 2006 or 2012 $PM_{2.5}$ NAAQS in any other State.

Analysis of Massachusetts' Submissions for the 1997 and 2006 $PM_{2.5}$ NAAQS

With respect to the 1997 and 2006 $PM_{2.5}$ NAAQS, EPA's analysis in the 2011 CSAPR rulemaking determined that Massachusetts' impact to all downwind receptors would be below the 1% contribution threshold for both NAAQS for the annual (*i.e.,* 0.15 $\mu g/m^3$) and 24-hour standards (*i.e.,* 0.65 $\mu g/m^3$ (1997) and 0.35 $\mu g/m^3$ (2006)), indicating that the Commonwealth will not significantly contribute to nonattainment or interfere with maintenance for the 1997 or 2006 $PM_{2.5}$ NAAQS in any downwind State. *See* 76 FR at 48240, 48242. As noted above, EPA previously determined that States can rely on EPA's CSAPR analysis for the 1997 and 2006 $PM_{2.5}$ NAAQS as technical support to demonstrate that their existing or future interstate transport SIP submittals are adequate to address the transport requirements of 110(a)(2)(D)(i)(I) regarding the relevant NAAQS. Accordingly, as EPA's CSAPR analysis concluded that Massachusetts will not significantly contribute to nonattainment or interfere with maintenance of the 1997 or 2006 $PM_{2.5}$ NAAQS, we propose to approve Massachusetts' January 31, 2008, and February 9, 2018, SIP submissions for prongs 1 and 2 for the 1997 and 2006 $PM_{2.5}$ NAAQS.

Analysis of Massachusetts' Submission for the 2012 $PM_{2.5}$ NAAQS

As noted above, the modeling discussed in EPA's 2016 memorandum identified one potential maintenance receptor for the 2012 $PM_{2.5}$ NAAQS at the Liberty monitor (ID number 420030064), located in Allegheny County. The memorandum also identified certain States with incomplete ambient monitoring data as areas that may require further analysis to determine whether there are potential downwind air quality problems that may be impacted by transported emissions.

While developing the 2011 CSAPR rulemaking, EPA modeled the impacts of all 38 eastern States in its modeling domain on fine particulate matter concentrations at downwind receptors in other States in the 2012 analysis year to evaluate the contribution of upwind States on downwind States with respect to the 1997 and 2006 $PM_{2.5}$. Although the modeling was not conducted for purposes of analyzing upwind States' impacts on downwind receptors with respect to the 2012 $PM_{2.5}$ NAAQS, the contribution analysis for the 1997 and 2006 standards can be informative for evaluating Massachusetts' compliance with the Good Neighbor provision for the 2012 standard.

This CSAPR modeling showed that Massachusetts had a very small impact (0.008 $\mu g/m^3$) on the Liberty monitor in Allegheny County, which is the only out-of-State monitor that may be a nonattainment or maintenance receptor in 2021. Although EPA has not proposed a specific threshold for evaluating the 2012 $PM_{2.5}$ NAAQS, EPA notes that Massachusetts' impact on the Liberty monitor is far below the threshold of 1% for the annual 2012 $PM_{2.5}$ NAAQS (*i.e.,* 0.12 $\mu g/m^3$) that EPA previously used to evaluate the contribution of upwind States to downwind air-quality monitors. (A spreadsheet showing CSAPR contributions for ozone and $PM_{2.5}$ is included in docket EPA–HQ–OAR–2009–0491–4228.) Therefore, even if the Liberty monitor were considered a receptor for purposes of transport, the EPA proposes to conclude that Massachusetts will not significantly contribute to nonattainment, or interfere with maintenance, of the 2012 $PM_{2.5}$ NAAQS at that monitor.

In addition, the Liberty monitor is already close to attaining the 2012 $PM_{2.5}$ NAAQS and expected emissions reductions in the next four years will lead to additional reductions in measured $PM_{2.5}$ concentrations. There are both local and regional components to measured $PM_{2.5}$ levels. All monitors in Allegheny County have a regional component, with the Liberty monitor most strongly influenced by local sources. This is confirmed by the fact that annual average measured concentrations at the Liberty monitor have consistently been 2–4 $\mu g/m^3$ higher than other monitors in Allegheny County.

Specifically, previous CSAPR modeling showed that regional emissions from upwind States, particularly SO_2 and NO_X emissions, contribute to $PM_{2.5}$ nonattainment at the Liberty monitor. In recent years, large SO_2 and NO_X reductions from power plants have occurred in Pennsylvania and States upwind from the Greater Pittsburgh region. Pennsylvania's energy sector emissions of SO_2 will have decreased 166,000 tons between 2015 and 2017 because of CSAPR implementation. This is due to both the installation of emissions controls and retirements of electric generating units (EGUs). Projected power plant closures and additional emissions controls in Pennsylvania and upwind States will help further reduce both direct $PM_{2.5}$ and $PM_{2.5}$ precursors. Regional emission reductions will continue to occur from current on-the-books Federal and State regulations such as the federal on-road and non-road vehicle programs, and various rules for major stationary emissions sources. *See* proposed and final approval of the Ohio Infrastructure SIP for the 2012 $PM_{2.5}$ NAAQS on December 7, 2017 (82 FR 57689) and on February 2, 2018 (83 FR 4845), respectively.

In addition to regional emissions reductions and plant closures, additional local reductions to both direct $PM_{2.5}$ and SO_2 emissions are expected to occur and should contribute to further declines in Allegheny County's $PM_{2.5}$ monitor concentrations. For example, significant SO_2 reductions have recently occurred at US Steel's integrated steel mill facilities in southern Allegheny County as part of a 1-hr SO_2 NAAQS SIP.[10] Reductions are largely due to declining sulfur content in the Clairton Coke Work's coke oven gas (COG). Because this COG is burned at US Steel's Clairton Coke Works, Irvin Mill, and Edgar Thompson Steel Mill, these reductions in sulfur content should contribute to much lower $PM_{2.5}$ precursor emissions in the immediate

[10] *www.achd.net/air/pubs/SIPs/SO2_2010_NAAQS_SIP_9-14-2017.pdf.*

future. The Allegheny SO_2 SIP also projects lower SO_2 emissions resulting from vehicle fuel standards, reductions in general emissions due to declining population in the Greater Pittsburgh region, and several shutdowns of significant sources of emissions in Allegheny County.

EPA modeling projections, the recent downward trend in local and upwind emissions reductions, the expected continued downward trend in emissions between 2017 and 2021, and the downward trend in monitored $PM_{2.5}$ concentrations all indicate that the Liberty monitor will attain and be able to maintain the 2012 annual $PM_{2.5}$ NAAQS by 2021. *See* proposed approval and final approval of the Ohio Infrastructure SIP, December 7, 2017 (82 FR 57689) and February 2, 2018 (83 FR 4845).

As noted in the 2016 memorandum, several States have had recent data-quality issues identified as part of the $PM_{2.5}$ designations process. In particular, some ambient $PM_{2.5}$ data for some periods between 2009 and 2013 in Florida, Illinois, Idaho, Tennessee, and Kentucky did not meet all data-quality requirements under 40 CFR part 50, appendix L. The lack of data means that the relevant areas in those States could potentially be in nonattainment or be maintenance receptors in 2021. However, as mentioned above, EPA's analysis for the 2011 CSAPR rulemaking with respect to the 2006 $PM_{2.5}$ NAAQS determined that Massachusetts' impact to all these downwind receptors would be well below the 1% contribution threshold for this NAAQS. That conclusion informs the analysis of Massachusetts' contributions for purposes of the 2012 $PM_{2.5}$ NAAQS as well. Given this, and the fact, discussed below, that the Commonwealth's $PM_{2.5}$ design values for all ambient monitors have declined since the 2005–2007 period, EPA concludes that it is highly unlikely that Massachusetts significantly contributes to nonattainment or interferes with maintenance of the 2012 $PM_{2.5}$ NAAQS in areas with data-quality issues.[11]

Information in Massachusetts' February 2018 SIP submission corroborates EPA's proposed conclusion that Massachusetts' SIP meets its Good Neighbor obligations. The State's technical analysis in that submission includes graphs showing downward trends in the maximum 24-hour and annual $PM_{2.5}$ design values for all six New England States and New York since 2007. It also includes results of EPA's CSAPR and CSAPR update modeling. This technical analysis is supported by additional indications that the State's air quality is improving and that emissions are falling, including certified 24-hour and annual $PM_{2.5}$ monitor values recorded through 2017 and preliminary 2018 results.[12] Specifically, since 1999, the highest value satisfying minimum data completion criteria for the 24-hour $PM_{2.5}$ standard was 48 $\mu g/m^3$ in Pittsfield in Berkshire County (1999) and in Lynn in Essex County (2003). The highest value satisfying minimum data completion criteria for the annual $PM_{2.5}$ standard was 15.3 $\mu g/m^3$ in Boston in Suffolk County (1999). However, since 2008, all monitors in the Commonwealth have been below the 2012 $PM_{2.5}$ NAAQS.

In addition, as reported in EPA's Clean Air Markets Program database, actual ozone-season NO_X emissions from EGUs in Massachusetts from 2009 through 2017 fell from 2,403.5 to 878.5 tons, almost one-third of what it was.

Second, Massachusetts' sources are well-controlled. Massachusetts' 2018 submission indicates that the Commonwealth has many SIP-approved regulations and programs that limit emissions of $PM_{2.5}$ and the $PM_{2.5}$ precursors SO_2 and NO_X.[13] Among others, these regulations include 310 CMR 7.06, *Visible Emissions* (37 FR 23085; October 28, 1972); 7.07, *Open Burning* (45 FR 40987; June 17, 1980); 7.08, *Incinerators* (64 FR 48095; September 2, 1999); 7.09, *Dust, Odor, Construction and Demolition* (81 FR 47708; July 22, 2016); 7.19, *Reasonably Available Control Technology (RACT) for Sources of Oxides of Nitrogen (NO_X)* (80 FR 61101; October 9, 2015); and 7.29, *Emission Standards for Power Plants* (78 FR 57487; September 19, 2013).

It should also be noted that Massachusetts is not in the CSAPR program because EPA analyses show that the State does not emit ozone-season NO_X at a level that contributes significantly to non-attainment or interferes with maintenance of the 1997 and 2006 $PM_{2.5}$ NAAQS in any other State.

For the reasons explained herein, EPA agrees with Massachusetts' conclusions and proposes to determine that Massachusetts will not significantly contribute to nonattainment or interfere with maintenance of the 2006 or 2012 $PM_{2.5}$ NAAQS in any other State. Therefore, EPA proposes to approve the February 2018 infrastructure SIP submission from Massachusetts for prongs 1 and 2 of CAA section 110(a)(2)(D)(i)(I) for the 2006 and 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: Section 110(a)(2)(D)(i)(II)—PSD (Prong 3)

To prevent significant deterioration of air quality, this sub-element requires SIPs to include provisions that prohibit any source or other type of emissions activity in one State from interfering with measures that are required in any other State's SIP under Part C of the CAA. One way for a State to meet this requirement, specifically with respect to in-State sources and pollutants that are subject to PSD permitting, is through a comprehensive PSD permitting program that applies to all regulated NSR pollutants and that satisfies the requirements of EPA's PSD implementation rules. For in-State sources not subject to PSD, this requirement can be satisfied through a fully-approved nonattainment new source review (NNSR) program with respect to any previous NAAQS.

On December 26, 2017, EPA issued a finding that Massachusetts had failed to submit a SIP addressing the transport provisions (including prong 3) for the 2012 $PM_{2.5}$ NAAQS. *See* 82 FR 60870. As discussed under element C above, Massachusetts has long been subject to a PSD FIP and has implemented and enforced the federal PSD program through a delegation agreement with EPA. MassDEP's February 2018 submittal does not address the PSD-related aspect of prong 3. Therefore, EPA's December 26, 2017, finding of failure to submit remains with respect to the PSD requirement of prong 3 of 110(a)(2)(D)(i)(II) for the 2012 $PM_{2.5}$ NAAQS but does not trigger any sanctions or additional FIP obligation for the same reasons discussed under element C above.

Under prong 3 of 110(a)(2)(D)(i)(II), EPA also reviews the potential for in-State sources not subject to PSD to interfere with PSD in an attainment or unclassifiable area of another State. EPA generally considers a fully approved NNSR program adequate for purposes of meeting this requirement of prong 3 with respect to in-state sources and pollutants not subject to PSD. *See* 2013 memorandum. EPA last approved the Commonwealth's NNSR program on October 27, 2000. 65 FR 64360. Because Massachusetts is located within the Ozone Transport Region (OTR), *see*

[11] Massachusetts' $PM_{2.5}$ design values for all ambient monitors are available in the Design Value Reports at *https://19january2017snapshot.epa.gov/air-trends/air-quality-design-values_.html.*

[12] 24-hour and annual $PM_{2.5}$ monitor values for individual monitoring sites throughout Massachusetts are available at *https://www.epa.gov/outdoor-air-quality-data/monitor-values-report.*

[13] SO_2 and NO_X contribute to the formation of $PM_{2.5}$.

CAA section 184(a), 42 U.S.C. 7511c(a), the CAA requires sources emitting 100 tons per year (tpy) or more of nitrogen oxides (NO_X) or 50 tpy or more of volatile organic compounds (VOCs) located in attainment or unclassifiable areas to be subject to the requirements that would be applicable to major stationary sources if the area were classified as a moderate nonattainment area. *See* CAA sections 182(f)(1), 184(b)(2), 42 U.S.C. 7511a, 7511c.

In other words, even if located in an area designated attainment or unclassifiable for ozone, under the CAA and its implementing regulations, such sources are subject to NNSR rather than PSD. The major source threshold for NNSR in Massachusetts is currently 50 tpy for NO_X instead of 100 tpy due to the fact that part of Massachusetts had been designated in 1990 as a serious nonattainment area for the 1979 1-hour ozone standard.[14] [15] Massachusetts's current SIP-approved NNSR regulations, however, apply by their terms only to nonattainment areas,[16] meaning that sources with 50 tpy (see footnote 15) or more of VOCs or NO_X emissions in much of Massachusetts are not covered by either the PSD FIP, applicable in the Commonwealth, or the Commonwealth's EPA-approved NNSR program. Thus, the Commonwealth has not shown that it has met this requirement of prong 3. However, as a matter of state regulation, the Commonwealth has promulgated and implements NNSR regulations that make the Commonwealth's NNSR program applicable to such sources regardless of area designation.

On February 9, 2018, Massachusetts submitted a separate SIP revision to make its EPA-approved NSSR program applicable to such sources. EPA is proposing approval of those provisions in a separate rulemaking, and will take final action on that submittal prior to, or in conjunction with, finalizing our action on MassDEP's infrastructure SIP submittal for the 2012 $PM_{2.5}$ NAAQS. Accordingly, we propose to approve Massachusetts' submittals for the 2012 $PM_{2.5}$ NAAQS for the NNSR aspect of prong 3.

[14] On November 6, 1991, the EPA promulgated designations for the 1979 1-hour ozone standard. *See* 56 FR 56694 (November 6, 1991).

[15] Because Massachusetts is in the OTR, the major source threshold for VOCs is 50 tpy.

[16] At the time EPA last approved Massachusetts' NNSR regulations (October 27, 2000; 65 FR 64361), the Western Massachusetts area was nonattainment for the one-hour ozone standard, and the Eastern Massachusetts area was attaining the standard, but was anticipated to become nonattainment as of January 16, 2001, upon EPA's reinstatement of the one-hour ozone NAAQS for that area.

Sub-Element 3: Section 110(a)(2)(D)(i)(II)—Visibility Protection (Prong 4)

Regarding the applicable requirements for visibility protection of section 110(a)(2)(D)(i)(II), States are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). The 2009, 2011, and 2013 memoranda explain that these requirements can be satisfied by an approved SIP addressing reasonably attributable visibility impairment, if required, or an approved SIP addressing regional haze. A fully approved regional haze SIP meeting the requirements of 40 CFR 51.308 will ensure that emissions from sources under an air agency's jurisdiction are not interfering with measures required to be included in other air agencies' plans to protect visibility.

On December 26, 2017, EPA issued a finding that Massachusetts had failed to submit a SIP addressing the transport provisions (including prong 4) for the 2012 $PM_{2.5}$ NAAQS. *See* 82 FR 60870. MassDEP's February 2018 submittal resolves this issue, addressing prong 4 by citing to Massachusetts' Regional Haze SIP, which EPA approved on September 19, 2013. This Regional Haze SIP, which was submitted in December 2011, with two supplemental submittals in August 2012, meets the requirements of 40 CFR 51.308. *See* 78 FR 57487. Accordingly, EPA proposes that Massachusetts meets the visibility protection requirements of 110(a)(2)(D)(i)(II) for the 2012 $PM_{2.5}$ NAAQS. Additionally, in its infrastructure submission for the 2006 $PM_{2.5}$ NAAQS, MassDEP stated that it would rely on its Regional Haze SIP for this requirement. As noted above, EPA approved the Regional Haze SIP in 2013. Accordingly, EPA proposes that Massachusetts meets the visibility protection requirements of 110(a)(2)(D)(i)(II) for the 2006 $PM_{2.5}$ NAAQS.

Sub-Element 4: Section 110(a)(2)(D)(ii)—Interstate Pollution Abatement

This sub-element requires that each SIP contain provisions requiring compliance with requirements of section 126 relating to interstate pollution abatement. Section 126(a) requires new or modified sources to notify neighboring States of potential impacts from the source. The statute does not specify the method by which the source should provide the notification. States with SIP-approved PSD programs must have a provision requiring such notification by new or modified sources.

As mentioned elsewhere in this document, Massachusetts is currently subject to a PSD FIP. In addition, Massachusetts states in its submittal that it relies on the PSD FIP to meet the notice requirement of section 126(a). Therefore, we propose to make a finding of failure to submit for section 110(a)(2)(D)(ii) regarding PSD-related notice of interstate pollution with respect to the 2012 $PM_{2.5}$ NAAQS.[17] This finding does not trigger any additional FIP obligation by the EPA under section 110(c)(1), because the federal PSD rules address the notification issue. *See* 40 CFR 52.21(q), 124.10(c)(vii); *see also id.* section 52.1165. Nor does the finding trigger any sanctions. Massachusetts has no obligations under any other provision of section 126.

Sub-Element 5: Section 110(a)(2)(D)(ii)—International Pollution Abatement

This sub-element also requires each SIP to contain provisions requiring compliance with the applicable requirements of section 115 relating to international pollution abatement. Section 115 authorizes the Administrator to require a state to revise its SIP to alleviate international transport into another country where the Administrator has made a finding with respect to emissions of the particular NAAQS pollutant and its precursors, if applicable. There are no final findings under section 115 against Massachusetts for the 1997, 2006, or 2012 $PM_{2.5}$ NAAQS. Therefore, EPA proposes that Massachusetts meets the applicable infrastructure SIP requirements of section 110(a)(2)(D)(ii) related to section 115 of the CAA (international pollution abatement) for the 1997, 2006, and 2012 $PM_{2.5}$ NAAQS.

E. Section 110(a)(2)(E)—Adequate Resources

Section 110(a)(2)(E)(i) requires each SIP to provide assurances that the State will have adequate personnel, funding, and legal authority under State law to carry out its SIP. In addition, section 110(a)(2)(E)(ii) requires each State to comply with the requirements under CAA section 128 about State boards. Finally, section 110(a)(2)(E)(iii) requires that, where a State relies upon local or regional governments or agencies for the implementation of its SIP provisions,

[17] As discussed earlier, *supra* n.6, EPA has previously issued findings of failure to submit for Massachusetts for the PSD-related requirements of 110(a)(2)(D)(ii) for the 1997 ozone, 2008 ozone, 2008 Pb, 2010 NO_2 and 2010 SO_2 NAAQS.

the State retain responsibility for ensuring implementation of SIP obligations with respect to relevant NAAQS. Section 110(a)(2)(E)(iii), however, does not apply to this action because Massachusetts does not rely upon local or regional governments or agencies for the implementation of its SIP provisions.

Sub-Element 1: Adequate Personnel, Funding, and Legal Authority Under State Law To Carry Out Its SIP, and Related Issues

Massachusetts, through its infrastructure SIP submittal, has documented that its air agency has the requisite authority and resources to carry out its SIP obligations. Massachusetts General Laws c. 111, §§ 142A to 142N, provide MassDEP with the authority to carry out the State's implementation plan. The Massachusetts SIP, as originally submitted in 1971 and subsequently amended, provides descriptions of the staffing and funding necessary to carry out the plan. In the submittals, MassDEP provides assurances that it has adequate personnel and funding to carry out the SIP during the five years following infrastructure SIP submission and in future years. Additionally, the Commonwealth receives CAA section 103 and 105 grant funds through Performance Partnership agreements and provides State matching funds, which together enable Massachusetts to carry out its SIP requirements. Therefore, EPA proposes that Massachusetts meets the infrastructure SIP requirements of this portion of section 110(a)(2)(E) for the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: State Board Requirements Under Section 128 of the CAA

Section 110(a)(2)(E)(ii) requires each SIP to contain provisions that comply with the State board requirements of section 128 of the CAA. That provision contains two explicit requirements: (1) That any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits and enforcement orders under this chapter, and (2) that any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

Massachusetts does not have a State board that approves permits or enforcement orders under the CAA. Instead, permits and enforcement orders are approved by the Commissioner of MassDEP. Thus, Massachusetts is not subject to the requirements of paragraph (a)(1) of section 128. As to the conflict of interest provisions of section 128(a)(2), Massachusetts cited M.G.L. c. 268A, §§ 6 and 6A of the Commonwealth's Conflict of Interest law in its February 2018 infrastructure SIP submittal for 2012 $PM_{2.5}$ NAAQS.

Pursuant to these State provisions, which were approved into the Massachusetts SIP on December 21, 2016, 81 FR 93627, State employees in Massachusetts, including the head of an executive agency with authority to approve air permits or enforcement orders, are required to disclose potential conflicts of interest to, among others, the State ethics commission. Therefore, we propose to approve the Commonwealth's infrastructure SIP submittal for section 110(a)(2)(E)(ii) for the 2012 $PM_{2.5}$ NAAQS. In addition, we propose to convert to full approval two conditional approvals we previously issued for Massachusetts with respect to section 110(a)(2)(E)(ii) for the 1997 and 2006 $PM_{2.5}$ NAAQS. *See* 77 FR 63228 (October 16, 2012).

F. Section 110(a)(2)(F)—Stationary Source Monitoring System

States must establish a system to monitor emissions from stationary sources and submit periodic emissions reports. Each plan shall also require 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. The State plan shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and correlation of such reports by each State agency with any emission limitations or standards. Lastly, the reports shall be available at reasonable times for public inspection.

Pursuant to M.G.L. c. 111, §§ 142A to 142D, MassDEP has the necessary authority to maintain and operate air monitoring stations, and coordinates with EPA in determining the types and locations of ambient air monitors across the State. The Commonwealth uses this authority to require the installation, maintenance, and replacement of emissions monitoring equipment by, and to collect information on air emissions from, sources in the State. The following SIP-approved regulations enable the accomplishment of the Commonwealth's emissions recording, reporting, and correlating objectives:

1. 310 CMR 7.12, Source Registration.
2. 310 CMR 7.13, Stack Testing.
3. 310 CMR 7.14, Monitoring Devices and Reports.

Additionally, Massachusetts statutes and regulations provide that emissions data shall be available for public inspection. *See, e.g.,* M.G.L. c. 21I, § 20(K); M.G.L. c. 111, § 142B; 310 CMR §§ 3.33(5), 7.12(4)(b); 7.14(1).

EPA recognizes that Massachusetts routinely collects information on air emissions from its industrial sources and makes this information available to the public. EPA, therefore, proposes that the Commonwealth meets the infrastructure SIP requirements of section 110(a)(2)(F) for the 2012 $PM_{2.5}$ NAAQS.

G. Section 110(a)(2)(G)—Emergency Powers

This section requires that a plan provide for State authority analogous to that provided to the EPA Administrator in section 303 of the CAA, and adequate contingency plans to implement such authority. Section 303 of the CAA provides authority to the EPA Administrator to seek a court order to restrain any source from causing or contributing to emissions that present an ''imminent and substantial endangerment to public health or welfare, or the environment.'' Section 303 further authorizes the Administrator to issue ''such orders as may be necessary to protect public health or welfare or the environment'' in circumstances in which ''it is not practicable to assure prompt protection . . . by commencement of such civil action.''

We propose to find that the Commonwealth's infrastructure SIP submittal demonstrates that certain State statutes and regulations provide for authority comparable to that in section 303. Massachusetts' submittal cites M.G.L. c. 111, § 2B, *Air Pollution Emergencies,* which authorizes the Commissioner of the MassDEP to ''declare an air pollution emergency'' if the Commissioner ''determines that the condition or impending condition of the atmosphere in the Commonwealth . . . constitutes a present or reasonably imminent danger to health.'' During such an air pollution emergency, the Commissioner is authorized pursuant to section 2B, to ''take whatever action is necessary to maintain and protect the public health, including but not limited to . . . prohibiting, restricting and conditioning emissions of dangerous or potentially dangerous air contaminants from whatever source derived . . . .'' Additionally, sections 2B and 2C

authorize the Commissioner to issue emergency orders.

Moreover, M.G.L. c. 21A, § 8 provides that, ''[i]n regulating . . . any pollution prevention, control or abatement plan [or] strategy . . . through any . . . departmental action affecting or prohibiting the emission . . . of any hazardous substance to the environment . . . the department may consider the potential effects of such plans [and] strategies . . . on public health and safety and the environment . . . and said department shall act to minimize and prevent damage or threat of damage to the environment.''

These duties are implemented, in part, under MassDEP regulations at 310 CMR 8.00, *Prevention and Abatement of Air Pollution Episodes and Air Pollution Incident Emergencies,* which EPA approved into the SIP on October 4, 2002 (67 FR 62184). These regulations establish levels that would constitute significant harm or imminent and substantial endangerment to health for ambient concentrations of pollutants subject to a NAAQS, consistent with the significant harm levels and procedures for State emergency episode plans established by EPA in 40 CFR 51.150 and 51.151.[18] Finally, M.G.L. c. 111, § 2B authorizes the State to seek injunctive relief in the superior court for violation of an emergency order issued by the MassDEP Commissioner. While no single Massachusetts statute or regulation mirrors the authorities of CAA section 303, we propose to find that the combination of State statutes and regulations discussed herein provide for comparable authority to immediately bring suit to restrain, and issue orders against, any person causing or contributing to air pollution that presents an imminent and substantial endangerment to public health or welfare, or the environment.

Section 110(a)(2)(G) also requires that States have an approved contingency plan (also known as an emergency episode plan) to implement the air agency's emergency episode authority for any Air Quality Control Region (AQCR) within the State that is classified as Priority I, IA, or II for certain pollutants. *See* 40 CFR 51.152(c). For classifications for Massachusetts, see 40 CFR 52.1121. A contingency plan is not required if the entire State is classified as Priority III for a particular pollutant. *Id.* In general, contingency plans for Priority I, IA, and II areas must meet the applicable requirements of 40 CFR part 51, subpart H (40 CFR 51.150 through 51.153) (*Prevention of Air Pollution Emergency Episodes*) for the relevant NAAQS, if the NAAQS is covered by those regulations. In the case of $PM_{2.5}$, EPA has not promulgated regulations that provide the ambient levels to classify different priority levels for the 2012 standard (or any $PM_{2.5}$ NAAQS). For the 2006 $PM_{2.5}$ NAAQS, EPA's 2009 memorandum recommends that States develop emergency episode plans for any area that has monitored and recorded 24-hour $PM_{2.5}$ levels greater than 140 $\mu g/m^3$ since 2006. EPA's review of Massachusetts' certified air quality data in AQS indicates that the highest 24-hour $PM_{2.5}$ level recorded since 2006 was 72.7 $\mu g/m^3$, which occurred in 2012 in Boston in Suffolk County (Site ID 250250042).[19] Therefore, EPA proposes that a specific contingency plan from Massachusetts for $PM_{2.5}$ is not necessary. Furthermore, although not expected, if $PM_{2.5}$ conditions in Massachusetts were to change, MassDEP has general authority to order a source to reduce or discontinue air pollution as required to protect the public health or safety or the environment, as discussed earlier.

In addition, as a matter of practice, Massachusetts forecasts concentrations of $PM_{2.5}$ throughout the year and issues alerts to the public through the EPA AirNow and EPA Enviroflash systems. Information regarding these two systems is available on EPA's website at *www.airnow.gov.* When levels are forecast to exceed the 24-hour $PM_{2.5}$ standard in Massachusetts, notices are sent out to Enviroflash participants, the media are alerted via a press release, and the National Weather Service (NWS) is alerted to issue an Air Quality Advisory through the normal NWS weather alert system. These actions are similar to the notification and communication requirements for contingency plans in 40 CFR 51.152.

Therefore, EPA proposes that Massachusetts, through the combination of statutes and regulations discussed above and participation in EPA's AirNow program, meets the applicable infrastructure SIP requirements of section 110(a)(2)(G) for the 2012 $PM_{2.5}$ NAAQS.

H. Section 110(a)(2)(H)—Future SIP Revisions

This section requires that a State's SIP provide for revision in response to: Changes in the NAAQS, availability of improved methods for attaining the NAAQS, or an EPA finding that the SIP is substantially inadequate.

Massachusetts General Laws c. 111, § 142D provides in relevant part that, ''From time to time the department shall review the ambient air quality standards and plans for implementation, maintenance and attainment of such standards adopted pursuant to this section and, after public hearings, shall amend such standards and implementation plan so as to minimize the economic cost of such standards and plan for implementation, provided, however, that such standards shall not be less than the minimum federal standards.'' This authorizing statute gives MassDEP the power to revise the Massachusetts SIP from time to time as may be necessary to take account of changes in the NAAQS or availability of improved methods for attaining the NAAQS and whenever the EPA finds that the SIP is substantially inadequate.

EPA proposes that Massachusetts meets the infrastructure SIP requirements of CAA section 110(a)(2)(H) for the 2012 $PM_{2.5}$ NAAQS.

I. Section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D

The CAA requires that each plan or plan revision for an area designated as a nonattainment area meet the applicable requirements of part D of the CAA. Part D relates to nonattainment areas. EPA has determined that section 110(a)(2)(I) is not applicable to the infrastructure SIP process. Instead, EPA takes action on part D attainment plans through separate processes.

J. Section 110(a)(2)(J)—Consultation With Government Officials; Public Notifications; Prevention of Significant Deterioration; Visibility Protection

Section 110(a)(2)(J) of the CAA requires that each SIP ''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 PSD of air quality and visibility protection).'' The evaluation of the submission from Massachusetts with respect to these requirements is described below.

Sub-Element 1: Consultation With Government Officials

Pursuant to CAA section 121, a State must provide a satisfactory process for

[18] The Commonwealth's Contaminant Concentration Levels are found in Table 1 of 310 CMR 8.01, and match EPA's levels from 40 CFR 51.151 except for the averaging time used for ozone. Massachusetts uses a 1-hour averaging time, which is slightly more protective that the 2-hour averaging time EPA provides for this pollutant.

[19] 24-hour and annual $PM_{2.5}$ monitor values for individual monitoring sites throughout Massachusetts are available at *www.epa.gov/outdoor-air-quality-data/monitor-values-report.*

consultation with local governments and Federal Land Managers (FLMs) in carrying out its NAAQS implementation requirements.

Pursuant to EPA-approved Massachusetts regulations at 310 CMR 7.02(12)(g)(2), MassDEP notifies the public ''by advertisement in a newspaper having wide circulation'' in the area of the particular facility of the opportunity to comment on certain proposed permitting actions and sends ''a copy of the notice of public comment to the applicant, the EPA, and officials and agencies having jurisdiction over the community in which the facility is located, including local air pollution control agencies, chief executives of said community, and any regional land use planning agency.'' In addition, MassDEP included Massachusetts Executive Order 145, ''Consultation with Cities & Towns on Administrative Mandates,'' which establishes a process for state agencies to consult with local governments, in its February 2018 infrastructure SIP submittal for EPA approval. We propose to approve this Executive Order into the Massachusetts SIP.

Massachusetts did not make a submittal, however, with respect to the requirement to consult with FLMs. As previously mentioned, Massachusetts does not have an approved State PSD program, but rather is subject to a PSD FIP. The FIP includes a provision requiring consultation with FLMs. *See* 40 CFR 52.21(p). Consequently, with respect to the 2012 $PM_{2.5}$ NAAQS, EPA proposes that Massachusetts meets the consultation with local governments requirement of this portion of section 110(a)(2)(J), but proposes a finding of failure to submit with respect to the FLM consultation requirement. Because the federal PSD program, which Massachusetts implements and enforces, addresses the FLM consultation requirement, a finding of failure to submit will not result in sanctions or new FIP obligations.

Sub-Element 2: Public Notification

Pursuant to CAA section 127, States must notify the public if NAAQS are exceeded in an area, advise the public of health hazards associated with exceedances, and enhance public awareness of measures that can be taken to prevent exceedances and of ways in which the public can participate in regulatory and other efforts to improve air quality.

Massachusetts regulations specify criteria for air pollution episodes and incidents and provide for notice to the public via news media and other means of communication. See 310 CMR 8.00. The Commonwealth also provides a daily air quality forecast to inform the public about concentrations of fine particles and, during the ozone season, provides similar information for ozone. Real time air quality data for NAAQS pollutants are also available on the MassDEP's website, as are information about health hazards associated with NAAQS pollutants and ways in which the public can participate in regulatory efforts related to air quality. The Commonwealth is also an active partner in EPA's AirNow and EnviroFlash air quality alert programs, which notify the public of air quality levels through EPA's website, alerts, and press releases. Therefore, we propose to find that Massachusetts meets the infrastructure SIP requirements of this portion of section 110(a)(2)(J) for the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 3: PSD

States must meet applicable requirements of section 110(a)(2)(C) related to PSD. The Commonwealth's PSD program in the context of infrastructure SIPs has already been discussed in the paragraphs addressing sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(D)(ii), and our proposed actions for those sections are consistent with the proposed actions for this portion of section 110(a)(2)(J). Specifically, we propose a finding of failure to submit with respect to the PSD sub-element of section 110(a)(2)(J) for the 2012 $PM_{2.5}$ NAAQS,[20] and note that such a finding will not result in any sanctions or new FIP obligations.

Sub-Element 4: Visibility Protection

Regarding visibility protection, States are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, as noted in EPA's 2013 memorandum, we find that there is no new visibility obligation ''triggered'' under section 110(a)(2)(J) when a new NAAQS becomes effective. In other words, the visibility protection requirements of section 110(a)(2)(J) are not germane to infrastructure SIPs for the 2012 $PM_{2.5}$ NAAQS.

[20] As discussed earlier, *supra* n.6, EPA has previously issued findings of failure to submit for Massachusetts for PSD-related infrastructure requirements for the 1997 ozone, 2008 ozone, 2008 Lead, 2010 NO_2 and 2010 SO_2 NAAQS.

K. Section 110(a)(2)(K)—Air Quality Modeling/Data

Section 110(a)(2)(K) of the Act requires that a SIP provide for the performance of such air-quality modeling as the EPA Administrator may prescribe to predict the effect on ambient air quality of any emissions of any air pollutant for which EPA has established a NAAQS, and the submission, upon request, of data related to such air quality modeling. EPA has published modeling guidelines at 40 CFR part 51, Appendix W, for predicting the effects of emissions of criteria pollutants on ambient air quality. EPA also recommends in the 2013 memorandum that, to meet section 110(a)(2)(K), a State submit or reference the statutory or regulatory provisions that provide the air agency with the authority to conduct such air quality modeling and to provide such modeling data to EPA upon request.

Massachusetts state law implicitly authorizes MassDEP to perform air quality modeling and provide such modeling data to EPA upon request. *See* M.G.L. c. 21A, § 2(2), (10), (22); M.G.L. c. 111, §§ 142B–142D. In addition, 310 CMR 7.02 authorizes MassDEP to require air dispersion modeling analyses from certain sources and permit applicants. As previously discussed, Massachusetts implements and enforces the federal PSD program through a delegation agreement. This agreement, which is included in the docket for today's action requires MassDEP to follow the applicable procedures in EPA's permitting regulations at 40 CFR 52.21, as amended from time to time. The Commonwealth also collaborates with the Ozone Transport Commission (OTC), the Mid-Atlantic Regional Air Management Association, and EPA to perform large scale urban airshed modeling.

Therefore, EPA proposes that Massachusetts meets the infrastructure SIP requirements of section 110(a)(2)(K) for the 2012 $PM_{2.5}$ NAAQS.

L. Section 110(a)(2)(L)—Permitting Fees

This section requires SIPs to mandate that each major stationary source pay permitting fees to cover the costs of reviewing, approving, implementing, and enforcing a permit.

Massachusetts implements and operates the Title V permit program, which EPA approved on September 28, 2001. *See* 66 FR 49541. To gain approval, Massachusetts demonstrated, among other things, that it collects fees sufficient to cover the costs of reviewing and acting on permit applications and implementing and enforcing permits.

See 61 FR 3827 (February 2, 1996); 40 CFR 70.9. M.G.L. c. 21A, § 18 authorizes MassDEP to promulgate regulations establishing fees. To collect fees from sources of air emissions, the MassDEP promulgated and implements 310 CMR 4.00, *Timely Action Schedule and Fee Provisions,* and 310 CMR 7.00, Appendix C, *Operating Permit and Compliance Program.* These regulations set permit compliance fees, including fees for Title V operating permits. EPA proposes that the Commonwealth meets the infrastructure SIP requirements of section 110(a)(2)(L) for the 2012 $PM_{2.5}$ NAAQS.

M. Section 110(a)(2)(M)—Consultation/ Participation by Affected Local Entities

To satisfy element M, States must provide for consultation and allow participation by local political subdivisions affected by the SIP. Pursuant to M.G.L. c. 111, § 142D, MassDEP must hold public hearings prior to revising its SIP. In addition, M.G.L. c. 30A, Massachusetts Administrative Procedures Act, requires MassDEP to provide notice and the opportunity for public comment and hearing prior to adoption of any regulation. Moreover, the Commonwealth's Executive Order No. 145, ''Consultation with Cities & Towns on Administrative Mandates,'' which we are proposing to add to the Massachusetts SIP, requires State agencies, including MassDEP, to provide notice to the Local Government Advisory Committee to solicit input on the impact of proposed regulations and other administrative actions on local governments. MassDEP also notes that it consults with local political subdivisions though a state ''SIP Steering Committee'' and conducts stakeholder outreach with local entities as a matter of policy when revising the SIP or adopting air regulations. Therefore, EPA proposes that Massachusetts meets the infrastructure SIP requirements of section 110(a)(2)(M) for the 2012 $PM_{2.5}$ NAAQS.

N. Massachusetts Regulation and Executive Order Submitted for Incorporation Into the SIP

Massachusetts' February 9, 2018, infrastructure SIP submittal for the 2012 $PM_{2.5}$ NAAQS included definitions of *National Ambient Air Quality Standards (NAAQS) or Federal Ambient Air Quality Standards, PM_{10} or Particulate Matter 10, PM_{10} Emissions, $PM_{2.5}$ or Particulate Matter 2.5,* and *$PM_{2.5}$ Emissions* in 310 CMR 7.00 that Massachusetts included in a submittal to EPA dated May 14, 2018 and Executive Order No. 145, ''Consultation with Cities & Towns on Administrative Mandates'' (see discussion under element J, Sub-element 1). EPA is proposing to approve, and incorporate into the Massachusetts SIP, the five submitted definitions in 310 CMR 7.00 and Executive Order 145.

IV. Proposed Action

EPA is proposing to approve most of the elements of the infrastructure SIP submitted by Massachusetts on February 9, 2018, for the 2012 $PM_{2.5}$, including the interstate transport requirements. This submittal also addresses the interstate transport requirements for the 2006 $PM_{2.5}$ NAAQS, which we are likewise proposing to approve. In addition, EPA is proposing to approve a SIP revision submitted by Massachusetts on January 31, 2008, for the interstate transport requirements for the 1997 $PM_{2.5}$ NAAQS.

EPA's proposed action for each element for the 2012 $PM_{2.5}$ NAAQS is stated in Table 1 below.

TABLE 1—PROPOSED ACTION ON MASSACHUSETTS' INFRASTRUCTURE SIP SUBMITTAL FOR THE 2012 $PM_{2.5}$ NAAQS

Element	2012 $PM_{2.5}$ NAAQS
(A): Emission limits and other control measures	A
(B): Ambient air quality monitoring and data system	A
(C)1: Enforcement of SIP measures	A
(C)2: PSD program for major sources and major modifications	FS
(C)3: PSD program for minor sources and minor modifications	A
(D)1: Contribute to nonattainment/interfere with maintenance of NAAQS	A
(D)2: PSD	FS
(D)3: Visibility Protection	A
(D)4: Interstate Pollution Abatement	FS
(D)5: International Pollution Abatement	A
(E)1: Adequate resources	A
(E)2: State boards	A
(E)3: Necessary assurances with respect to local agencies	NA
(F): Stationary source monitoring system	A
(G): Emergency power	A
(H): Future SIP revisions	A
(I): Nonattainment area plan or plan revisions under part D	+
(J)1: Consultation with government officials	FS
(J)2: Public notification	A
(J)3: PSD	FS
(J)4: Visibility protection	+
(K): Air quality modeling and data	A
(L): Permitting fees	A
(M): Consultation and participation by affected local entities	A

In the above table, the key is as follows:

A	Approve.
NA	Not applicable.
FS	Finding of failure to submit.
+	Not germane to infrastructure SIPs.

EPA also is proposing to approve the transport provisions (Element (D)1 in Table 1) for the 1997 and 2006 $PM_{2.5}$ NAAQS, as well as the Visibility Protection requirements (Element (D)3 in Table 1) for the 2006 $PM_{2.5}$ NAAQS.

We are also proposing to convert to full approval previous conditional approvals for elements A and E(ii) for the 1997 and 2006 $PM_{2.5}$ NAAQS and previous conditional approvals for element A for the 1997 ozone, 2008 lead, 2008 ozone, 2010 nitrogen dioxide, and 2010 sulfur dioxide NAAQS. For the 1997 and 2006 $PM_{2.5}$ NAAQS, we are also proposing approvals for prong 4 of section 110(a)(2)(D)(i)(II) and for the section 115-related requirements of section 110(a)(2)(D)(ii).

As shown in Table 1, we are proposing to issue a finding of failure to submit for the PSD-related requirements of (C)2, (D)2, (D)4, (J)1, and (J)3. However, as noted above, Massachusetts is already subject to a FIP for PSD, and so EPA will have no additional FIP obligations under section 110(c) of the Act if this action is finalized as proposed. Furthermore, this action will not subject the Commonwealth to mandatory sanctions.

EPA is also proposing to approve, and incorporate into the Massachusetts SIP, definitions of *National Ambient Air Quality Standards (NAAQS) or Federal Ambient Air Quality Standards, PM_{10} or Particulate Matter 10, PM_{10} Emissions, $PM_{2.5}$ or Particulate Matter 2.5, and $PM_{2.5}$ Emissions* in 310 CMR 7.00 that Massachusetts included in a submittal to EPA dated May 14, 2018.

Finally, EPA is proposing to approve, and incorporate into the Massachusetts SIP, Massachusetts Executive Order 145, *Consultation with Cities & Towns on Administrative Mandates,* effective November 20, 1978, which Massachusetts included for approval in its infrastructure SIP submittal for the 2012 $PM_{2.5}$ NAAQS.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

V. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Executive Order 145 and the part of 310 CMR 7.00 referenced in Section IV above. The EPA has made, and will continue to make, these documents generally available through *https://www.regulations.gov* and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, 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, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866;
- 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 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 11, 2019.

Deborah Szaro,

Acting Regional Administrator, EPA Region 1.

[FR Doc. 2019–02658 Filed 2–19–19; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA–R07–OAR–2018–0852; FRL–9989–07–Region 7]

Air Plan Approval and Approval of Operating Permits Program; Nebraska; Adoption of the 2015 Ozone Standard and Revisions to Definitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of revisions to the State Implementation Plan (SIP), and Operating Permits Program for the State of Nebraska as submitted on August 22, 2018. This action proposes to adopt the 2015 primary and secondary National Ambient Air Quality Standards for Ozone, published in the **Federal Register** on October 26, 2015. The EPA is also proposing to approve revisions which are administrative in nature. These revisions include updating a reference to EPA's regulation used in the definition of ''Global Warming