have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination will be made available in the docket where indicated under **ADDRESSES**. This proposed rule involves the establishment of a safety zone. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165, as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. The Coast Guard proposes to amend § 165.1305 by revising paragraph (a) to read as follows:

§ 165.1305 Commencement Bay, Tacoma, WA.

(a) *Location.* The following area is a safety zone for the Tacoma Freedom Fair Air Show: All portions of Commencement Bay bounded by the following coordinates: Latitude 47°17′38″ N, Longitude 122°28′43″ W; thence south easterly to Latitude 47°17′4″ N, Longitude 122°27′32″ W; thence south westerly to Latitude 47°16′35″ N, Longitude 122°28′1″ W; thence north westerly along the shoreline to Latitude 47°17′10″ N, Longitude 122°29′14″ W; thence returning to the origin. This safety zone resembles a rectangle protruding from the shoreline along Ruston Way. Floating markers will be placed by the sponsor of the event to delineate the boundaries of the safety zone.

* * * * *

Dated: March 24, 2011.

S. J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 2011–8370 Filed 4–6–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2011–0003; FRL–9291–4]

Approval and Promulgation of Implementation Plans; Oregon; Interstate Transport of Pollution; Significant Contribution to Nonattainment and Interference With Maintenance Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a portion of the State Implementation Plan (SIP) revision submitted by the State of Oregon for the purpose of addressing the interstate transport provisions of Clean Air Act (CAA) section 110(a)(2)(D)(i)(I) for the 1997 8-hour ozone National Ambient Air

Quality Standards (NAAQS or standards) and the 1997 fine particulate matter ($PM_{2.5}$) NAAQS. Section 110(a)(2)(D)(i) of the CAA requires that each State have adequate provisions to prohibit air emissions from adversely affecting air quality in other States through interstate transport. EPA is proposing to approve Oregon's SIP revision for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS as meeting the requirements of CAA section 110(a)(2)(D)(i)(I) to prohibit emissions that will contribute significantly to nonattainment of the these standards in any other State and to prohibit emissions that will interfere with maintenance of these standards by any other State.

DATES: Written comments must be received on or before May 9, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2011–0003, by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E–Mail: R10-Public_Comments@epa.gov.*

C. *Mail:* Donna Deneen, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 900, *Mail Stop:* AWT–107, Seattle, WA 98101.

D. *Hand Delivery:* U.S. Environmental Protection Agency, Region 10, *Attn:* Donna Deneen (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101, 9th Floor. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2011–0003. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 *http://www.regulations.gov* or e-mail. The *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 e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail 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 you 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.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information, *i.e.,* CBI or other information whose disclosure is restricted by statute, is not publicly available. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Donna Deneen, (206) 553–6706 or *deneen.donna@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this notice, the words "we", "us", or "our" means the Environmental Protection Agency (EPA).

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I. What proposed action is EPA taking?

EPA is proposing to approve a portion of Oregon's Interstate Transport State Implementation Plan (SIP) revision for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS submitted by the Oregon Department of Environmental Quality (ODEQ) on June 23, 2010.[1] Specifically, we are proposing to approve the portion of the interstate transport SIP revision that addresses the following elements of CAA section 110(a)(2)(D)(i): (1) Significant contribution to nonattainment of these NAAQS in any other state; and (2) interference with maintenance of these NAAQS by any other state. EPA will address element (3), interference with any other state's required measures to prevent significant deterioration (PSD) of its air quality; and element (4), interference with any other state's required measures to protect visibility, in a separate action.[2] This proposed action does not address the requirements of the 2006 $PM_{2.5}$ NAAQS or the 2008 8-hour ozone NAAQS; those standards will be addressed in future actions.

II. What is a SIP?

Section 110(a) of the CAA requires each state to develop a plan that provides for the implementation, maintenance, and enforcement of the NAAQS. EPA establishes NAAQS under section 109 of the CAA. Currently, the NAAQS address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

The plan developed by a state is referred to as the SIP. The content of the SIP is specified in section 110 of the CAA, other provisions of the CAA, and applicable regulations. SIPs can be extensive, containing state regulations or other enforceable measures and various types of supporting information, such as emissions inventories, monitoring networks, and modeling demonstrations.

A primary purpose of the SIP is to provide the air pollution regulations, control strategies, and other means or techniques developed by the state to

[1] *See* transmittal letters dated June 23, 2010, from Joni Hammond, Deputy Director, ODEQ, and December 23, 2010, from Dick Pedersen, Director, ODEQ, to Dennis McLerran, Regional Administrator, EPA Region 10.

[2] On March 8, 2011, EPA proposed to approve the Oregon interstate transport SIP provisions addressing interference with any other state's required measures to protect visibility. *See* 76 FR 12651 (March 8, 2011).

ensure that the ambient air within that state meets the NAAQS. However, another important aspect of the SIP is to ensure that emissions from within the state do not have certain prohibited impacts upon the ambient air in other states through interstate transport of pollutants. This SIP requirement is specified in section 110(a)(2)(D). Pursuant to that provision, each state's SIP must contain provisions adequate to prevent emissions that significantly contribute to violations of the NAAQS in any other state, interfere with maintenance in any other state, interfere with any other state's required measures to prevent significant deterioration of its air quality, and interfere with any other state's required measures to protect visibility.

States are required to update or revise SIPs under certain circumstances. One such circumstance is EPA's promulgation of a new or revised NAAQS. Each state must submit these revisions to EPA for approval and incorporation into the federally-enforceable SIP.

III. What is the background for this proposed action?

On July 18, 1997, EPA promulgated new standards for 8-hour ozone [3] and fine particulate matter [4] ($PM_{2.5}$). This proposed action is in response to the promulgation of these standards (the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS).

Section 110(a)(1) of the CAA requires states to submit SIPs to address a new or revised NAAQS within three years after promulgation of such standards, or within such shorter period as EPA may prescribe. Section 110(a)(2) lists the elements that such new SIPs must address, as applicable, including section 110(a)(2)(D)(i) which pertains to interstate transport of certain emissions. On August 15, 2006, EPA issued a guidance memorandum that provides recommendations to states for making submissions to meet the requirements of section 110(a)(2)(D)(i) for the 1997 8-hour ozone and 1997 $PM_{2.5}$ standards (2006 Guidance).[5]

The interstate transport SIP provisions in section 110(a)(2)(D)(i) (also called "good neighbor" provisions) require each state to submit a SIP that prohibits emissions that adversely affect another state in the ways contemplated in the statute. Section 110(a)(2)(D)(i) identifies four distinct elements related to the evaluation of impacts of interstate transport of air pollutants. In this rulemaking EPA is addressing the first two elements of this subsection.

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

The CAA does not specifically mandate how to determine significant contribution to nonattainment or interference with maintenance. Therefore, EPA has interpreted these terms in past regulatory actions, such as the 1998 NO_X SIP Call, in which EPA took action to remediate emissions of nitrogen oxides (NO_X) that significantly contributed to nonattainment of, or interfered with maintenance of, the then applicable ozone NAAQS through interstate transport of NO_X and the resulting ozone.[6] The NO_X SIP Call was the mechanism through which EPA evaluated whether or not the NO_X emissions from sources in certain states had such prohibited interstate impacts, and if they had such impacts, required the states to adopt substantive SIP revisions to eliminate the NO_X emissions, whether through participation in a regional cap and trade program or by other means.

After promulgation of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS, EPA again recognized that regional transport was a serious concern throughout the eastern United States and therefore developed the 2005 Clean Air Interstate Rule (CAIR) to address emissions of sulfur dioxide (SO_2) and NO_X that exacerbate ambient ozone and $PM_{2.5}$ levels in many downwind areas through interstate transport.[7] Within CAIR, EPA interpreted the term "interfere with maintenance" as part of the evaluation of whether or not the emissions of sources in certain states had such impacts on areas that EPA determined would either be in violation of the NAAQS, or would be in jeopardy of violating the NAAQS, in a modeled future year unless action were taken by upwind states to reduce SO_2 and NO_X emissions. Through CAIR, EPA again required states that had such interstate impacts to adopt substantive SIP revisions to eliminate the SO_2 and NO_X emissions, whether through participation in a regional cap and trade program or by other means.

EPA's 2006 Guidance addressed CAA section 110(a)(2)(D)(i) requirements for the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS. For those states subject to CAIR, EPA indicated that compliance with CAIR would meet the two requirements of section 110(a)(2)(D)(i)(I) for these NAAQS. For states outside of the CAIR region, the 2006 Guidance recommended various methods by which states might evaluate whether or not their emissions significantly contribute to nonattainment of the 1997 8-hour ozone or the 1997 $PM_{2.5}$ NAAQS in another state. Among other methods, EPA recommended consideration of available EPA modeling conducted in conjunction with the CAIR, or in the absence of such EPA modeling, consideration of other information such as the amount of emissions, the geographic location of violating areas, meteorological data, or various other forms of information that would be relevant to assessing the likelihood of significant contribution to violations of the NAAQS in another state.

The assessment of significant contribution to nonattainment is not restricted to impacts upon areas that are formally designated nonattainment. Consistent with EPA's approach in CAIR and recently in the Transport Rule

[3] *See* 62 FR 38856. The level of the 1997 8-hour ozone NAAQS is 0.08 parts per million (ppm). 40 CFR part 50.10. The 8-hour ozone standard is met when the 3-year average of the annual 4th highest daily maximum 8-hour ozone concentrations is 0.08 ppm or less (*i.e.,* less than 0.085 ppm based on the rounding convention in 40 CFR part 50 Appendix I). This 3-year average is referred to as the "design value."

[4] *See* 62 FR 38652. The level of the 1997 $PM_{2.5}$ NAAQS are 15.0 μg/m³ (annual arithmetic mean concentration) and 65 μg/m³ (24-hour average concentration). 40 CFR part 50.7. The annual standard is met when the 3-year average of the annual mean concentrations is 15.0 μg/m³ or less (*i.e.,* less than 15.05 μg/m³ based on the rounding convention in 40 CFR part 50 Appendix N Section 4.3). The 24-hour standard is met when the 3-year average annual 98th percentile of 24-hour concentrations is 65 μg/m³ or less (*i.e.,* less than 65.5 μg/m³ based on the rounding convention in 40 CFR part 40 Appendix N Section 4.3). *Id.* These 3-year averages are referred to as the annual $PM_{2.5}$ and 24-hour $PM_{2.5}$ "design values," respectively.

[5] Memorandum from William T. Harnett entitled "Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-hour ozone and $PM_{2.5}$ National Ambient Air Quality Standards," August 15, 2006.

[6] *See* 63 FR 57356 (October 27, 1998). EPA's general approach to section 110(a)(2)(D) in the NO_X SIP Call was upheld in *Michigan* v. *EPA, 213 F.3d 663* (DC Cir. 2000), cert denied, 532 U.S. 904 (2001). However, EPA's approach to interference with maintenance in the NO_X SIP Call was not explicitly reviewed by the court. *See, North Carolina* v. *EPA, 531 F.3d 896, 907–09* (DC Cir. 2008).

[7] *See* "Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_X SIP Call; Final Rule," at 70 FR 25162 at 25263–69 (May 12, 2005).

Proposal, as discussed further below, this impact must be evaluated with respect to monitors showing a violation of the NAAQS.[8] Furthermore, although relevant information other than modeling may be considered in assessing the likelihood of significant contribution to nonattainment of the 8-hour ozone or $PM_{2.5}$ NAAQS in another state, EPA notes that no single piece of information is by itself dispositive of the issue. Instead, the total weight of all the evidence taken together is used to evaluate significant contributions to violations of the 1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS in another state.

As to the second element of section 110(a)(2)(D)(i), for states not within the CAIR region, EPA recommended that states evaluate whether or not emissions from their sources would "interfere with maintenance" in other states following the conceptual approach adopted by EPA in CAIR. After recommending various types of information that could be relevant for the technical analysis to support the SIP submission, such as the amount of emissions and meteorological conditions in the state, EPA further indicated that it would be appropriate for the state to assess impacts of its emissions on other states using considerations comparable to those used by EPA "in evaluating significant contribution to nonattainment in the CAIR."[9] EPA did not make specific recommendations for how states should assess interference with maintenance separately, and discussed the first two elements of section 110(a)(2)(D)(i) together without explicitly differentiating between them.

In 2008, the U.S. Court of Appeals for the D.C. Circuit found that CAIR and the related CAIR federal implementation plans were unlawful.[10] Among other issues, the court held that EPA had not correctly addressed the second element of section 110(a)(2)(D)(i)(I) in CAIR and noted that "EPA gave no independent significance to the 'interfere with maintenance' prong of section 110(a)(2)(D)(i)(I) to separately identify upwind sources interfering with downwind maintenance."[11] EPA's approach, the court reasoned, would leave areas that are "barely meeting attainment" with "no recourse" to address upwind emissions sources.[12] The court therefore concluded that a plain language reading of the statute requires EPA to give independent meaning to the interfere with maintenance requirement of section 110(a)(2)(D)(i) and that the approach used by EPA in CAIR failed to do so. In addition to affecting CAIR directly, the court's decision in the *North Carolina* case indirectly affects EPA's recommendations to states in the 2006 Guidance with respect to the interfere with maintenance element of section 110(a)(2)(D)(i) because the agency's guidance suggested that states use an approach comparable to that used by EPA in CAIR.

To address the judicial remand of CAIR, EPA has recently proposed a new rule to address interstate transport of air pollution pursuant to section 110(a)(2)(D)(i), the "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone" (Transport Rule Proposal).[13] As part of the Transport Rule Proposal, EPA specifically reexamined the section 110(a)(2)(D)(i)(I) requirements that emissions from sources in a state must not "contribute significantly to nonattainment" or "interfere with maintenance" of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS in other states. In the proposal, EPA developed an approach to identify areas that it predicts to be violating the 1997 8-hour ozone and $PM_{2.5}$ NAAQS in the future, and areas that it predicts to be close to the level of these NAAQS in the future and therefore at risk to become nonattainment unless emissions from sources in other states are appropriately controlled. This approach starts by identifying those specific geographic areas for which further evaluation is appropriate, and differentiates between areas where the concern is significant contribution to nonattainment as opposed to interference with maintenance.

As described in more detail below, EPA evaluated data from existing monitors over three overlapping 3-year periods (*i.e.,* 2003–2005, 2004–2006, and 2005–2007), as well as air quality modeling data, in order to determine which areas are predicted to be violating the 1997 8-hour ozone and $PM_{2.5}$ NAAQS in 2012, and which areas are predicted potentially to have difficulty maintaining attainment as of that date. In essence, if an area's projected data for 2012 indicates that it would be violating the NAAQS based on the average of these three overlapping periods, then this monitor location is appropriate for comparison for purposes of the significant contribution to nonattainment element of section 110(a)(2)(D)(i). If, however, an area's projected data indicate that it would be violating the NAAQS based on the highest single period, but not over the average of the three periods, then this monitor location is appropriate for comparison for purposes of the interfere with maintenance element of the statute.[14]

By this method, EPA has identified those areas with monitors that are appropriate "nonattainment receptors" or "maintenance receptors" for evaluating whether the emissions from sources in another state could significantly contribute to nonattainment in, or interfere with maintenance in, that particular area. EPA believes that this approach for identifying areas that are predicted to be nonattainment or to have difficulty maintaining the NAAQS, is appropriate to evaluate a state's submission in relation to the elements of CAA section 110(a)(2)(D)(i)(I) pertaining to significant contribution to nonattainment and interference with maintenance.[15] EPA's 2006 Guidance did not provide this specific recommendation to states, but in light of the court's decision on CAIR, EPA will itself follow this approach in evaluating the Oregon submission.

As explained in the 2006 Guidance, EPA does not believe that section 110(a)(2)(D)(i) SIP submissions from all states necessarily need to follow precisely the same analytical approach of CAIR. In the 2006 Guidance, EPA stated that: "EPA believes that the contents of the SIP submission required by section 110(a)(2)(D) may vary, depending upon the facts and circumstances related to the specific NAAQS. In particular, the data and analytical tools available at the time the State develops and submits a SIP for a new or revised NAAQS necessarily

[8] *See* 63 FR 57371 (October 27, 1998), NO_X SIP Call; 70 FR 25172 (May 12, 2005), CAIR; and 75 FR 45210 (August 2, 2010), Transport Rule Proposal.

[9] 2006 Guidance at 5.

[10] *See North Carolina* v. *EPA,* 531 F.3d 896 (DC Circuit 2008).

[11] 531 F.3d at 909.

[12] *Ibid.*

[13] *See* 75 FR 45210 (August 2, 2010).

[14] A memorandum in the docket for this action provides the information EPA used to identify monitors that are receptors for evaluation of significant contribution or interference with maintenance for certain states in the western United States. *See* Memorandum from Brian Timin, EPA Office of Air Quality Planning and Standards, "Documentation of Future Year Ozone and Annual $PM_{2.5}$ Design Values for Monitors in Western States," August 23, 2010 (Timin Memo).

[15] To begin this analysis, EPA first identifies all monitors projected to be in nonattainment or, based on historic variability in air quality, projected to have maintenance problems in 2012. Monitors projected to be in nonattainment are those with future year design values that violate the standard, based on the projection of 5-year weighted average concentrations. Monitors projected to have maintenance problems are those at risk of not staying in attainment because the air quality data is close enough to the level of the 1997 8-hour ozone and $PM_{2.5}$ NAAQS that minor variations in weather or emissions could result in violations of the NAAQS in 2012.

affects the contents of the required submission." [16] EPA also indicated in the 2006 Guidance that it did not anticipate that sources in states outside the geographic area covered by CAIR were significantly contributing to nonattainment, or interfering with maintenance, in other states.[17] As noted in the Transport Rule Proposal, EPA continues to believe that the more widespread and serious transport problems in the eastern United States are analytically distinct.[18] For the 1997 8-hour ozone and $PM_{2.5}$ NAAQS, EPA believes that nonattainment and maintenance problems in the western United States are relatively local in nature with only limited impacts from interstate transport. In the Transport Rule Proposal, EPA did not calculate the portion of predicted ozone or PM concentrations in any downwind state that would result from emissions from individual western states, such as Oregon.

Accordingly, EPA believes that section 110(a)(2)(D)(i) SIP submissions for states outside the geographic area of the Transport Rule Proposal may be evaluated using a "weight of the evidence" approach that takes into account the available relevant information, such as that recommended by EPA in the 2006 Guidance for states outside the area affected by CAIR. Such information may include, but is not limited to, the amount of emissions in the state relevant to the NAAQS in question, the meteorological conditions in the area, the distance from the state to the nearest monitors in other states that are appropriate receptors, or such other information as may be probative to consider whether sources in the state may significantly contribute to nonattainment or interfere with maintenance of the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS in other states. These submissions can rely on modeling when acceptable modeling technical analyses are available, but EPA does not believe that modeling is necessarily required if other available information is sufficient to evaluate the presence or degree of interstate transport in a given situation.

II. What is the state process to submit these materials to EPA?

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

On June 23, 2010, and December 23, 2010, the Oregon Department of Environmental Quality (ODEQ) submitted a SIP revision to update Oregon's infrastructure SIP for ozone and $PM_{2.5}$. Included in this submittal was a SIP revision entitled "Oregon SIP Infrastructure for Addressing the Interstate Transport of Ozone and Fine Particulate Matter" to address the interstate transport SIP requirements of CAA section 110(a)(2)(D)(i) for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS (2010 interstate transport SIP).[19] ODEQ's June 23, 2010, submittal includes public process documentation for the 2010 interstate transport SIP submittal. In addition, the SIP revision includes documentation of a duly noticed public hearing held on December 22, 2009.

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

V. What is EPA's evaluation of the state's submission?

A. EPA's Evaluation of Significant Contribution to Nonattainment

This proposed approval evaluates the significant contribution to nonattainment element of section 110(a)(2)(D)(i)(I) for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS in several ways. It takes into account Oregon's 2010 interstate transport SIP, in which the State explains that based on meteorological and other characteristics in Oregon and in the surrounding areas, $PM_{2.5}$ and ozone precursor emissions from Oregon sources do not significantly contribute to violations of the $PM_{2.5}$ or ozone NAAQS in other states.[20] In addition, EPA has supplemented the State's analysis with its own evaluation of the evidence, including a review of the nearest monitors in other states that are appropriate nonattainment receptors, in order to assess whether emissions sources in Oregon contribute significantly to nonattainment of the 1997 8-hour ozone and $PM_{2.5}$ NAAQS in other states.

Finally, EPA has also reviewed recent ozone and $PM_{2.5}$ monitoring data for the states bordering Oregon to consider whether Oregon emissions could significantly contribute to violations of the 1997 8-hour ozone or $PM_{2.5}$ NAAQS in those states.

1. Significant Contribution to Nonattainment Evaluation for the 1997 8-Hour Ozone NAAQS

To address whether emissions from Oregon sources significantly contribute to nonattainment of the 8-hour ozone NAAQS in another state, the State argued in the 2010 interstate transport SIP that meteorological and other characteristics of the Pacific Northwest support a finding that emissions from Oregon sources do not significantly contribute to violations of the $PM_{2.5}$ or ozone NAAQS in other states. Oregon pointed out that, in the Pacific Northwest, exceedances of the 8-hour ozone standard occur in the summer months, and during that season the prevailing winds [21] are predominantly from the north to northwest and, consequently, preclude any significant influence from Oregon on Washington ozone nonattainment areas.[22] While acknowledging the possibility that prevailing summer winds could result in some interstate transport of ozone forming emissions to western Idaho, Nevada and northern California, the State asserted in the 2010 interstate transport SIP that significant distances and topography (such as major mountain ranges that separate Oregon from California, Idaho and Nevada) would likely minimize the significance of these impacts on other states. Oregon gave as an example the largest major urban center in Oregon (the greater Portland area), which it estimated is 400 to 700 miles away from urban areas in western Idaho, Nevada, and northern California, and is separated by at least one major mountain range (the Cascades).

Oregon also pointed to its section 110 infrastructure SIP to show that ODEQ

[16] 2006 Guidance at 4.

[17] *Ibid.* at 5.

[18] *See* Transport Rule Proposal, 75 FR 45210 at 45227 (August 2, 2010).

[19] Oregon's submission addresses the interstate transport requirements of the 1997 $PM_{2.5}$ NAAQS, the 1997 8-hour ozone NAAQS, the 2006 $PM_{2.5}$ NAAQS, and the 2008 8-hour ozone NAAQS. In this action, EPA is only taking action with respect to CAA section 110(a)(2)(D)(i)(I) for the 1997 $PM_{2.5}$ and 1997 8-hour ozone NAAQS.

[20] Oregon's submission makes this conclusion with respect to not only the 1997 PM 2.5 NAAQS and 1997 8-hour ozone NAAQS, but also the 2006 PM 2.5 NAAQS and the 2008 8-hour ozone NAAQS.

[21] This north/northwest prevailing wind direction was derived from surface level winds and airport data and is not necessarily indicative of the prevailing wind direction of typical weather systems in the west.

[22] Note that there are currently no ozone nonattainment areas in Oregon or Washington.

has the ability to participate as needed in future studies on regional air pollution issues, or collaborate with other states if air quality concerns are identified that require a case-specific evaluation of interstate transport, and also ensures the legal mechanism for ODEQ to take action as needed to reduce emissions to help attain compliance with Federal NAAQS.

Finally, the State explained that it consulted with air agencies in Washington, Idaho, Nevada, and California and other agencies to evaluate case-specific air quality problems that may involve regional transport of air pollution. These staff-level communications indicated no impacts on ozone concentrations in other states caused by transport from the State of Oregon. The State added that if any future violations of ozone standards occur, Oregon would work with other air agencies and EPA as necessary to evaluate the role of interstate air pollution transport. This consultation provided additional support for the state's view that emissions from Oregon sources do not significantly contribute to violations of the 1997 8-hour ozone NAAQS in other states.

Based on the information provided in its 2010 interstate transport SIP, ODEQ concluded that emissions from air pollution sources in Oregon do not significantly contribute to nonattainment of the 1997 8-hour ozone NAAQS in other states.

EPA does not necessarily agree that Oregon's methodology is adequate for purposes of a section 110(a)(2)(D)(i) analysis. Therefore, EPA is supplementing the State's submission with additional, and more recent, information in order to assess this issue more fully. As noted above, EPA is evaluating the State's 2010 interstate transport SIP taking into account methodologies and analyses for the identification of receptor monitors that was developed in the Transport Rule Proposal, as well as EPA's projections of future air quality at monitors in western states in the Timin Memo, and preliminary air quality data from monitors in the states bordering Oregon. Although each of the factors considered in the following analysis are not in and of themselves determinative, consideration of these factors together provides a reliable qualitative conclusion that emissions from Oregon do not contribute significantly to nonattainment of the 1997 8-hour ozone NAAQS at monitors in other states.

The Transport Rule Proposal includes an approach to determining whether emissions from a state contribute significantly to nonattainment of the 1997 8-hour ozone NAAQS in other states. Specifically, EPA used existing monitoring data to project future concentrations of ozone at monitors to identify areas that are expected to be violating the 1997 8-hour ozone NAAQS in 2012, based on the 5-year weighted average design value. We call these monitors "nonattainment receptors." To identify the states with emissions that may contribute significantly to ozone nonattainment in other states, the Transport Rule Proposal models the states' contributions to ambient ozone levels at these nonattainment receptors.[23] Because the Transport Rule Proposal does not model the contribution of emissions from Oregon (nor other western states not fully inside the Transport Rule Proposal's modeling domain) to 8-hour ozone nonattainment receptors in other states, our assessment in this proposed action relies on a weight of evidence approach that considers relevant information from the Transport Rule Proposal pertaining to states within its modeling domain, and additional material such as geographical and meteorological factors, EPA's projections of future air quality at monitors in western states in the Timin Memo, and AQS monitoring data.

Our analysis begins by assessing Oregon's contribution to the closest nonattainment receptors for the 1997 8-hour ozone standard. The Transport Rule Proposal identifies within its modeling domain (consisting of 37 states east of the Rocky Mountains, and the District of Columbia) 11 nonattainment receptors for the 1997 8-hour ozone standard. Of these, the nonattainment receptors closest to Oregon are seven receptors in the Dallas-Fort Worth and Houston-Galveston-Brazoria 8-hour ozone nonattainment areas in eastern Texas. The remaining four nonattainment receptors for the 1997 8-hour ozone NAAQS are in Louisiana, New York, and Pennsylvania.[24]

The nonattainment receptors in Dallas-Fort Worth and Houston areas are over 1200 miles from the closest point on Oregon's border, and the receptors in Louisiana, New York, and Pennsylvania are significantly further away. Although distance alone is not determinative in the analysis of potential ozone transport, with increasing distance there are greater opportunities for ozone and NO_X dispersion and/or removal from the atmosphere due to the effect of winds or chemical sink processes. Moreover, the intervening Rocky Mountains act as a natural barrier to air pollution transport. These factors together support a conclusion that Oregon sources do not contribute significantly to nonattainment of the 1997 8-hour ozone NAAQS in the nearest areas with nonattainment receptors identified in the Transport Rule Proposal.

To assist in the evaluation of the potential for ozone transport among western states, EPA also developed an additional analysis in the Timin Memo identifying monitors projected to record violations of the 1997 8-hour ozone NAAQS in the western U.S. The Timin Memo identified predicted future nonattainment receptors for the 1997 8-hour ozone NAAQS in southern and central California. This analysis did not, however, identify any projected nonattainment receptors for the 1997 8-hour ozone NAAQS in any other western state.[25] The nonattainment receptor nearest to Oregon for the 1997 8-hour ozone NAAQS was identified as Nevada County, California. Nevada County is approximately 170 miles south/southeast of the closest point on Oregon's border and on the other side of intervening mountain ranges that act as a natural barrier to air pollution transport. Although not determinative by themselves, distance and topography are not favorable to 8-hour ozone transport from Oregon to central California. In addition, prevailing winds in the west generally move from south-westerly, westerly, or north-westerly directions, as indicated by the typical movement of weather systems. Hence central and southern California are not in the predominant direction of winds from Oregon. Given the distance between Oregon's border and central and southern California nonattainment receptors, the intervening mountainous topography, and the general direction of transport winds in the Western U.S., it is reasonable to conclude that Oregon sources do not contribute significantly to nonattainment of the 1997 8-hour ozone NAAQS in Nevada County or to any more distant nonattainment receptors in California. EPA's analysis for western states therefore supports our proposal to conclude that Oregon sources do not contribute significantly to nonattainment of the 1997 8-hour ozone NAAQS in any other state.

In addition to the information in the 2010 interstate transport SIP and EPA's projections of future air quality in the Transport Rule Proposal and in the

[23] Transport Rule Proposal, 75 FR 45210 at 45253–45273.

[24] *See* Transport Rule Proposal, Table IV.C–11, 75 FR 45210 at 45252.

[25] *See* Timin Memo at Appendix B ("Base year 2003–2007 and Future Year 2012 8-Hour Average Ozone Design Values—Western States").

Timin Memo, EPA also evaluated preliminary air quality monitoring data for the areas in states bordering Oregon that are designated nonattainment for the 1997 8-hour ozone NAAQS. While significant contribution must be measured not just against designated nonattainment areas but also against areas with monitors showing violations of the NAAQS, nonattainment areas are a convenient point of analysis. Two states bordering Oregon—California and Nevada—have areas currently designated nonattainment for the 1997 8-hour ozone standard. In California, the closest nonattainment area is Butte County, and in Nevada, the closest nonattainment area is the Las Vegas area in Clark County. EPA designated both of these areas as nonattainment for the 1997 8-hour ozone standard in 2004. *See* 69 FR 23858 (April 30, 2004); 40 CFR 81.305 and 81.329. Both of these areas, however, have current design values indicating attainment of the 1997 8-hour ozone NAAQS. Our review of preliminary monitoring data for the 2007–2009 period available in EPA's Air Quality System (AQS) database indicates that the 8-hour ozone design values for Butte County and Las Vegas during this period were 82 and 74 ppb, respectively.[26] We therefore believe it is reasonable to conclude that Oregon sources are not contributing significantly to nonattainment of the 1997 8-hour ozone NAAQS in Butte County, California or Clark County, Nevada. The closest nonattainment area to the Oregon border that had a design value above the 1997 8-hour ozone NAAQS for the 2007–2009 period was Nevada County, California. As noted above, given the distance between the Oregon border and Nevada County, the intervening mountainous topography, and the general direction of transport winds in the Western U.S., it is reasonable to conclude that Oregon sources do not contribute significantly to nonattainment in Nevada County or to any more distant central or southern California 1997 8-hour ozone nonattainment areas. There are no designated nonattainment areas in Idaho and Washington for the 1997 8-hour ozone NAAQS. This is further support that Oregon sources do not contribute significantly to nonattainment of the 1997 8-hour ozone NAAQS in any other state.

We also evaluated ozone monitoring data from the 2007–2009 period from each of the ozone monitoring sites in Washington, Idaho, Nevada and California, to determine whether the ozone levels in any of these states violate the 1997 8-hour ozone NAAQS.[27] We have identified no design values above the 1997 8-hour ozone NAAQS at any of the monitors in Washington, Idaho, or Nevada, nor any indication that emissions from Oregon sources contribute significantly to nonattainment of the 1997 8-hour ozone NAAQS in these adjacent states. Although AQS data for California show 8-hour ozone design values above the 1997 NAAQS during the 2007–2009 period, the closest monitor to Oregon that has a 2007–2009 8-hour ozone design value above the 1997 NAAQS is located in Nevada County. As noted above, given the distance between the Oregon border and Nevada County, the intervening mountainous topography, and the general direction of transport winds in the Western U.S., it is reasonable to conclude that Oregon sources do not contribute significantly to nonattainment in Nevada County or to any more distant central or southern California monitors. This is further support that Oregon sources do not contribute significantly to nonattainment of the 1997 8-hour ozone NAAQS in any other state.

Finally, none of the ozone monitors in Oregon have themselves indicated a violation of the 1997 8-hour ozone NAAQS. The absence of violations in Oregon itself does not rule out the possibility of transport, but taken in conjunction with other relevant information, including the distance from Oregon to areas with design values above the 1997 8-hour ozone NAAQS and Pacific Northwest meteorology and topography, this fact helps to support the conclusion that there is no transport from Oregon resulting in significant contribution to nonattainment in another state. Distance *per se* is also not an obstacle to long range transport of ozone and its precursors, as discussed above. However, with increasing distance there are greater opportunities for ozone and NO_X dispersion and removal from the atmosphere due to the effects of winds and chemical sink processes. In this context, the distance between Oregon sources and areas not meeting the 8-hour ozone standard reduces, but does not exclude, the possibility of significant contribution to nonattainment. Nevertheless, the absence of violations in Oregon combined with the total weight of all of the factors discussed above supports a conclusion that emissions from its sources do not significantly contribute to nonattainment in other states, in accordance with section 110(a)(2)(D)(i).

2. Significant Contribution to Nonattainment Evaluation for the 1997 $PM_{2.5}$ NAAQS

To address whether emissions from sources in Oregon significantly contribute to nonattainment of the 1997 $PM_{2.5}$ NAAQS in another state, the State argued in its 2010 interstate transport SIP that meteorological and other characteristics of any areas designated nonattainment for the 1997 $PM_{2.5}$ NAAQS in the surrounding states of Washington, Idaho, Nevada, and California support a finding that emissions from Oregon sources do not significantly contribute to violations of the $PM_{2.5}$ NAAQS or ozone NAAQS in other states. Oregon explained that the closest nonattainment areas in neighboring states are the Tacoma area (Pierce County) in Washington; the Chico area (portions of Butte County) in California, and the Cache Valley area in Southeast Idaho (portions of Cache County, Utah and Franklin County, Idaho).[28] Oregon argues that the area of highest Oregon emission densities (Portland Metro area) is separated from these $PM_{2.5}$ nonattainment areas by significant distances and major mountain ranges up to approximately 7000 feet. Oregon identifies one exception—the Portland-Vancouver metro area, which shares a common air shed between Oregon and Washington. Oregon, however, notes that both Portland and Vancouver are in attainment with the $PM_{2.5}$ NAAQS.

Oregon described typical seasonal wind patterns during the winter when $PM_{2.5}$ levels are the highest. It noted that wind speeds are typically variable with the majority of wind speeds occurring at less than 8 miles per hour, and a significant portion of low winds at less than 5 miles per hour. Oregon explained that these low wind speeds and air stagnation conditions do not lend themselves to long distance air pollution transport, and noted that the Portland area can experience high wind speeds in the winter travelling through the Columbia River Gorge east of Portland that are not conducive to the buildup of air pollution. Oregon concluded that general meteorology

[26] *See* EPA AQS, "Preliminary Design Value Report," 2007–2009, for Washington, Idaho, Nevada, and California.

[27] *Id.*

[28] Although the 2010 Interstate transport SIP identified these areas as $PM_{2.5}$ nonattainment areas, they are all 2006 24-hour $PM_{2.5}$ nonattainment areas. There are no 1997 $PM_{2.5}$ nonattainment areas in Washington or Idaho, and the closest 1997 $PM_{2.5}$ nonattainment area to Oregon is in California (San Joaquin County). Oregon asserts that its evaluation of more stringent 2006 24-hour $PM_{2.5}$ NAAQS nonattainment areas is indicative of potential contribution to nonattainment of the less stringent 1997 $PM_{2.5}$ NAAQS.

supports the conclusion that high winter time $PM_{2.5}$ levels in Pacific Northwest communities are typically dominated by local emission sources.

Oregon also pointed to its section 110 infrastructure SIP to show that ODEQ has the ability to participate as needed in future studies on regional air pollution issues, or collaborate with other states if air quality concerns are identified that require a case-specific evaluation of interstate transport, and also ensures the legal mechanism for ODEQ to take action as needed to reduce emissions to help attain compliance with Federal NAAQS. Oregon stated that that high $PM_{2.5}$ levels that threaten the NAAQS are investigated as needed to identify contributing sources, including any potential role of interstate transport.

Finally, the state explained that it had consulted with air agencies in Washington, Idaho, Nevada, and California and other agencies to evaluate case-specific air quality problems that may involve regional transport of air pollution. These staff-level communications indicated no impacts on $PM_{2.5}$ concentrations in other states caused by transport from the state of Oregon, providing additional support for the state's view that emissions from Oregon sources do not significantly contribute to violations of the 1997 $PM_{2.5}$ NAAQS in other states.

Based on this and other information provided in its 2010 interstate transport SIP, ODEQ concluded that emissions from air pollution sources in Oregon do not significantly contribute to nonattainment of the 1997 $PM_{2.5}$ NAAQS in other states.

EPA does not necessarily agree that Oregon's methodology is adequate for purposes of a section 110(a)(2)(D)(i) analysis. Therefore, EPA is supplementing the State's submission with additional, and more recent, information in order to assess this issue more fully. As noted above, EPA is evaluating the 2010 interstate transport SIP taking into account methodologies and analyses for the identification of the receptor monitors that was developed in the Transport Rule Proposal, as well as EPA's projections of future air quality at monitors in western states in the Timin Memo, and air quality data from monitors in the states bordering Oregon. Although each of the factors considered in the following analysis are not in and of themselves determinative, consideration of these factors together provides a reliable qualitative conclusion that emissions from Oregon do not contribute significantly to nonattainment of the $PM_{2.5}$ NAAQS at monitors in other states.

Specifically, we identified the nonattainment receptors for the 1997 annual $PM_{2.5}$ NAAQS closest to Oregon to evaluate whether emissions from Oregon sources contribute significantly to nonattainment of the 1997 $PM_{2.5}$ NAAQS in any other state.[29] For the 1997 annual $PM_{2.5}$ NAAQS, the projected nonattainment receptors closest to Oregon that EPA identified from the modeling analyses conducted for the Transport Rule Proposal are all east of the Mississippi River.[30] Given the significant distance between Oregon and these nonattainment receptors and the intervening mountainous terrain, we believe it is reasonable to conclude that Oregon sources do not significantly contribute to nonattainment of the 1997 annual $PM_{2.5}$ NAAQS in any of these areas.

To address the potential for $PM_{2.5}$ transport among western states, EPA also relied on the additional analysis in the Timin Memo identifying monitors projected to record violations of the 1997 annual $PM_{2.5}$ NAAQS. The Timin Memo identified predicted future nonattainment receptors for the 1997 annual $PM_{2.5}$ NAAQS in southern and central California but did not identify predicted future nonattainment receptors for the 1997 annual $PM_{2.5}$ NAAQS in any other western state.[31] For Oregon, the closest nonattainment receptor in California for the 1997 annual $PM_{2.5}$ NAAQS was Fresno County. Fresno County is over 300 miles south of the closest point on Oregon's border and is on the other side of intervening mountain ranges that act as a natural barrier to air pollution transport. Although not determinative by themselves, distance and topography are not favorable to $PM_{2.5}$ transport from Oregon to central California. In addition, prevailing winds in the west generally move from south-westerly, westerly, or north-westerly directions, as indicated by the typical movement of weather systems. Hence central and southern California are not in the predominant direction of winds from Oregon. Given the distance between the Oregon border and central and southern California nonattainment receptors, the intervening mountainous topography, and the general westerly direction of transport winds in the Western U.S., EPA concludes that Oregon sources do not contribute significantly to nonattainment of the 1997 annual $PM_{2.5}$ NAAQS in Fresno County or to any more distant nonattainment receptors in California. EPA's analysis for western states therefore supports our proposal to conclude that Oregon sources do not contribute significantly to nonattainment of the 1997 annual $PM_{2.5}$ NAAQS in any other state.

The analysis for the Transport Rule Proposal did not identify any nonattainment receptors for the 1997 24-hour $PM_{2.5}$ NAAQS in the portions of the U.S. covered by the Transport Rule Proposal modeling domain (*i.e.,* the 12 km grid covering the continental U.S. east of the Rockies).[32] Recent monitoring data in EPA's Air Quality System (2007–2009 design values) indicate that the highest 24-hour $PM_{2.5}$ design value in the 47 states of the continental U.S. (excluding California) is 50 $\mu g/m^3$,[33] which is well below the level of the 1997 24-hour $PM_{2.5}$ NAAQS of 65 $\mu g/m^3$. In California, 2007–2009 AQS data indicate that only one area, Kern County, has a design value above the level of the 1997 24-hour $PM_{2.5}$ NAAQS. As discussed above, EPA believes that given the relatively long distance between the Oregon border and Kern County, the intervening mountainous topography, and the generally westerly direction of transport winds in the Western U.S., emissions from Oregon sources do not interfere with maintenance of the 1997 24-hour $PM_{2.5}$ NAAQS in Kern County. These data and factors further support our proposed finding that Oregon sources do not significantly contribute to nonattainment of the 1997 24-hour $PM_{2.5}$ NAAQS in any other state.

In addition to the information in the 2010 interstate transport SIP and our review of the nearest nonattainment receptors identified from the modeling analyses conducted for the Transport Rule Proposal, EPA evaluated air quality data for the areas in states bordering Oregon that are designated nonattainment for the 1997 $PM_{2.5}$

[29] For $PM_{2.5}$, the Transport Rule Proposal identified nonattainment receptors for the 1997 annual $PM_{2.5}$ NAAQS and the 2006 24-hour $PM_{2.5}$ NAAQS. *See* 75 FR 45210 at 45212. Because our proposal on Oregon's 2010 Interstate transport SIP addresses requirements of CAA section 110(a)(2)(D)(i) only for purposes of the 1997 ozone and $PM_{2.5}$ NAAQS, for $PM_{2.5}$ purposes we consider only the nonattainment receptors for the 1997 annual $PM_{2.5}$ NAAQS identified in the Transport Rule Proposal.

[30] Specifically, the nonattainment receptors for the 1997 annual $PM_{2.5}$ standard are located in Alabama, Georgia, Illinois, Indiana, Kentucky, Michigan, Ohio, Pennsylvania, and West Virginia. *See* Transport Rule Proposal, 75 FR 45210 at 45247–45248 (August 2, 2010).

[31] *See* Timin Memo at Appendix B ("Base year 2003–2007 and Future Year 2012 8-Hour Average Ozone Design Values—Western States").

[32] 75 FR 45210 at 45249–45251 (August 2, 2010).

[33] These values were recorded at monitors in Liberty-Clairton, Pennsylvania and Provo, Utah. *See http://epa.gov/airtrends/pdfs/PM2.5%202007–2009%20design%20value%20update.pdf.* Data from EPA's Air Quality System can be viewed at *http://www.epa.gov/ttn/airs/airsaqs/.*

NAAQS. Although significant contribution must be measured not just against nonattainment areas but also against areas with monitors showing violations of the NAAQS, nonattainment areas are a convenient point of analysis.

The closest 1997 $PM_{2.5}$ nonattainment area in any state bordering Oregon is the San Joaquin Valley in California.[34] This nonattainment area is located in central California and is over 250 miles from the closest point on Oregon's border and on the other side of intervening mountain ranges that act as a natural barrier to air pollution transport. In addition, prevailing winds in the western U.S. generally move from south-westerly, westerly, or north-westerly directions, as indicated by the typical movement of weather systems. Hence, Joaquin Valley, California, is not in the predominant direction of winds from Oregon. Given the relatively long distance between Oregon and the San Joaquin Valley, the intervening mountainous topography, and the general direction of transport winds in the Western U.S., EPA believes that Oregon sources do not significantly contribute to nonattainment of the 1997 $PM_{2.5}$ NAAQS in the San Joaquin Valley nonattainment area or to any more distant California 1997 $PM_{2.5}$ nonattainment areas. There are no areas in Idaho and Washington currently designated nonattainment for the 1997 $PM_{2.5}$ NAAQS. This is further support that Oregon sources do not contribute significantly to nonattainment of the 1997 $PM_{2.5}$ NAAQS in any other state.

Although not located in a state bordering Oregon, the closest designated nonattainment area to Oregon for the 1997 $PM_{2.5}$ NAAQS is Libby, in Lincoln County, Montana.[35] In 2005, EPA designated this area nonattainment for the 1997 annual $PM_{2.5}$ NAAQS. 70 FR 944 (January 5, 2005) and 40 CFR 81.327. A number of factors provide evidence that Oregon emissions do not significantly contribute to past violations of the 1997 annual $PM_{2.5}$ standards in Libby, Montana.

First, in the process of designating Libby nonattainment for both the 1997 $PM_{2.5}$ NAAQS and the 2006 24-hour $PM_{2.5}$ NAAQS, EPA noted the predominantly local origins of $PM_{2.5}$ nonattainment in Libby.[36] [37] Residential wood-burning stoves during the winter-time, when frequent and persistent temperature inversions occurred, were specifically identified as a key source of PM emissions. The fact that nonattainment in a given area is primarily the result of local emissions sources does not, however, exclude the possibility of significant contribution to nonattainment from interstate transport. EPA believes that other evidence supports the conclusion that emissions from Oregon sources are not significantly contributing to violations in Libby, Montana.

Second, monitoring data from 1999 through 2009 from areas outside of Libby in Montana support a determination that Oregon does not significantly contribute to nonattainment in Libby. At all other sites in Montana, annual $PM_{2.5}$ design value levels have remained below the 15 $\mu g/m^3$ nonattainment threshold. Annual $PM_{2.5}$ design values for this period for most of these monitors remained at levels equal to, or less than, two-thirds of the 1997 annual $PM_{2.5}$ NAAQS. Even the three highest design values at these monitors were 20 percent below the level of the annual standard.[38] The lower $PM_{2.5}$ levels elsewhere in Montana are evidence that local sources, and not interstate transport, are key contributors to past nonattainment in Libby.

Third, for 2007–2009, AQS data show that the annual $PM_{2.5}$ design values for the Libby nonattainment area themselves fell below the levels of the NAAQS. This reduction has been attributed to an effective wood stove replacement program that decreased $PM_{2.5}$ emissions by approximately 59 percent.[39] In other words, even if emissions from Oregon sources were reaching Libby, they would not significantly contribute to violations of the 1997 annual $PM_{2.5}$ NAAQS because monitoring data demonstrate that Libby is not violating the 1997 annual $PM_{2.5}$ NAAQS.

Finally, EPA's conclusion that emissions from Oregon do not significantly contribute to nonattainment in Libby, Montana, is further supported by the analysis of monitors in the western United States.[40] This analysis concludes that in 2012 the average annual $PM_{2.5}$ design values in Lincoln County, Montana will be below the threshold for consideration as a nonattainment receptor. These factors together support a conclusion that Oregon sources do not contribute significantly to nonattainment of the 1997 annual $PM_{2.5}$ NAAQS in the Libby 1997 $PM_{2.5}$ nonattainment area.

As mentioned above, EPA considers not only significant contribution to designated nonattainment areas, but also significant contribution to areas with monitors showing violations of the NAAQS. A review of the most recent three years (2007–2009) of monitoring data in AQS for the bordering states of Washington, Idaho, Nevada, and California shows that the only monitors with design values above the 1997 annual $PM_{2.5}$ NAAQS are located in central and southern California. The county closest to the Oregon border that has a design value above the 1997 annual $PM_{2.5}$ NAAQS is Kern County, California. Kern County is more than 400 miles from the closest point on Oregon's border and is on the other side of intervening mountain ranges that act as a natural barrier to air pollution transport. Although not determinative by themselves, distance and topography are not favorable to $PM_{2.5}$ transport from Oregon to central California. In addition, prevailing winds in the west generally move from south-westerly, westerly, or north-westerly directions, as indicated by the typical movement of weather systems. Hence Kern County, California is not in the predominant direction of winds from Oregon. Given the relatively long distance between the Oregon border and Kern County, the intervening mountainous topography, and the generally westerly direction of transport winds in the Western U.S., it is reasonable to conclude that Oregon sources do not significantly contribute to nonattainment of the 1997 $PM_{2.5}$ NAAQS in Kern County or to any more distant monitors in California.

As noted above no monitors in Washington, Idaho and Nevada or Northern California had design values above the 1997 annual $PM_{2.5}$ NAAQS for the 2007–2009 period. The fact that monitors in these areas are not registering violations of the 1997 $PM_{2.5}$ NAAQS does not in itself conclusively establish that emissions from Oregon could not contribute in the aggregate to

[34] In 2005, EPA designated this area nonattainment for violations of the 1997 and annual $PM_{2.5}$ NAAQS. 70 FR 944 (January 5, 2005), and 40 CFR 81.305.

[35] Libby is in a narrow valley surrounded by mountains 4,000 feet higher than the town. The Rocky Mountain Range to the west of Libby (and east of the Idaho border) reaches summit elevations of 12,000 feet with most summit elevations between 6000 and 7000 feet that act as a barrier to air movement between Idaho and Montana.

[36] "Technical Support for State and Tribal Air Quality Fine Particle ($PM_{2.5}$) Designations," (for Montana) Chapter 6, pp. 347–352, December 2004.

[37] "Technical Support for State and Tribal Air Quality Fine Particle ($PM_{2.5}$) Designations," (for Montana) Chapter 4.8.1, pp. 1–15, December 2008.

[38] In 2001, 2002 and 2006, design values for two monitors in Missoula County were 11.1, 11.4 and 11.8 $\mu g/m^3$. Computed from AQS monitoring data. 75 FR 16028 (March 31, 2010).

[39] State of Montana, Department of Environmental Quality, "State Implementation Plan-Libby Annual $PM_{2.5}$ Control Plan," submitted to EPA April 1, 2008.

[40] *See* Timin Memo at Appendix A ("Base year 2003–20007 and Future Year 2012 Annual Average $PM_{2.5}$ Design Values—Western States").

violations in these areas. But this fact combined with our above evaluation of the nearest nonattainment receptors, nearest nonattainment areas, and nearest monitors with design values above the 1997 annual $PM_{2.5}$ NAAQS, supports a conclusion that Oregon sources do not significantly contribute to nonattainment of the 1997 $PM_{2.5}$ NAAQS in other states.

Finally, none of the $PM_{2.5}$ monitors in Oregon have themselves indicated a violation of the 1997 annual $PM_{2.5}$ NAAQS. The absence of violations in Oregon itself does not rule out the possibility of transport, but taken in conjunction with other relevant information, including the distance from Oregon to areas with design values above the 1997 annual $PM_{2.5}$ NAAQS and Pacific Northwest meteorology and topography, this fact helps to support the conclusion that there is no transport from Oregon resulting in significant contribution to nonattainment in another state. Taking into account the total weight of all of the factors discussed above, EPA concludes that Oregon does not significantly contribute to the 1997 annual $PM_{2.5}$ NAAQS nonattainment in any other state.

3. Conclusion Regarding Significant Contribution to Nonattainment

Based on the weight of evidence discussed above, including the location of the nearest projected nonattainment receptors, distance to the nearest designated $PM_{2.5}$ nonattainment area, meteorology, topography, and recent air quality monitoring data, we propose to determine that Oregon's 2010 interstate transport SIP is adequate to ensure that emissions from Oregon do not significantly contribute to nonattainment in any other state for the 1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS, consistent with the requirements of CAA section 110(a)(2)(D)(i)(I). Thus, we propose to determine that Oregon's SIP includes the measures necessary to prevent such prohibited interstate transport impacts for these NAAQS.

B. EPA's Evaluation of Interference With Maintenance

This proposed approval evaluates the interfere with maintenance element of section of section 110(a)(2)(D)(i)(I) for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS in several ways. It takes into account Oregon's 2010 interstate transport SIP, in which the State explains that based on meteorological and other characteristics in Oregon and in the surrounding areas, $PM_{2.5}$ and ozone precursor emissions do not interfere with maintenance of the 1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS in other states.[41] In addition, EPA has supplemented the State's analysis with its own evaluation of the evidence, including a review of the nearest monitors in other states that are appropriate maintenance receptors, consistent with EPA's approach in the Transport Rule Proposal, in order to assess whether emissions sources in Oregon interfere with maintenance of the 1997 8-hour ozone and $PM_{2.5}$ NAAQS in other states.

1. Oregon's 2010 Interstate Transport SIP

To show that Oregon emissions, as controlled under its SIP, do not interfere with maintenance of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS in another state, Oregon's 2010 interstate transport SIP analyzed several types of factors to support its assertion. First, the State pointed to topography and meteorology for its evaluation, maintaining that high $PM_{2.5}$ concentrations in adjacent states typically occur under winter conditions when air speeds are low and/or localized air inversions occur. Describing wind direction as being typically variable with the majority of wind speeds less than 8 miles per hour, and a significant portion of low winds less than 5 miles per hour, the state noted that these low wind speeds and air stagnation conditions do not lend them to long distance air pollution transport. The State indicated that there are occasional high 8-hour ozone levels that occur in the summer months, but maintained that prevailing winds[42] in Oregon are predominantly from the north to northwest.[43] The state indicated that prevailing summer winds could theoretically result in some interstate transport of ozone forming emission from Oregon to western Idaho, Nevada and northern California. It also noted, however, that significant distances and topography (such as major mountain ranges that separate Oregon from California, Idaho, and Nevada) would likely minimize the significance of these impacts on other states. It pointed to, for example, the approximately 400 to 700 miles distance between the largest major urban center in Oregon (the greater Portland area) and urban areas in western Idaho, Nevada, and northern California and at least one major mountain range between those areas.

Second, Oregon used AQS monitoring data for 2006–2008 from other states in its analysis. Oregon pointed out that both $PM_{2.5}$ and ozone design values in all counties adjacent to Oregon are below the $PM_{2.5}$ and 8-hour ozone NAAQS. Oregon also consulted with each of the state air agencies for Washington, Idaho, Nevada, and California to get a sense of what the local air agencies believe are the likely causes of any air quality concerns for maintaining compliance with the $PM_{2.5}$ and ozone NAAQS. Based on these consultations and the other information above, Oregon concluded that emissions from air pollution sources in Oregon do not interfere with the maintenance of the 8-hour ozone or $PM_{2.5}$ NAAQS in other states.

Oregon also relied on information about air stagnation conditions in other states to support its assertions that Oregon sources do not interfere with maintenance of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS in other states. Oregon noted that stagnant air conditions are associated with weak transport and that high $PM_{2.5}$ concentrations in adjacent states typically occur under winter conditions when air speeds are low and/or localized air inversions occur. Oregon also pointed to examples of where it has collaborated with other states to demonstrate its ability and willingness to address problems involving interstate transport. Examples included the Portland-Vancouver 1-hour ozone attainment and maintenance plans, and Oregon's regional haze plan. Oregon described how in the mid-1990s and again in 2007, ODEQ collaborated with the Southwest Clean Air Agency (*i.e.,* the State of Washington air agency with jurisdiction over Vancouver) to develop bi-state ozone attainment and maintenance plans with emission reduction strategies needed to attain and maintain compliance with federal ozone standards. In 2008–09, ODEQ worked with the states of Washington, Idaho and California, as well as Federal Land Managers in developing Oregon's Regional Haze plan. Oregon described how under that plan ODEQ adopted several emission reduction strategies, including emission control requirements to reduce the interstate transport of haze forming emissions.

Finally, Oregon pointed to its section 110 infrastructure SIP to show that ODEQ has the ability to participate as needed in future studies on regional air pollution issues, or collaborate with

[41] Oregon's submission makes this conclusion with respect to not only the 1997 $PM_{2.5}$ NAAQS and 1997 8-hour ozone NAAQS, but also the 2006 $PM_{2.5}$ NAAQS and the 2008 8-hour ozone NAAQS.

[42] This north/northwest prevailing wind direction was derived from surface level winds and airport data and is not necessarily indicative of the prevailing wind direction of typical weather systems in the west.

[43] There are currently no 1997 8-hour ozone nonattainment areas in Oregon or Washington.

other states if air quality concerns are identified that require a case-specific evaluation of interstate transport. Oregon added that its infrastructure SIP also ensures the legal mechanism for ODEQ to take action as needed to reduce emissions to help maintain compliance with federal NAAQS.

EPA does not necessarily agree that Oregon's methodology is adequate for purposes of a section 110(a)(2)(D)(i) analysis. Therefore, EPA is supplementing the State's submission with additional, and more recent, information in order to assess this issue more fully. As noted above, EPA is evaluating the 2010 interstate transport SIP taking into account methodologies and analyses for the identification of the receptor monitors that was developed in the Transport Rule Proposal, as well as EPA's projections of future air quality at monitors in western states in the Timin Memo and preliminary air quality data from monitors in the states bordering Oregon. Although each of the factors considered in the following analysis are not in and of themselves determinative, consideration of these factors together provides a reliable qualitative conclusion that emissions from Oregon do not interfere with maintenance of the 1997 8-hour ozone and $PM_{2.5}$ NAAQS at monitors in other states.

2. Interfere With Maintenance Evaluation for the 8-Hour Ozone NAAQS

As discussed above, in the Transport Rule Proposal, EPA projected future concentrations of ozone at monitors to identify areas that are expected to be violating the NAAQS or to have difficulty maintaining compliance with the NAAQS in 2012. For purposes of the interference with maintenance evaluation, EPA projected future concentrations of ozone at monitors to identify areas that are expected to have a maximum design value (based on a single 3-year period) that exceeds the 1997 8-hour ozone NAAQS, and EPA anticipates that by 2012 these maintenance receptors will have difficulty in maintaining attainment of the NAAQS if there are adverse variations in meteorology or emissions.

To identify the states with emissions that may cause interference with maintenance of the NAAQS at maintenance receptors, the Transport Rule Proposal modeled the states' contributions to ambient ozone levels at these maintenance receptors.[44] Because the Transport Rule Proposal did not identify the contribution of emissions from Oregon (and other western states not fully inside the Transport Rule Proposal's modeling domain) to 8-hour ozone maintenance receptors in other states, our assessment relies on a weight of evidence approach that considers relevant information from the Transport Rule Proposal pertaining to states within its modeling domain, and additional information such as geographical and meteorological factors, EPA's projections of future air quality at monitors in western states in the Timin Memo, and AQS monitoring data. Although each of the factors considered in the following analysis is not in and of itself determinative, consideration of these factors together supports a reliable qualitative conclusion that emissions from Oregon do not interfere with maintenance of the 1997 8-hour ozone NAAQS at monitors in other states.

Our analysis begins by assessing Oregon's contribution to the closest maintenance receptors for the 1997 8-hour ozone standard. The Transport Rule Proposal identifies 16 maintenance receptors for the 1997 8-hour ozone standard within its modeling domain (consisting of 37 states east of the Rocky Mountains, and the District of Columbia). Of these, the receptors closest to Oregon are eight receptors in the Dallas-Fort Worth and Houston-Galveston-Brazoria 8-hour ozone nonattainment areas in eastern Texas. The remaining eight maintenance receptors are located in Connecticut, Georgia, New York and Pennsylvania.[45]

As discussed above in section V.A.1, the Dallas-Fort Worth and Houston areas are over 1200 miles from the closest point on Oregon's border. The maintenance receptor monitors located in Connecticut, Georgia, New York and Pennsylvania are significantly further away. Although distance alone is not determinative in the analysis of potential ozone transport, with increasing distance there are greater opportunities for ozone and NO_X dispersion and/or removal from the atmosphere. Moreover, the intervening Rocky Mountains act as a natural barrier to air pollution transport. These factors together support a conclusion that emissions from Oregon sources do not interfere with maintenance of the 1997 8-hour ozone NAAQS in the nearest areas with monitors projected to violate the 1997 8-hour ozone NAAQS as part of the Transport Rule Proposal.

EPA's analysis in the Timin Memo identified four maintenance receptors for the 1997 8-hour ozone NAAQS in southern and central California.[46] The closest 8-hour ozone maintenance receptor to Oregon was in Placer County, California. Placer County is approximately 185 miles south of the closest point on Oregon's border and is not in the predominant direction of transport winds. As noted earlier, prevailing winds generally move from south-westerly, westerly, or northwesterly directions, as indicated by the typical movement of weather systems. Given the relatively long distance between Oregon and central California, the intervening mountainous topography, and the general direction of west-to-east transport winds across Oregon, it is reasonable to conclude that Oregon sources do not interfere with maintenance of the 1997 8-hour ozone NAAQS in Placer County, California. It is also reasonable to conclude that emissions from sources in Oregon would not have such impacts at other identified maintenance receptor sites that are in central or southern California that are in the same direction and further away from the Oregon border. All of these factors taken together supports a conclusion that emissions from Oregon sources do not interfere with maintenance of the 1997 8-hour ozone NAAQS in any other state.

Finally, none of the ozone monitors in Oregon have themselves indicated a violation of the 1997 8-hour ozone NAAQS. The absence of violations in Oregon itself does not rule out the possibility of transport, but taken in conjunction with other relevant information, including the distance from Oregon to areas with design values above the 1997 8-hour ozone NAAQS and Pacific Northwest meteorology and topography, this fact helps to support a conclusion that there is no transport from Oregon resulting in interference with maintenance in another state. Taking into account the total weight of all of the factors discussed above, EPA concludes that Oregon does not interfere with maintenance of the 1997 8-hour ozone NAAQS in any other state.

3. Interference With Maintenance Evaluation for the 1997 $PM_{2.5}$ NAAQS

The Transport Rule Proposal identifies within its modeling domain 16 predicted future maintenance receptors for the 1997 annual $PM_{2.5}$ NAAQS. Of these, the closest to Oregon are receptors located in Harris County, Texas. Harris County, Texas, is over 1,400 miles from the closest point on Oregon's border and on the other side of

[44] *See* Transport Rule Proposal, 75 FR 45210 at 45253–45273.

[45] *See* Transport Rule Proposal, Table IV.C–12, 75 FR 45210 at 45252–45253.

[46] *See* Timin Memo at Appendix B ("Base year 2003–2007 and Future Year 2012 8-Hour Average Ozone Design Values—Western States").

the Rocky Mountains. Given the long distance and intervening mountainous topography between Oregon and this area, it is reasonable to conclude that there is a very low probability that Oregon sources interfere with maintenance in that area or at the other identified maintenance sites east of Harris County, Texas.[47] EPA, therefore, concludes that Oregon sources do not interfere with maintenance of the 1997 annual $PM_{2.5}$ NAAQS in other states within the geographic region covered by the Transport Rule Proposal.

EPA's analysis in the Timin Memo identified Los Angeles County, California, as the closest projected maintenance receptor to Oregon's border. Los Angeles County is located almost 500 miles south of the closest point on Oregon's border and is on the other side of intervening mountain ranges that act as a natural barrier to air pollution transport. Although not determinative by themselves, distance and topography are not favorable to $PM_{2.5}$ transport from Oregon to central California. In addition, prevailing winds in the west generally move from south-westerly, westerly, or north-westerly directions, as indicated by the typical movement of weather systems. Given the relatively long distance between Oregon and Los Angeles County, the intervening mountainous topography, and the general westerly direction of transport winds in the Western U.S., it is reasonable to conclude that Oregon sources do not interfere with maintenance of the 1997 annual $PM_{2.5}$ NAAQS in Los Angeles County or to any more distant maintenance receptors in central or southern California. EPA's analysis for the western states therefore supports our proposal to conclude that Oregon sources do not interfere with maintenance of the 1997 annual $PM_{2.5}$ NAAQS in any other states. Based on all of these factors taken together, EPA further believes it is reasonable to conclude that Oregon emissions under the SIP do not interfere with maintenance of the 1997 $PM_{2.5}$ NAAQS in any other state.

The analysis for the Transport Rule Proposal did not identify any maintenance receptors for the 1997 24-hour $PM_{2.5}$ NAAQS in the portions of the U.S. covered by the Transport Rule Proposal modeling domain.[48] Recent monitoring data in EPA's AQS Database (2007–2009 design values that are under final EPA review) indicate that the highest 24-hour $PM_{2.5}$ design value in the 47 states of the continental U.S. (excluding California) is 50 $\mu g/m^3$, which is well below the level of the 1997 24-hour $PM_{2.5}$ NAAQS of 65 $\mu g/m^3$.[49] For California, AQS data indicate that only Kern County has a 24-hour design value above the level of the 1997 24-hour $PM_{2.5}$ NAAQS. As discussed above, EPA believes that, based on the relatively long distance between the Oregon border and Kern County, the intervening mountainous topography, and the generally westerly direction of transport winds in the Western U.S., emissions from Oregon sources do not interfere with maintenance of the 1997 24-hour $PM_{2.5}$ NAAQS in Kern County.

4. Conclusion Regarding Interference With Maintenance

Based on the weight of evidence, including the location of the nearest projected maintenance sites, taking into account distance, meteorology, topography, and recent air quality monitoring data, as discussed above, we propose to determine that Oregon's 2010 interstate transport SIP is adequate and that emissions from Oregon do not interfere with maintenance in any other state for the 1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS, consistent with the requirements of element (2) of CAA section 110(a)(2)(D)(i)(I). Thus, we propose to determine that Oregon's SIP contains adequate provisions necessary to prevent such prohibited interstate transport impacts for these NAAQS and does not require any additional measures for this purpose at this time.

VI. Proposed Action

In light of the data and the weight of evidence analysis presented above, EPA is proposing to approve revisions to the Oregon SIP, submitted on June 23, 2010, and December 23, 2010, and concludes that for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS, air pollutant emissions from sources within Oregon do not either (1) significantly contribute to nonattainment of the NAAQS in any other state; or (2) interfere with maintenance of the NAAQS by any other state.

As noted previously, EPA will address element (3) interference with any other state's required measures to prevent significant deterioration of its air quality and element (4), interference with any other state's required measures to protect visibility, in a separate action. EPA will also take action on the portion of Oregon's SIP that addresses the 2006 $PM_{2.5}$ and 2008 8-hour ozone NAAQS in a separate action.

VII. 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 action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

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

[47] Specifically, the remaining 15 maintenance sites for the 1997 annual $PM_{2.5}$ NAAQS are located in Kentucky, New York, Ohio, Pennsylvania, and West Virginia.

[48] 75 FR 45210 at 45249–45251 (August 2, 2010). *See also* fn. 39 and fn. 47.

[49] Data from EPA's Air Quality System can be viewed at *http://www.epa.gov/ttn/airs/airsaqs/*.

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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 30, 2011.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2011–8330 Filed 4–6–11; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2010–0041;MO 92210–0–0008]

RIN 1018–AV97

Endangered and Threatened Wildlife and Plants; Endangered Status for Dunes Sagebrush Lizard

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and announcement of public hearings.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the reopening of the public comment period on the December 14, 2010, proposed rule to list the dunes sagebrush lizard *(Sceloporus arenicolus)* under the Endangered Species Act of 1973, as amended (Act). We are reopening the comment period to allow all interested parties another opportunity to comment on the proposed rule. Comments previously submitted need not be resubmitted and will be fully considered in preparation of the final rule. We will also hold two public informational sessions and hearings (*see* **DATES** and **ADDRESSES** sections).

DATES: We will consider comments received on or before May 9, 2011. Comments must be received by 11:59 p.m. Eastern Time on the closing date. Any comments that we receive after the closing date may not be fully considered in the final decision on this action.

We will hold a public informational session from 3:30 p.m. to 5 p.m., followed by a public hearing from 6:30 p.m. to 8 p.m., on each of the following dates:

1. April 27, 2011: Midland, Texas.
2. April 28, 2011: Roswell, New Mexico.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments to Docket No. FWS–R2–ES–2010–0041.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–R2–ES–2010–0041; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (*see* the Public Comments section below for more information).

Information Sessions and Hearings

The public informational sessions and hearings will be held at the following locations:

1. Midland, Texas: Midland Center & Centennial Plaza, 105 N. Main Street, Midland, Texas 79701.
2. Roswell, New Mexico: ENMU—Roswell, Performing Arts Center, 64 University Blvd., Roswell, New Mexico 88202.

People needing reasonable accommodations in order to attend and participate in the public hearings should contact Wally "J" Murphy, New Mexico Ecological Services Field Office, at 505–761–4718 as soon as possible (*see* **FOR FURTHER INFORMATION CONTACT**). In order to allow sufficient time to process requests, please call no later than one week before the hearing date.

FOR FURTHER INFORMATION CONTACT: Wally "J" Murphy, Field Supervisor, New Mexico Ecological Services Field Office, 2105 Osuna NE., Albuquerque, NM 87113; by telephone 505–761–4781 or by facsimile 505–346–2542. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We will accept written comments and information during this reopened comment period for the proposed rule to list the dunes sagebrush lizard (*Sceloporus arenicolus*) that was published in the **Federal Register** on December 14, 2010 (75 FR 77801). We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from the public, other concerned government agencies, the scientific community, industry, or other interested parties concerning this proposed rule. Verbal testimony or written comments may also be presented during the public hearing. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) Information on the dunes sagebrush lizard relevant to the factors that are the basis for making a listing determination for a species under section 4(a) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*). These factors are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

(2) Additional information concerning the range, distribution, and population size of this species, including the locations of any additional populations of this species.

(3) Any information on the biological or ecological requirements of the species.

If you submitted comments or information on the proposed rule (75 FR 77801, December 14, 2010) during the initial comment period from December 14, 2010, to February 14, 2011, please do not resubmit them. We will incorporate them into the public record as part of this comment period, and we will fully consider them in the preparation of our final determination. Our final determination will take into consideration all written comments and any additional information we receive during both comment periods.

You may submit your comments and materials concerning the proposed rule by one of the methods listed in the **ADDRESSES** section.

We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* If you provide personal identifying information, such as your street address, phone number, or e-mail address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule,