

zone around the Sellwood Bridge on the Willamette River in Portland, OR. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 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. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T13-238 to read as follows:

#### § 165.T13.238 Safety Zone; Sellwood Bridge Move; Willamette River, Portland, OR.

(a) *Location.* The following area is a safety zone: All waters of the Willamette River around the Sellwood bridge in Portland, OR bounded by a line beginning at the west shoreline north of the Sellwood bridge at 45°27'54" N, 122°40'01" W; thence to the east at 45°27'54" N, 122°39'52" W; thence to the east shoreline south of the Sellwood bridge at 45°27'52" N, 122°39'49" W; thence to the west at 45°27'52" N, 122°40'01" W; thence north along the west shoreline to the point of origin.

(b) *Enforcement Periods.* The Coast Guard Sector Columbia River Captain of the Port will cause notice of the enforcement of this safety zone to be made by all appropriate means to effect the widest publicity among the affected segments of the public as practicable, in accordance with 33 CFR 165.7. Such means of notification may include, but are not limited to, Broadcast Notices to Mariners or Local Notices to Mariners. The Sector Columbia River Captain of the Port will issue a Broadcast Notice to Mariners and Local Notice to Mariners notifying the public when enforcement of the safety zone is suspended. Upon notice of enforcement by the Sector

Columbia River Captain of the Port, the Coast Guard will enforce the safety zone in accordance with rules set out in this section. Upon notice of suspension of enforcement by the Sector Columbia River Captain of the Port, all persons and vessels are authorized to enter, transit, and exit the safety zone, consistent with the Navigation Rules.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no person or vessel may enter or remain in this zone unless authorized by the Captain of the Port or his designated representatives. To request transit through this zone contact the Sector Columbia River Command Center at (503) 861-6211, or the Patrol Commander on VHF Channel 23.

Dated: January 7, 2013.

**B.C. Jones,**

*Captain, U.S. Coast Guard, Captain of the Port, Sector Columbia River.*

[FR Doc. 2013-01139 Filed 1-18-13; 8:45 am]

**BILLING CODE 9110-04-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 300

[EPA-HQ-SFUND-2012-0738; FRL-9772-9]

**RIN 2050-AG73**

#### National Oil and Hazardous Substances Pollution Contingency Plan; Revision To Increase Public Availability of the Administrative Record File

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Because EPA received adverse comment, we are withdrawing the direct final rule for *National Oil and Hazardous Substances Pollution Contingency Plan; Revision to Increase Public Availability of the Administrative Record File*, published on November 7, 2012.

**DATES:** Effective January 22, 2013, EPA withdraws the direct final rule published at 77 FR 66729 on November 7, 2012.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact Melissa Dreyfus at (703) 603-8792 ([dreyfus.melissa@epa.gov](mailto:dreyfus.melissa@epa.gov)), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460-0002, Mail Code 5204P.

**SUPPLEMENTARY INFORMATION:** Because EPA received adverse comment, we are withdrawing the direct final rule for *National Oil and Hazardous Substances*

*Pollution Contingency Plan; Revision to Increase Public Availability of the Administrative Record File*, published on November 7, 2012 (77 FR 66729). We stated in that direct final rule that if we received adverse comment by December 7, 2012, the direct final rule would not take effect and we would publish a timely withdrawal in the **Federal Register**. We subsequently received adverse comment on that direct final rule, which we plan to address in a subsequent final rulemaking based on the parallel proposed rule also published on November 7, 2012 (77 FR 66783). As stated in the direct final rule and the parallel proposed rule, we will not institute a second comment period on this action.

#### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: January 15, 2013.

**Mathy Stanislaus,**

*Assistant Administrator, Office of Solid Waste and Emergency Response.*

Accordingly, EPA withdraws the amendment to 40 CFR 300.805(c), published in the **Federal Register** on November 7, 2012 (77 FR 66729), as of January 22, 2013.

[FR Doc. 2013-01191 Filed 1-18-13; 8:45 am]

**BILLING CODE 6560-50-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R03-OAR-2012-0784; FRL-9770-4]

#### Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Requirements for Determining General Conformity of Federal Actions to Applicable State Implementation Plans

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the West Virginia State Implementation Plan (SIP). The SIP revision consists of a legislative rule adopted by West Virginia to amend its prior general conformity rule for the purpose of incorporating revisions to Federal general conformity requirements established under rules promulgated by

EPA in July of 2006 and in April of 2010. EPA is approving West Virginia's SIP revision to amend its general conformity SIP to comply with recent changes in Federal general conformity requirements. This rulemaking action is in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on March 25, 2013 without further notice, unless EPA receives adverse written comment by February 21, 2013. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2012-0784 by one of the following methods:

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

B. *Email: mastro.donna@epa.gov*.

C. *Mail: EPA-R03-OAR-2012-0784*, Donna Mastro, Acting Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R03-OAR-2012-0784. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your

comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

**FOR FURTHER INFORMATION CONTACT:** Brian Rehn, (215) 814-2176, or by email at *rehn.brian@epa.gov*.

**SUPPLEMENTARY INFORMATION:** The following outline is provided to aid in locating information in this preamble.

- I. General Conformity Requirements and Affect on Air Quality
- II. West Virginia's General Conformity SIP Revision
- III. EPA Action
- IV. Statutory and Executive Order Reviews
  - A. General Requirements
  - B. Submission to Congress and the Comptroller General
  - C. Petitions for Judicial Review

#### **I. General Conformity Requirements and Affect on Air Quality**

The intent of the general conformity requirement is to prevent the air quality impacts of Federal actions from causing or contributing to a violation of a National Ambient Air Quality Standard (NAAQS) or interfering with the purpose of a SIP. Under the CAA as amended in 1990, Congress recognized that actions taken by Federal agencies could affect states' and local agencies' abilities to attain and maintain the NAAQS. Section 176(c) of the CAA requires Federal agencies to assure that their actions conform to the applicable SIP for attaining and maintaining compliance with the NAAQS. General conformity is defined to apply to

NAAQS established pursuant to section 109 of the CAA, including NAAQS for carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), ozone, particulate matter, and sulfur dioxide (SO<sub>2</sub>). Because certain provisions of section 176(c) of the CAA apply only to highway and mass transit funding and approval actions, EPA published two sets of regulations to implement section 176(c) of the CAA—one set for transportation conformity and one set for general conformity. The Federal General Conformity Requirements Rule was published in the November 30, 1993 edition of the **Federal Register** (58 FR 63214) and codified in the Code of Federal Regulations at 40 CFR 93.150.

EPA revised the Federal General Conformity Requirements Rule via a final rule issued in the April 5, 2006 edition of the **Federal Register** (71 FR 17003). EPA had promulgated a new NAAQS July 18, 1997 (62 FR 38652) that established a separate NAAQS for fine particulate matter smaller than 2.5 micrometers in diameter (PM<sub>2.5</sub>). The prior coarse particulate matter NAAQS promulgated in 1997 pertains to particulate matter smaller than 10 micrometers in diameter (PM<sub>10</sub>). EPA's 2006 revision to the Federal General Conformity Requirements Rule added requirements for PM<sub>2.5</sub> for the first time, including annual emission limits of PM<sub>2.5</sub> above which covered Federal actions in NAAQS nonattainment or maintenance areas would be subject to general conformity applicability.

On April 5, 2010, EPA revisited the Federal General Conformity Requirements Rule to clarify the conformity process, authorize innovative and flexible compliance approaches, remove outdated or unnecessary requirements, reduce the paperwork burden, provide transition tools for implementing new standards, address issues raised by Federal agencies affected by the rules, and provide a better explanation of conformity regulations and policies. EPA's April 2010 revised rule simplified state SIP requirements for general conformity, eliminating duplicative general conformity provisions codified at 40 CFR part 93, Subpart B and 40 CFR part 51, Subpart W. Finally, the April 2010 revision updated the Federal General Conformity Requirements Rule to reflect changes to governing laws passed by Congress since EPA's 1993 rule. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) passed by Congress in 1995 contains a provision eliminating the CAA requirement for states to adopt general conformity SIPs. As a result of

SAFETEA-LU, EPA's April 2010 rule eliminated the Federal regulatory requirement for states to adopt and submit general conformity SIPs, instead making submission of a general conformity SIP a state option.

## II. West Virginia's General Conformity SIP Revision

On June 6, 2012, West Virginia submitted a formal revision to its SIP. The SIP revision submittal consists of an amendment to West Virginia's legislative rule (Title 45 of the Consolidated Statute of Regulations Series 35, entitled "Determining Conformity of General Federal Actions to Applicable Implementation Plans") that establishes criteria and procedures for use by Federal agencies in determining whether a planned Federal action conforms to the applicable SIP (also referred to as "general conformity." The purpose of the SIP revision is to amend West Virginia's general conformity requirements through a legislative rule adopted by West Virginia for purposes of incorporating recent changes made to Federal general conformity requirements, which are at 40 CFR Part 93, Subpart B (effective July 6, 2010).

The SIP revision submittal includes a revision of West Virginia's 1995 legislative rule under Title 45, Series 35 of the Code of State Rules (45CSR35). The revised State rule 45CSR35, now titled "Determining Conformity of General Federal Actions to Applicable Implementation Plans (General Conformity)" with a State effective date of June 1, 2012, has been updated to incorporate by reference the most recent Federal general conformity rules at 40 CFR part 93, Subpart B that were effective June 1, 2011.

West Virginia's legislative rule has also been updated to slightly revise several definitions, including "Applicable implementation plan" and "Applicable SIP." Several terms no longer used in 45CSR35 were deleted, including "Director," "Division of Environmental Protection," "State Governor," "State and Local Air Agencies," and "State Agency." Definitions were added for the terms "Clean Air Act" and "Secretary." The legislative rule amending 45CSR35 also adds requirements that require a Federal agency to make a determination that a Federal action conforms to the applicable SIP before the action is taken. In the event an action would result in emissions that originate in more than one nonattainment or maintenance area, conformity must be evaluated for each area separately. Finally, a conformity determination under 40 CFR Part 93,

Subpart B does not exempt the action from any other requirements of the applicable SIP, the CAA, or the National Environmental Policy Act (NEPA).

A prior version of West Virginia's general conformity rule (45CSR35), which became State effective May 1, 1995, was approved by EPA as part of the West Virginia SIP via a final rule published on September 5, 1995 (60 FR 46029). West Virginia's June 6, 2012 SIP revision submittal, which is the subject of this rulemaking action, supersedes the prior approved West Virginia general conformity SIP.

## III. EPA Action

EPA has reviewed West Virginia's June 6, 2012 SIP revision submittal and found this revision to be in compliance with section 176(c) of the CAA and with the related requirements of the Federal General Conformity Requirements Rule, codified at 40 CFR Part 93, Subpart B. West Virginia's SIP revision serves to reduce the impact of Federal actions (not otherwise subject to transportation conformity, which is addressed under a separate provision in the West Virginia SIP), and will prevent subject Federal actions from causing or contributing to a new violation of a NAAQS, interfering with attainment or maintenance of a NAAQS, or otherwise interfering with the West Virginia SIP.

West Virginia's June 6, 2012 SIP revision meets the requirements set forth in section 110 of the CAA with respect to adoption and submission of SIP revisions. The approval of West Virginia's general conformity SIP revision will strengthen the West Virginia SIP and will assist the state in complying with Federal NAAQS.

Therefore, EPA is approving West Virginia's revision to its general conformity SIP to comply with the most recent Federal General Conformity Requirements Rule. EPA is publishing this rule without prior proposal because it constitutes a noncontroversial amendment and EPA anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on March 25, 2013 without further notice unless EPA receives adverse comment by February 21, 2013. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment

period on this rulemaking action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## IV. Statutory and Executive Order Reviews

### A. General Requirements

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

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

practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

*B. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

*C. Petitions for Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action to approve West Virginia’s general conformity rule must be filed in the United States Court of Appeals for the appropriate circuit by March 25, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action to approve West Virginia’s general conformity SIP revision may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon Monoxide,

Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 19, 2012.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

■ 1. The authority citation for part 52 continues to read as follows:

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

**Subpart XX—West Virginia**

■ 2. In § 52.2520, the table in paragraph (c) is amended by revising the heading of 45 CSR Series 35 and by:

- a. Revising the entries for 45–35–1 through 45–35–4; and
- b. Adding a new entry in numerical order for 45–35–5.

The revised and added text reads as follows:

**§ 52.2520 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP**

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.2565
*	*	*	*	*
[45 CSR] Series 35 .....	Determining Conformity of General Federal Actions to Applicable Implementation Plans (General Conformity)			
Section 45–35–1 .....	General .....	6/1/12	1/22/13 [Insert page number where the document begins].	
Section 45–35–2 .....	Definitions .....	6/1/12	1/22/13 [Insert page number where the document begins].	
Section 45–35–3 .....	Requirements .....	6/1/12	1/22/13 [Insert page number where the document begins].	
Section 45–35–4 .....	Adoption of Requirements .....	6/1/12	1/22/13 [Insert page number where the document begins].	
Section 45–35–5 .....	Inconsistency Between Rules .....	6/1/12	1/22/13 [Insert page number where the document begins].	

\* \* \* \* \*

[FR Doc. 2013–00710 Filed 1–18–13; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R06-OAR-2009-0710; FRL-9770-9]

**Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport Requirements for the 2006 PM<sub>2.5</sub> NAAQS****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is approving the submittal from the State of New Mexico pursuant to the Clean Air Act (CAA or Act) that addresses the infrastructure elements specified in the CAA necessary to implement, maintain, and enforce the 2006 fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS or standard). The submittal addresses the infrastructure elements specified in the CAA necessary to implement, maintain and enforce the 2006 PM<sub>2.5</sub> NAAQS. We find that the current New Mexico State Implementation Plan (SIP) contains the infrastructure elements for the 2006 PM<sub>2.5</sub> NAAQS.

**DATES:** This final rule is effective on February 21, 2013.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R06-OAR-2009-0710. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a fee of 15 cents per page for making photocopies of documents. On the day of the visit, please check in at the EPA

Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Walser, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone 214-665-7128; fax number 214-665-6762; email address [walsers.john@epa.gov](mailto:walsers.john@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” and “our” means EPA.

**Table of Contents**

- I. Background
- II. Final Action
- III. Statutory and Executive Order Reviews

**I. Background**

The background for today’s action is discussed in detail in our October 12, 2012 proposal (77 FR 62191). In that notice we proposed to approve the submittal from New Mexico that addresses the infrastructure elements specified in the CAA section 110(a)(2), necessary to implement, maintain, and enforce the 2006 PM<sub>2.5</sub> standards. The submittal is dated June 12, 2009. We proposed to find that the following section 110(a)(2) elements are contained in the current New Mexico SIP and provide the infrastructure for implementing the 2006 PM<sub>2.5</sub> standards: Emission limits and other control measures (section 110(a)(2)(A)); ambient air quality monitoring/data system (section 110(a)(2)(B)); the program for enforcement of control measures (section 110(a)(2)(C)); international and interstate pollution abatement (section 110(a)(2)(D)(ii)); adequate resources (section 110(a)(2)(E)); stationary source monitoring system (section 110(a)(2)(F)); emergency power (section 110(a)(2)(G)); future SIP revisions (section 110(a)(2)(H)); consultation with government officials (section 110(a)(2)(I)); public notification (section 110(a)(2)(J)); prevention of significant deterioration (PSD) and visibility protection (section 110(a)(2)(J)); air quality modeling data (section 110(a)(2)(K)); permitting fees (section 110(a)(2)(L)); and consultation/participation by affected local entities (section 110(a)(2)(M)).

In addition, we proposed to find that New Mexico has adequately addressed one of the four required elements (or prongs) of CAA section 110(a)(2)(D)(i), the element which requires that the SIP prohibit air emissions from sources within a state from interfering with measures required to prevent significant deterioration of air quality in any other state. We are determining that emissions

from sources in New Mexico (excluding Bernalillo County and Indian country) do not interfere with measures to prevent significant deterioration of air quality in any other state for the 2006 PM<sub>2.5</sub> NAAQS (CAA section 110(a)(2)(D)(i)(II)).

Our October 12, 2012 proposal provides a detailed description of all relevant submittals and the rationale for EPA’s proposed actions, together with a discussion of the opportunity to comment. The public comment period for this action closed on November 13, 2012, and we did not receive any comments. In a separate concurrent action also dated October 12, 2012, EPA proposed approval of SIP revisions that revised the state’s PSD and Nonattainment New Source Review (NNSR) permitting regulations to address the requirements necessary to implement the 2006 PM<sub>2.5</sub> NAAQS (see Docket ID EPA-R06-OAR-2011-033). That action will be finalized on or before this final action to allow full approval of the CAA section 110(a)(2)(c) infrastructure requirements.

**II. Final Action**

We are approving the submittal provided by the State of New Mexico to demonstrate that the New Mexico SIP meets the infrastructure elements for the 2006 PM<sub>2.5</sub> NAAQS listed below:

- Emission limits and other control measures (110(a)(2)(A) of the Act);
- Ambient air quality monitoring/data system (110(a)(2)(B) of the Act);
- Program for enforcement of control measures (110(a)(2)(C) of the Act);
- Interstate and international transport (110(a)(2)(D)(ii) of the Act);
- Adequate resources (110(a)(2)(E) of the Act);
- Stationary source monitoring system (110(a)(2)(F) of the Act);
- Emergency power (110(a)(2)(G) of the Act);
- Future SIP revisions (110(a)(2)(H) of the Act);
- Consultation with government officials (110(a)(2)(I) of the Act);
- Public notification (110(a)(2)(J) of the Act);
- Prevention of significant deterioration and visibility protection (110(a)(2)(J) of the Act);
- Air quality modeling data (110(a)(2)(K) of the Act);
- Permitting fees (110(a)(2)(L) of the Act); and
- Consultation/participation by affected local entities (110(a)(2)(M) of the Act).