

Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, pertaining to the update of the MVEBs, point and area source inventories, as well as the general conformity budgets for the Scranton/Wilkes-Barre Maintenance Area, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

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

Dated: February 20, 2015.

**William C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2015-05434 Filed 3-9-15; 08:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2014-0275; A-1-FRL-9924-18-Region 1]

#### Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Transportation Conformity

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Rhode

Island on February 21, 2014. This revision includes a regulation adopted by Rhode Island that establishes procedures to follow for transportation conformity determinations. Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. The intended effect of this action is to propose to approve Rhode Island's transportation conformity regulation into the Rhode Island SIP. This action is being taken in accordance with the Clean Air Act.

**DATES:** Written comments must be received on or before April 9, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R01-OAR-2014-0275 by one of the following methods:

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

2. *Email: arnold.anne@epa.gov*. Fax: (617) 918-0047.

3. *Mail: EPA-R01-OAR-2014-0275, Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05-2), Boston, MA 02109-3912. Hand Delivery or Courier. Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05-2), Boston, MA 02109-3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.*

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

#### FOR FURTHER INFORMATION CONTACT:

Anne Arnold, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05-2), Boston, MA 02109-3912, telephone number (617) 918-1047, fax number (617) 918-1047, email *arnold.anne@epa.gov*.

**SUPPLEMENTARY INFORMATION:** In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse

comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should 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.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: February 4, 2015.

**H. Curtis Spalding,**

*Regional Administrator, EPA New England.*

[FR Doc. 2015-05259 Filed 3-9-15; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2013-0423; FRL 9924-23-Region 3]

#### Approval and Promulgation of Implementation Plans; West Virginia; Regional Haze Five-Year Progress Report State Implementation Plan

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

**ACTION:** Proposed rule; supplemental.

**SUMMARY:** The Environmental Protection Agency (EPA) is issuing a supplement to its proposed approval of a State Implementation Plan (SIP) revision submitted by the State of West Virginia (West Virginia) through the West Virginia Department of Environmental Protection (WVDEP). West Virginia's SIP revision addresses requirements of the Clean Air Act (CAA) and EPA's rules that require states to submit periodic reports describing progress towards reasonable progress goals established for regional haze and a determination of the adequacy of the state's existing implementation plan addressing regional haze (regional haze SIP). EPA's proposed approval of West Virginia's periodic report on progress towards reasonable progress goals and determination of adequacy of the state's regional haze SIP was published in the

**Federal Register** on March 14, 2014. This supplemental proposal addresses the potential effects on our proposed approval from the April 29, 2014 decision of the United States Supreme Court (Supreme Court) remanding to the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) EPA's Cross-State Air Pollution Rule (CSAPR) for further proceedings and the D.C. Circuit's decision to lift the stay of CSAPR.

**DATES:** Comments must be received on or before April 9, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2013-0423, by one of the following methods:

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

B. *Email: powers.marilyn@epa.gov*.

C. *Mail: EPA-R03-OAR-2014-0652*, Marilyn Powers, 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-2013-0423. 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.regulation.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 West Virginia's 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:** Asrah Khadr, (215) 814-2071, or by email at *khadr.asrah@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. Background

EPA previously proposed to approve a SIP revision by West Virginia reporting on progress made in the first implementation period towards meeting the reasonable progress goals for Class I areas in and outside West Virginia that are affected by emissions from West Virginia's sources.<sup>1</sup> 79 FR 14460 (March 14, 2014). This progress report SIP and accompanying cover letter also included a determination that West Virginia's existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018.

States are required to submit a progress report in the form of a SIP revision every five years that evaluates

<sup>1</sup> West Virginia has two Class I areas within its borders: Dolly Sods Wilderness Area (Dolly Sods) and Otter Creek Wilderness Area (Otter Creek). West Virginia states in the progress report SIP that West Virginia sources were also identified, through an area of influence modeling analysis based on back trajectories, as potentially impacting six Class I areas in five neighboring states: Brigantine Wilderness in New Jersey; Great Smoky Mountains National Park in North Carolina and Tennessee; James River Face in Virginia; Linville Gorge in North Carolina; Mammath Cave National Park in Kentucky; and Shenandoah National Park in Virginia.

progress towards the reasonable progress goals for each mandatory Class I area within the state and in each mandatory Class I area outside the state which may be affected by emissions from within the state. See 40 CFR 51.308(g). In addition, the provisions under 40 CFR 51.308(h) require states to submit, at the same time as the 40 CFR 51.308(g) progress report, a determination of the adequacy of the state's existing regional haze SIP. The first progress report SIP revision is due five years after submittal of the initial regional haze SIP. WVDEP submitted its regional haze SIP on June 18, 2008 and submitted its progress report SIP revision on April 30, 2013. EPA proposed to find that the progress report SIP revision satisfied the requirements of 40 CFR 51.308(g) and (h) in a notice of proposed rulemaking (NPR) published in 2014. 79 FR 14460. This notice supplements EPA's prior NPR by more fully explaining and soliciting comment on the basis for our proposed approval.

### II. Summary of West Virginia's Progress Report SIP Revision and the NPR

On April 30, 2013, West Virginia submitted a SIP revision describing the progress made towards the reasonable progress goals of Class I areas in and outside West Virginia that are affected by emissions from West Virginia's sources, in accordance with requirements in the Regional Haze Rule.<sup>2</sup> This progress report SIP also included an assessment of whether West Virginia's existing regional haze SIP is sufficient to allow it and other nearby states with Class I areas to achieve the reasonable progress goals by the end of the first planning period.

The provisions in 40 CFR 51.308(g) require a progress report SIP to address seven elements. In the NPR, EPA proposed to approve the SIP as adequately addressing each element under 40 CFR 51.308(g). The seven elements and EPA's proposed conclusions in the NPR are briefly summarized below.

The provisions in 40 CFR 51.308(g) require progress report SIPs to include a description of the status of measures in the regional haze implementation plan; a summary of the emissions reductions achieved; an assessment of the visibility conditions for each Class

<sup>2</sup> EPA promulgated a rule to address regional haze on July 1, 1999 (64 FR 35713) known as the Regional Haze Rule. The Regional Haze Rule revised the existing visibility regulations to integrate into the regulation provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas. See 40 CFR 51.308 and 51.309.

I area in the state; an analysis of the changes in emissions from sources and activities within the state; an assessment of any significant changes in anthropogenic emissions within or outside the state that have limited or impeded visibility improvement progress in Class I areas impacted by the state's sources; an assessment of the sufficiency of the regional haze implementation plan to enable States to meet reasonable progress goals; and a review of the state's visibility monitoring strategy. As explained in detail in the NPR, EPA proposed that West Virginia's progress report SIP addressed each element and therefore satisfied the requirements under 40 CFR 51.308(g).

In addition, pursuant to 40 CFR 51.308(h), states are required to submit, at the same time as the progress report SIP revision, a determination of the adequacy of their existing regional haze SIP and to take one of four possible actions based on information in the progress report. In its progress report SIP, West Virginia determined that its regional haze SIP is sufficient to enable it and nearby states to achieve the reasonable progress goals for Class I areas affected by West Virginia's sources. The State accordingly provided EPA with a negative declaration that further revision of the existing regional haze implementation plan was not needed at this time. See 40 CFR 51.308(h)(1). As explained in detail in the NPR, EPA proposed to determine that West Virginia had adequately addressed 40 CFR 51.308(h) because the visibility data trends at the Class I areas impacted by West Virginia's sources and the emissions trends of the largest emitters of visibility-impairing pollutants both indicate that the reasonable progress goals for 2018 for these areas will be met or exceeded. Therefore, in our NPR, EPA proposed to approve West Virginia's progress report SIP as meeting the requirements of 40 CFR 51.308(g) and (h).

### III. Impact of CAIR and CSAPR on West Virginia's Progress Report

Decisions by the Courts regarding EPA rules addressing the interstate transport of pollutants have had a substantial impact on EPA's review of the regional haze SIPs of many states. In 2005, EPA issued regulations allowing states to rely on the Clean Air Interstate Rule (CAIR) to meet certain requirements of the Regional Haze Rule. See 70 FR 39104 (July 6, 2005).<sup>3</sup> A

number of states, including West Virginia, submitted regional haze SIPs consistent with these regulatory provisions. CAIR, however, was remanded to EPA in 2008, *North Carolina v. EPA*, 550 F.3d 1176, 1178 (D.C. Cir. 2008), and replaced by CSAPR.<sup>4</sup> 76 FR 48208 (August 8, 2011). Implementation of CSAPR was scheduled to begin on January 1, 2012, when CSAPR would have superseded the CAIR program. However, numerous parties filed petitions for review of CSAPR, and at the end of 2011, the D.C. Circuit issued an order staying CSAPR pending resolution of the petitions and directing EPA to continue to administer CAIR. Order of Dec. 30, 2011, in *EME Homer City Generation, L.P. v. EPA*, D.C. Cir. No. 11–1302.

EPA finalized a limited approval and limited disapproval of West Virginia's regional haze SIP on March 23, 2012, 77 FR 16937, and issued a Federal Implementation Plan (FIP) shortly thereafter to address the deficiencies identified in our limited disapproval of West Virginia and other states' regional haze plans. 77 FR 33642 (June 7, 2012). In our FIP, we relied on CSAPR to meet certain regional haze requirements notwithstanding that it was stayed at the time. As we explained, the determination that CSAPR will provide for greater reasonable progress than BART is based on a forward looking projection of emissions and any year up until 2018 would have been an acceptable point of comparison. *Id.* at 33647. When we issued this FIP, we anticipated that the requirements of CSAPR would be implemented prior to 2018. *Id.* Following these EPA actions, however, the D.C. Circuit issued a decision in *EME Homer City Generation, L.P. v. EPA*, 696 F.3d 7 (D.C. Cir. 2012), vacating CSAPR and ordering EPA to continue administering CAIR pending the promulgation of a valid replacement. On April 29, 2014, the Supreme Court reversed the D.C. Circuit's decision on CSAPR and remanded the case to the D.C. Circuit for further proceedings. *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014). After the Supreme Court decision, EPA filed a motion to lift the stay on CSAPR and asked the D.C.

to downwind nonattainment of the 1997 National Ambient Air Quality Standard (NAAQS) for fine particulate matter (PM<sub>2.5</sub>) and ozone. See 70 FR 25162 (May 12, 2005).

<sup>4</sup> CSAPR was issued by EPA to replace CAIR and to help states reduce air pollution and attain CAA standards. See 76 FR 48208 (August 8, 2011) (final rule). CSAPR requires substantial reductions of SO<sub>2</sub> and NO<sub>x</sub> emissions from EGUs in 28 states in the Eastern United States that significantly contribute to downwind nonattainment of the 1997 PM<sub>2.5</sub> and ozone NAAQS and 2006 PM<sub>2.5</sub> NAAQS.

Circuit to toll CSAPR's compliance deadlines by three years, so that the Phase 1 emissions budgets apply in 2015 and 2016 (instead of 2012 and 2013), and the Phase 2 emissions budgets apply in 2017 and beyond (instead of 2014 and beyond). On October 23, 2014, the D.C. Circuit granted EPA's motion. Order of October 23, 2014, in *EME Homer City Generation, L.P. v. EPA*, D.C. Cir. No. 11–1302. EPA issued an interim final rule to clarify how EPA will implement CSAPR consistent with the D.C. Circuit's order granting EPA's motion requesting lifting the stay and tolling the rule's deadlines. 79 FR 71663 (December 3, 2014) (interim final rulemaking).<sup>5</sup>

Throughout the litigation described above, EPA has continued to implement CAIR. Thus, at the time that West Virginia submitted its progress report SIP revision, CAIR was in effect, and the State included an assessment of the emission reductions from the implementation of CAIR in its report. The progress report discussed the status of the litigation concerning CAIR and CSAPR, but because CSAPR was not at that time in effect, West Virginia did not take emissions reductions from CSAPR into account in assessing its regional haze implementation plan. For the same reason, in our NPR, EPA did not assess at that time the impact of CSAPR or our FIP on the ability of West Virginia and its neighbors to meet their reasonable progress goals.

The purpose of this supplemental proposal is to seek comment on the effect of the D.C. Circuit's October 23, 2014 order and the effect of the status of CAIR and CSAPR on our assessment of West Virginia's progress report SIP and its determination that its existing implementation plan need not be revised at this time.

Given the complex background summarized above, EPA is proposing to determine that West Virginia appropriately took CAIR into account in its progress report SIP in describing the status of the implementation of measures included in its regional haze SIP and in summarizing the emissions reductions achieved. CAIR was in effect during the 2008–2013 period addressed by West Virginia's progress report. EPA approved West Virginia's regulations implementing CAIR as part of the West Virginia SIP in 2009, 74 FR 38536 (August 4, 2009), and neither West Virginia nor EPA has taken any action to remove CAIR from the West Virginia

<sup>5</sup> Subsequent to the interim final rulemaking, EPA began implementation of CSAPR on January 1, 2015.

<sup>3</sup> CAIR required certain states like West Virginia to reduce emissions of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) that significantly contribute

SIP. See 40 CFR 52.2520(c). Therefore, West Virginia appropriately evaluated and relied on CAIR reductions to demonstrate the State's progress towards meeting its reasonable progress goals.<sup>6</sup>

The State's progress report also demonstrated Class I areas in other states impacted by West Virginia sources were on track to meet their reasonable progress goals as discussed in the NPR. EPA's intention in requiring the progress reports pursuant to 40 CFR 51.308(g) was to ensure that emission management measures in the regional haze SIPs are being implemented on schedule and that visibility improvement appears to be consistent with the reasonable progress goals. 64 FR 35713, 35747 (July 1, 1999). As the D.C. Circuit only recently lifted the stay on CSAPR, CAIR was in effect in West Virginia through 2014, providing the emission reductions relied upon in West Virginia's regional haze SIP. Thus, West Virginia appropriately took into account CAIR reductions in assessing the implementation of measures in the regional haze SIP for the 2008–2013 timeframe, and EPA believes that it is appropriate to rely on CAIR emission reductions for purposes of assessing the adequacy of West Virginia's progress report demonstrating progress up to the end of 2014 as CAIR remained effective until that date, pursuant to 40 CFR 51.308(g) and (h).

In addition, EPA also believes reliance upon CAIR reductions to show West Virginia's progress towards meeting its RPGs from 2008–2013 is consistent with our prior actions. During the continued implementation of CAIR per the direction of the D.C. Circuit through October 2014, EPA has approved redesignations of areas to attainment of the 1997 PM<sub>2.5</sub> NAAQS in which states relied on CAIR as an "enforceable measure." See 77 FR 76415 (December 28, 2012) (redesignation of Huntingdon-Ashland, West Virginia); 78 FR 59841 (September 30, 2013) (redesignation of Wheeling, West Virginia); and 78 FR 56168 (September 12, 2013) (redesignation of Parkersburg, West Virginia). While EPA did previously state in a rulemaking action on the Florida regional haze SIP that a five year progress report may be the appropriate time to address changes, if necessary, for reasonable progress goal demonstrations and long term strategies,

<sup>6</sup> EPA discussed in the NPR the significance of reductions in SO<sub>2</sub> as West Virginia and the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) identified SO<sub>2</sub> as the largest contributor pollutant to visibility impairment in West Virginia specifically and in the VISTAS region generally.

EPA does not believe the remanded status of CAIR or the imminent implementation of its replacement CSAPR at this time impacts the adequacy of the West Virginia regional haze SIP to address reasonable progress from 2008 through 2013 or even through 2014 or to meet requirements in 40 CFR 51.308(g) and (h) because CAIR was implemented during the time period evaluated by West Virginia for its progress report. See generally 77 FR 73369, 73371 (December 10, 2012) (proposed action on Florida haze SIP).

EPA's December 3, 2014 interim final rule sunsets CAIR compliance requirements on a schedule coordinated with the implementation of CSAPR compliance requirements. 79 FR at 71665. As noted above, EPA's June 7, 2012 FIP replaced West Virginia's reliance upon CAIR for regional haze requirements with reliance on CSAPR to meet those requirements for the long-term. Because CSAPR should result in greater emissions reductions of SO<sub>2</sub> and NO<sub>x</sub> than CAIR throughout the affected region including in West Virginia and neighboring states, EPA expects West Virginia to maintain and continue its progress towards its reasonable progress goals for 2018 through continued, and additional, SO<sub>2</sub> and NO<sub>x</sub> reductions. See generally 76 FR 48208 (promulgating CSAPR). Although the implementation of CSAPR was tolled for three years, the Rule is now being implemented, and by 2018, the end of the first regional haze implementation period, CSAPR will reduce emissions of SO<sub>2</sub> and NO<sub>x</sub> from EGUS in West Virginia by the same amount assumed by EPA when it issued the CSAPR FIP for West Virginia in June 2012. See 76 FR 48208 (CSAPR promulgation) and 77 FR 33642 (limited disapproval of West Virginia regional haze SIP and FIP for West Virginia for certain regional haze requirements). See February 11, 2015 Memorandum to File in Support of the Proposed Approval of West Virginia's Regional Haze Progress Report, which is available in the docket for this rulemaking action and available online at [www.regulations.gov](http://www.regulations.gov).

At the present time, the requirements of CSAPR apply to sources in West Virginia under the terms of a FIP, because West Virginia to date has not incorporated the CSAPR requirements into its SIP. The Regional Haze Rule requires an assessment of whether the current "implementation plan" is sufficient to enable the states to meet all established reasonable progress goals. 40 CFR 51.308(g)(6). The term "implementation plan" is defined for purposes of the Regional Haze Rule to mean "any [SIP], [FIP], or Tribal

Implementation Plan." 40 CFR 51.301. EPA is, therefore, proposing to determine that we may consider measures in any issued FIP as well as those in a state's regional haze SIP in assessing the adequacy of the "existing implementation plan" under 40 CFR 51.308(g)(6) and (h). Because CSAPR will ensure the control of SO<sub>2</sub> and NO<sub>x</sub> emissions reductions relied upon by West Virginia and other states in setting their reasonable progress goals beginning in January 2015 at least through the remainder of the first implementation period in 2018, EPA is proposing to approve West Virginia's finding that there is no need for revision of the existing implementation plan for West Virginia to achieve the reasonable progress goals for the Class I areas in West Virginia and in nearby states impacted by West Virginia sources.

We note that the Regional Haze Rule provides for periodic evaluation and assessment of a state's reasonable progress towards achieving the national goal of natural visibility conditions by 2064 for CAA section 169A(b). The regional haze regulations at 40 CFR 51.308 required states to submit initial SIPs in 2007 providing for reasonable progress towards the national goal for the first implementation period from 2008 through 2018. 40 CFR 51.308(b). Pursuant to 40 CFR 51.308(f), SIP revisions reassessing each state's reasonable progress towards the national goal are due every ten years after that time. For such subsequent regional haze SIPs, 40 CFR 51.308(f) requires each state to reassess its reasonable progress and all the elements of its regional haze SIP required by 40 CFR 51.308(d), taking into account improvements in monitors and control technology, assessing the state's actual progress and effectiveness of its long term strategy, and revising reasonable progress goals as necessary. 40 CFR 51.308(f)(1)–(3). Therefore, West Virginia has the opportunity to reassess its reasonable progress goals and the adequacy of its regional haze SIP, including its reliance upon CAIR and CSAPR for emission reductions from EGUs, when it prepares and submits its second regional haze SIP to cover the implementation period from 2018 through 2028. As discussed in the NPR and in West Virginia's progress report, emissions of SO<sub>2</sub> from EGUs are far below original projections for 2018. In addition, the visibility data provided by West Virginia show the Class I areas impacted by West Virginia sources are all currently on track to achieve their

reasonable progress goals.<sup>7</sup> EPA is seeking comment only on the issues raised in this supplemental proposal and is not reopening for comment other issues addressed in its prior proposal.

#### IV. Summary of Reproposal

In summary, EPA proposes to approve West Virginia's progress report SIP revision submitted on April 30, 2013. EPA solicits comments on this supplemental proposal, but only with respect to the specific issues raised in this notice concerning our interpretation of the term "implementation plan" in the Regional Haze Rule, and our agreement with West Virginia's assessment that the current regional haze SIP for West Virginia in combination with our CSAPR FIP need not be revised at this time to achieve the established reasonable progress goals for West Virginia and other nearby states in light of the status of CAIR through 2014 and CSAPR starting in 2015. EPA is not reopening the comment period on any other aspect of the March 14, 2014 NPR as an adequate opportunity to comment on those issues has already been provided. The purpose of this supplemental proposal is limited to review of the West Virginia progress report in light of the Supreme Court's decision in *EME Homer City* and the D.C. Circuit's recent Order lifting the stay on CSAPR. This supplemental proposal reflects EPA's desire for public input into how it should proceed in light of those decisions when acting on the pending progress report, in particular the requirements that the State assess whether the current implementation plan is sufficient to ensure that reasonable progress goals are met. 40 CFR 51.308(g)(6) and (h).<sup>8</sup>

<sup>7</sup> Many coal-fired EGUs have announced plans to deactivate by April 2015 including several plants in West Virginia, including Albright, Kammer, Kanawha River, Phillip Sporn and Rivesville, as well as plants or individual units at plants in states neighboring West Virginia including Glen Lynn, Walter C. Beckjord, Muskingum River, Elrama, Clinch River, Eastlake, Ashtabula, and Big Sandy. Additional SO<sub>2</sub> reductions will likely result from the deactivations of these coal-fired EGUs. For a listing of EGUs planning to deactivate in the states which are part of PJM Interconnection, L.L.C., a regional transmission organization which coordinates the movement of wholesale electricity within states including West Virginia, see <http://www.pjm.com/planning/generation-deactivation/gd-summaries.aspx>.

<sup>8</sup> EPA previously determined that CSAPR (like CAIR before it) was "better than BART" because it would achieve greater reasonable progress toward the national goal than would source-specific BART. 77 FR 33642 (June 7, 2012). EPA is not taking comment in this supplemental proposal on whether the West Virginia implementation plan meets the BART requirements or whether CSAPR is an alternative measure to source-specific BART in accordance with 40 CFR 52.301(e)(2).

#### V. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
  - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
  - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
  - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
  - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; 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 supplemental proposed rule pertaining to West Virginia's regional haze progress report does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose

substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR part 52

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

Dated: March 2, 2015.

**William C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2015-05468 Filed 3-9-15; 8:45 am]

**BILLING CODE 6560-50-P**

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 660

[Docket No. 141219999-5174-01]

RIN 0648-BE74

##### Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; 2015 Tribal Fishery for Pacific Whiting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed rule for the 2015 Pacific whiting fishery under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP), the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and the Pacific Whiting Act of 2006. This proposed rule would allocate 17.5% of the U.S. Total Allowable Catch of Pacific whiting for 2015 to Pacific Coast Indian tribes that have a Treaty right to harvest groundfish, and would revise the regulation authorizing NMFS to reapportion unused allocation from the tribal allocation to the non-tribal sectors earlier in the fishing season.

**DATES:** Comments on this proposed rule must be received no later than April 9, 2015.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2015-0017, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=](http://www.regulations.gov/#!docketDetail;D=)