Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* *	*	*	* *	*
8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory.	Tioga County	9/28/06, 11/14/06	7/6/07, 72 FR 36892	
* *	*	*	* *	*

(2) * * *

Name of source	Permit No.	County	State submittal date	EPA approval date	Additional explanation/§ 52.2063 citation
USX Corp./US Steel Group-Fairless Hills.	09–0006	Bucks	8/11/95, 11/15/95	4/09/96, 61 FR 15709.	52.2036(b); 52.2037(c); source shutdown date is 8/1/91.
* *	*	*	*	*	*
Rockwell Heavy Vehicle, Inc.-New Castle Forge Plant.	37–065	Lawrence	4/8/98	4/16/99, 64 FR 18818.	52.2036(k); source shutdown date is 4/1/93.
* *	*	*	*	*	*
Mercersburg Tanning Co.	28–2008	Franklin	4/26/95	3/12/97, 62 FR 11079.	52.2037(h); 52.2063(c)(114)(i)(A)(3) & (ii)(A).
* *	*	*	*	*	*

[FR Doc. 2011–16636 Filed 7–1–11; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2011–0035; FRL–9425–3]

Approval and Promulgation of Implementation Plans; State of Oregon; Regional Haze State Implementation Plan and Interstate Transport Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving portions of a State Implementation Plan (SIP) revision submitted by the State of Oregon on December 20, 2010, as meeting the requirements of Clean Air Act (CAA) section 110(a)(2)(D)(i)(II) as it applies to visibility for the 1997 8-hour ozone and 1997 particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). EPA is also approving portions of the revision as meeting certain requirements of the regional haze program, including the requirements for best available retrofit technology (BART).

DATES: *Effective Date:* This final rule is effective August 4, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2010–0035. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (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 through *http://www.regulations.gov* or in hard copy at the State and Tribal Air Programs Unit, Office of Air Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Keith Rose, EPA Region 10, Suite 900, Office of Air, Waste and Toxics, 1200 Sixth Avenue, Seattle, WA 98101.

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act, CAA,* or *Clean Air Act* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *SIP* mean or refer to State Implementation Plan.

(iv) The words *Oregon* and *State* mean the State of Oregon.

Table of Contents

I. Background Information

On July 18, 1997, EPA promulgated new NAAQS for 8-hour ozone and for fine particulate matter ($PM_{2.5}$). This action is being taken, in part, in response to the promulgation of the 1997 8-hour ozone and $PM_{2.5}$ NAAQS. Section 110(a)(1) of the CAA requires states to submit a SIP revision to address a new or revised NAAQS within 3 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.

Section 110(a)(2)(D)(i) of the CAA requires that a SIP must contain adequate provisions prohibiting any source or other type of emissions activity within the state from emitting

any air pollutant in amounts which will: (1) Contribute significantly to nonattainment of the NAAQS in any other state; (2) interfere with maintenance of the NAAQS by any other state; (3) interfere with any other state's required measures to prevent significant deterioration of air quality; or (4) interfere with any other state's required measures to protect visibility. This action addresses the fourth prong, section 110(a)(2)(D)(i)(II).

In the CAA Amendments of 1977, Congress established a program to protect and improve visibility in the national parks and wilderness areas. See CAA section 169(A). Congress amended the visibility provisions in the CAA in 1990 to focus attention on the problem of regional haze. See CAA section 169(B). EPA promulgated regulations in 1999 to implement sections 169A and 169B of the Act. These regulations require states to develop and implement plans to ensure reasonable progress toward improving visibility in mandatory Class I Federal areas [1] (Class I areas). 64 FR 35714 (July 1, 1999); see also 70 FR 39104 (July 6, 2005) and 71 FR 60612 (October 13, 2006).

On December 20, 2010, the State of Oregon submitted to EPA a State Implementation Plan (SIP) revision addressing the interstate transport requirements for visibility for the 1997 ozone and $PM_{2.5}$ NAAQS, *see* CAA § 110(a)(2)(D)(i)(II), and the requirements of the Regional Haze program at 40 CFR 51.308. (Regional Haze SIP submittal).

On March 8, 2011, EPA published a notice in which the Agency proposed to approve the Oregon SIP revision as meeting the requirements of both section 110(a)(2)(D)(i)(II) of the CAA and the Regional Haze requirements set forth in sections 169A and 169B of the Act and in 40 CFR 51.300–308 with the exception of Chapter 11, Oregon Reasonable Progress Goal Demonstration and Chapter 12, Long-Term Strategy. 76 FR 12651. (Notice of Proposed Rulemaking or NPR). For Oregon's Reasonable Progress Goal Determination and Long-Term Strategy, EPA did not propose taking any action.

[1] Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). In accordance with section 169A of the Clean Air Act, EPA, in consultation with the Department of the Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas which they consider to have visibility as an important value, the requirements of the visibility program set forth in section 169A of the Clean Air Act apply only to ''mandatory Class I Federal areas.'' Each mandatory Class I Federal area is the responsibility of a ''Federal Land Manager.'' 42 U.S.C. 7602(i). When we use the term ''Class I area'' in this action, we mean a ''mandatory Class I Federal area.''

II. Response to Comments

EPA received a number of comments on the proposed action to approve certain elements of the Regional Haze SIP submittal. Comments in support were received from: The Citizens' Utility Board of Oregon; International Brotherhood of Electrical Workers Local 125; Morrow County; and Portland General Electric Company (PGE). Adverse comments were received by two entities: The National Parks and Conservation Association (NPCA); and Pacific Environmental Advocacy Center (PEAC). The comments submitted by NPCA incorporated multiple comments which were previously submitted to Oregon Department of Environmental Quality (ODEQ) on some of the prior proposals the State was previously considering. Some of these comments related to options, closure timeframes or evaluations which were previously considered by ODEQ but were not included in the final Regional Haze SIP submission. Accordingly, because these now superseded aspects of ODEQ's BART analysis or determination are not before EPA, a response to the comments about those options is not necessary. The following discussion summarizes and responds to the relevant comments received on EPA's proposed SIP action and explains the basis for EPA's final action.

Comment: The Citizens' Utility Board commented that the ODEQ BART rules for the PGE coal-fired electric power plant at Boardman, Oregon (PGE Boardman or Boardman facility) allow for cost effective pollution controls which will reduce air pollution generated by the facility, including air pollutants which contribute to haze in Class 1 areas. The commenter states that the rules also require the Boardman facility to be shut down by December 31, 2020 and the shut down allows the State of Oregon to move forward with its goals to reduce carbon emissions statewide and will protect utility customers from the costs and risks that will be associated with carbon regulation. The commenter further stated that the Best Available Retrofit Technology (BART) rules approved by the ODEQ are the product of several years of work resulting from a collaborative process involving state agencies, environmental organizations, consumer groups, local governments, and other stakeholders. The rules result in significant reductions in air pollution, while allowing Oregon to pursue important state policies targeted towards reducing carbon emissions, and keeping electric rates affordable.

Response: EPA acknowledges the comment and notes that there will be a significant reduction in NO_X and SO_2 from the Boardman facility due to the BART controls for those pollutants, and the further reasonable progress limits for SO_2 in 2018. Also, ceasing to use coal at the Foster-Wheeler boiler by end of 2020, will result in a additional reduction of NO_X, SO_2, and carbon dioxide emissions from the facility and significant cumulative visibility improvement in all impacted Class I areas.

Comment: International Brothers of Electrical Workers Local 125 commented that the Boardman facility is more than an electrical generating plant and that the city of Boardman and county of Morrow are dependent on this a facility for a substantial portion of its revenue. Boardman's citizens and Morrow County's resident recognize that the facility will cease using coal by the end of 2020, but are hopeful that alternative fuel sources will be approved to continue operations beyond 2020.

Response: EPA recognizes the facility's importance to the community. The approved rules do not prevent the facility owners from using alternate fuel or from constructing a new power source. If the Boardman facility is powered with alternative fuels or if a new facility is constructed all applicable CAA requirements, including New Source Performance Requirements (NSPS) and Prevention of Significant Deterioration (PSD) emission control requirements, must be met. The emission netting basis and plant site emission limits (PSELs) used in determining whether a modification to facility must meet PSD requirements, will be reduced to zero when the Foster-Wheeler boiler at the facility permanently ceases to burn coal. OAR 340–223–0030(1)(e).

Comment: Morrow County commented that they support EPA's approval of Oregon's Regional Haze SIP submittal and stated that the 10 year timeframe in the BART rule provides adequate time to put reliable replacement generation in place, protects this region and the state from the economic blow that would result from an earlier closure and is an appropriate balance of environmental and economic interests of Oregon and its citizens. The County further stated that the SIP accomplishes their wish to

have environmental standards in place that will preserve the beauty of the area for future generations by reducing emission of NO_X, SO_2, and mercury, during the plant's remaining lifetime and ending all coal-related emissions from the Boardman facility at least 20 years ahead of schedule.

Response: EPA acknowledges this comment.

Comment: PGE commented that it believes that the ODEQ BART rules for the Boardman facility achieve the proper balance of environmental benefits, the cost to customers and the reliability of the PGE electrical power system. PGE states it found that it is possible to secure greater environmental benefits with a better balance of cost and risk by transitioning the Boardman facility away from coal at least 20 years ahead of schedule. PGE believes that the ODEQ Boardman BART rule includes significant and cost-effective emission control measures to improve visibility and ensure that the Boardman plant will cease coal-firing by December 31, 2020.

Response: EPA believes that the BART controls required for PGE Boardman will result in a significant reduction in haze that impacts Class I areas through 2020. Then, ceasing to burn coal at the facility will result in additional and significant reductions in SO_2 and NO_X emissions from Boardman at that time, and well as substantial reductions in carbon dioxide emissions. Further, ceasing to burn coal by no later than December 31, 2020, will result in cumulative visibility improvements in all 14 impacted Class I areas. See Regional Haze SIP submittal, Appendix D at D–171.

Comment: Comments were submitted claiming an inappropriate double-counting of ''remaining useful life'' by ODEQ to justify lesser pollution control requirements as BART for the Boardman facility.

Response: ODEQ did not double-count the remaining useful life of the plant in the PGE Boardman BART analysis. As ODEQ explained, closure of the plant is not, by itself, considered BART. Rather, the closure date establishes the remaining useful life of the plant which is used to determine the cost effectiveness of the various control technologies. See Regional Haze SIP submittal, Appendix D at D–125. See also Appendix Y to Part 51—Guidelines for BART Determinations Under the Regional Haze Rule (BART Guidelines), Section D. step 4.k.1. (70 FR 39156 (July 6, 2005)). A decision to cease burning coal by 2020 shortens the expected useful life of the coal-burning Foster-Wheeler boiler by 20 years when compared to its expected useful life of 2040. ODEQ documented its method for incorporating remaining useful plant life in determining cost effectiveness of control technologies. See Regional Haze SIP submittal, Appendix D at D–125 and D–131. The BART Guidelines specifically provide that the remaining useful life of a source may affect the annualized costs of retrofit controls and explains that ''where the remaining useful life is less than the time period for amortizing costs, you should use this shorter time period in your cost calculations.'' 70 FR 39169. Thus, ODEQ appropriately applied the BART Guidelines when it considered the remaining useful life of the Foster-Wheeler boiler when evaluating the cost effectiveness of the control technologies. In addition, EPA notes that ODEQ's conclusion regarding cost effectiveness for SO_2 controls, specifically Semi-dry Flue Gas Desulfurization (SDFGD) versus Dry Sorbent Injection (DSI) technologies, varied appropriately depending on the plant closure date. See EPA Assessment of ODEQ Determination of Best Available Retrofit Technology for the PGE Coal Fired Power Plant in Boardman, Oregon (EPA Boardman BART Assessment) January 18, 2011.

Comment: One comment stated that a compilation of BART analyses across the United States reveals that the average cost per deciview (dv) proposed by either a state or a BART source is $14 to $18 million, with a maximum of $51 million per dv proposed by South Dakota at the Big Stone power plant. The commenter noted that ODEQ has chosen $10 million/dv as a cost criterion, which is somewhat below the national average.

Response: ODEQ selected a dollars/dv cost effectiveness threshold of $10 million/dv based on what it considered the most relevant cost effectiveness figures available from similar coal-fired power plants in other parts of the country. See Regional Haze SIP submittal, Appendix D—Table 16 (D–137) for the estimated dollars/dv of the various control technologies. EPA notes that the comment is consistent with EPA's review of dollars/dv cost effectiveness data compiled by the National Park Service (NPS) available for a variety of coal-fired facilities located across the country. The NPS data show that ODEQ's dollar/dv threshold is below the average cost for BART NO_X and SO_2 control technologies selected for other coal-fired power plants in the country. In EPA's view, however, the dollars/dv metric is a difficult one to apply consistently across BART sources given the variability in the number of Class I areas impacted by emissions from a BART source and the number of days of impacts at each area. In assessing the reasonableness of a state's BART determination, EPA does not consider it appropriate to focus on a bright-line threshold such as a dollars/dv cost effectiveness threshold but rather on the full range of relevant factors. In reviewing the BART determination for the Boardman facility, EPA has accordingly taken into account not only ODEQ's analysis of dollars/dv, but also the range of visibility impacts associated with the various control options.

Comment: One comment expressed concern with the way in which the incremental cost analysis is used by ODEQ. It stated that to use incremental costs properly, they must be compared to incremental costs for similar situations.

Response: The Regional Haze SIP submittal shows that that ODEQ estimated the incremental cost and average cost effectiveness of the various control options considered in its cost analysis for determining BART. ODEQ first calculated the average cost effectiveness of each technology, and then calculated the incremental cost of going from the most cost effective technology to each of the more stringent technically feasible control technologies. See Regional Haze SIP submittal, Appendix D—Table 8 at D–132 and Cost effectiveness table on D–168. The approach used by ODEQ to determine average and incremental cost effectiveness is consistent with the procedure outlined in the BART Guidelines. See 70 FR 39167. Given the source-specific nature of a BART determination and the emphasis not only on the costs of control, but other factors such as the degree of visibility improvement resulting from the use of controls and the remaining useful life of the facility, comparisons of incremental costs across sources are often not meaningful in making BART determinations.

Comment: Multiple comments were submitted concerning the cost effectiveness calculations. The comments expressed concern regarding the dismissal of controls that are cost-effective even with the State's $7,300/ton and $10 million/dv thresholds claiming that semi-dry flue gas desulfurization (SDFGD), selective non-catalytic reduction (SNCR), and selective catalytic reduction (SCR) were eliminated from consideration as BART for PGE Boardman through inappropriately inflated costs, inclusion of costs not allowed by EPA's Cost Control Manual, underestimated control effectiveness, and arbitrarily and

shortened equipment life due to excessively long assumed installation times.

Response: As explained in the SIP submittal, ODEQ evaluated and considered the costs, control efficiencies of the various control technologies, and expected equipment life in its BART determination. ODEQ used an independent contractor (ERG) to evaluate PGE's cost estimates for the Boardman facility and concluded that while PGE's estimates were significantly higher than ERG's, PGE's estimates better reflected real world costs, and were appropriate for the PGE Boardman BART analysis. More specifically, ERG concluded that the actual cost of retrofits is, in general, higher than the estimates provided by the EPA's Cost Control Manual. ODEQ explained that difference is due to a dramatic increase is labor and material costs in recent years. See Regional Haze SIP submittal, Attachment 7.2, ODEQ response to comments, I.1.a–c, for more detail.

In reviewing ODEQ's BART determination, EPA recognized that the cost estimates ODEQ relied on included two capital cost line items that are not normally included when using the EPA Cost Control manual. The effect of including these two line items is that the capital costs are likely ''at the high end'' of the capital cost range estimate. See EPA Boardman BART Assessment at 2. To assess the impact of ODEQ's decision to include these items in the cost estimate, EPA further evaluated the cost effectiveness value for SDFGD without including the two capital cost line items, and concluded that the cost effectiveness of SDFGD would drop from $5,535/ton to $4,810/ton. Although EPA considers the $4,810/ton to better reflect the true cost of SDFGD, we conclude that the $725/ton difference between the two estimates would not materially affect ODEQ's evaluation. EPA notes that the incremental visibility improvement between SDFGD and DSI–1 (0.4 lb/mmBtu) would only be 0.4 dv at the most impacted Class I area. Additionally, EPA found that with an SO_2 limit of 0.3 lb/mmBtu in 2018, the incremental visibility improvement between the two control technologies would only be 0.26 dv in the most impacted Class I area. In addition, while SDFGD would achieve a cumulative visibility improvement of 10.6 dv in all impacted Class I areas and DSI–1 [2] would achieve a cumulative visibility improvement of 7.0 dv and DSI–2 [3] would achieve a cumulative improvement of 9.3 dv in 2018, when the facility ceases to burn coal at the end of 2020, the cumulative visibility improvement would be 31.46 dv. See Regional Haze SIP submittal, Appendix D at D–137, 168 and 171. When choosing between the two technologies, it is reasonable for the state to consider the sizable capital cost difference between SDFGD and DSI, and the relatively small incremental visibility improvement between the two technologies in light of the shutdown of the unit in 2020. In EPA's view, ODEQ's final selection of BART would not have changed even if the cost effectiveness had been adjusted to reflect the EPA Cost Manual.

Regarding the comments concerning control effectiveness of SCR, SNCR, and SDFGD technologies, ODEQ determined the control effectiveness of these control options by evaluating actual emissions data from other sources employing similar types controls, taking into consideration that BART limit must be achieved at all times for a retrofit installation at Boardman. ODEQ's evaluation determined that the Boardman facility could not achieve the lower emission rate suggested by the commenter. See Regional Haze SIP submittal, Appendix D at D–14 through D–18, and Attachment 7.2, ODEQ response to comments 1I.1.b.

Comment: A commenter notes that on September 1, 2010, Oregon released a proposed rulemaking for public comment that included BART requirements for PGE Boardman based on a variety of closure dates, including 2020. The comment claims that the September 2010 proposal required installation of SDFGD and SNCR for a 2020 shutdown but that the requirements for a 2020 closure date were relaxed significantly in the plan EPA proposes to approve. The commenter does not believe there is sufficient justification for this relaxation of BART and states the relaxation appears arbitrary.

Response: As mentioned above, EPA's action relates to the BART determinations contained in the Regional Haze Plan that was submitted to EPA on December 20, 2010. EPA explained the basis for its decision to approve ODEQ's BART determination in the notice of proposed rulemaking. 76 FR at 12660–12662. Although ODEQ may have considered establishing more stringent BART emission limits at an earlier point, this does not provide a basis for disapproving its final BART determination.

Comment: A commenter stated that it is unclear whether the current regulatory language proposed by ODEQ would actually result in the ''closure'' of the Boardman facility because each closure option states that it only applies to the ''Foster-Wheeler boiler'' at Boardman. To ensure no other coal-fired boiler could be installed at Boardman the commenter requested ODEQ to strike the commercial name of the boiler from OAR 340–223–0020 through OAR 340–223–0090 and replace it with either ''any coal-fired boiler'' or ''the Boardman coal-fired power plant.''

Response: The State rules are clear in that they apply to the Foster-Wheeler boiler which is the only coal-fired unit at the Boardman facility. The rules do not prevent the plant owners from applying for a permit to construct a new power plant at the facility or to use the existing equipment with different fuel. See Oregon Regional Haze SIP submittal Attachment 1.1 at 8–9. However any new facility or change in the operations would need to be permitted in compliance with the CAA requirements. Further, the rules explain that notwithstanding the definition of netting basis and the process for reducing plant site emission limits (PSEL) in the Oregon rules, the netting basis and the PSEL are reduced to zero on the date which the boiler permanently ceases to burn coal. See OAR 340–223–0030(1)(e). Thus, as ODEQ explained to the Environmental Quality Commission, ''Any new facility or repowering of the existing coal-fired boiler would be permitted as a new facility without relying on the reductions from the existing plant and in compliance with all applicable state and federal requirements, including modern air pollution controls and air quality impact analysis.'' See Regional Haze SIP submittal, Attachment 1.1 at 9.

Comment: Multiple commenters explained that if ODEQ decides that the SO_2 emission limit, based on DSI, is BART for PGE Boardman, it should require PGE to design and install the DSI system to achieve 90% efficiency and require that PGE optimize its effectiveness for the duration of its operation.

Response: ODEQ established SO_2 BART limits for the Boardman facility based on an estimated 35% minimal efficiency of DSI in removing SO_2 from the flue gas. A similar comment regarding DSI efficiency was made to ODEQ during the State public comment period. In response ODEQ stated:

[2] DSI–1 is defined as the initial DSI system performance that would achieve an SO_2 emission limit of 0.4 lbs/mmBtu by July 1, 2014.

[3] DSI–2 is defined as the DSI system performance that would achieve an SO_2 emission limit of 0.3 lbs/mmBtu by July 1, 2018.

''ODEQ is not aware of a DSI system, such as proposed for the PGE Boardman Plant, to have been installed on a similar sized unit. DSI has been used on smaller units that also included fabric filters, which both contribute to improved efficiency of the DSI system. ODEQ's proposal relies on the existing ESP and does not include the installation of a fabric filter, which would cost over $100 million. In addition, the ducts between the air heater and the ESP are much larger at the Boardman Plant. It is more difficult to adequately disperse the sorbent reagent in larger ducts and still maintain enough residence time for the sorbent to react with the SO_2. [A] thirty five percent efficiency is probably a little conservative, but a BART limit should be achievable at all times.'' Regional Haze SIP submittal, Attachment 7.2 response to comment I.6.a.

EPA considers ODEQ's response regarding the uncertainties associated with the use of DSI to be reasonable.

Comment: One comment stated that DSI for PGE Boardman for the shutdown within five years of EPA approval of the SIP may well be an appropriate cost effective technology choice capable of reducing SO_2 emissions in a manner consistent with BART requirements. Similarly, a commenter states that ODEQ should require that PGE install DSI ''as expeditiously as practicable'' and contends it could be installed in a year's time.

Response: As explained above, ODEQ determined that DSI is a cost effective control technology for SO_2. The Oregon BART rule at OAR 340–223–0030 (1)(b)(A) requires that the Boardman facility achieve an SO_2 emission limit of 0.4 lbs/mmBtu by July 1, 2014, about two years ahead of the five-year maximum time allowed by the CAA for the installation of BART. As ODEQ explains, ''The proposed compliance date [of July 1, 2014] allows PGE three years to design the DSI system and conduct the pilot study, which may involve evaluation of several types of sorbent materials and injection locations, along with particulate matter stack testing.'' See Regional Haze SIP submittal, Attachment 7.2, response to comment I.7. Given the uncertainties associated with the use of DSI on a plant such as Boardman, installing DSI in this timeframe satisfies the requirement of ''as expeditiously as practicable'' and is within the timeframe specified in the CAA.

ODEQ determined that the Boardman facility need install any additional emission controls if the Foster-Wheeler boiler is shut down within five years of approval of the SIP. ODEQ did not consider DSI as a required control technology for this scenario. See Regional Haze SIP submittal, Appendix D at D–142. EPA agrees with ODEQ's conclusion that it would be unreasonable to require the installation of DSI for such a short period of operation before shutting down.

Comment: One comment stated that the capital and operating costs of DSI for Boardman were overstated. Some comments explained that although ODEQ has not provided sufficient data on the costs of DSI, it is possible that DSI could also meet ODEQ's cost-effectiveness threshold, even if used for only a few years as in the case were the Boardman facility were to shut down within five years of EPA final approval of the SIP.

Response: ODEQ's analysis for determining the capital and direct annual costs for DSI are described on pages D–130–131 of Appendix D of the Regional Haze SIP submittal. EPA's Boardman BART Assessment acknowledged that PGE's capital cost estimates for various control technologies are ''likely at the high end of the range for capital cost estimates,'' but as discussed above, even if the cost estimates are at the high end, considering the cost differential between DSI and SDFGD, and given the visibility improvements associated with selecting DSI based on an early shut down, the variation in cost estimates was not determinative. Therefore, EPA believes that the methods used by ODEQ to determine effectiveness and cost of DSI, and a determination not to require DSI if the Boardman facility ceases to burn coal within five years of EPA's approval, are reasonable and within the State's discretion. See also the response to comment above.

Comment: One comment stated that DSI is a technically feasible control technology at PGE Boardman. This comment explained that (1) the size of the coal-fired unit is inconsequential as to whether DSI is technically feasible, and (2) while DSI is not in widespread use on larger boilers like the Boardman facility, that is most likely due to availability of sorbents, costs, and SO_2 control effectiveness when compared to other SO_2 control technologies like semi-dry or wet scrubbers, not technical feasibility.

Related comments suggest that it is improper for ODEQ to discard DSI as technically infeasible merely because its installation triggers addition legal obligations under the Clean Air Act (or State law). In the commenter's view, ODEQ cannot conclude that DSI is technically infeasible because it would interfere with PGE's compliance with state mercury reduction goals, or result in adverse impacts to the particulate matter air quality standards. The comment states that as a legal matter PGE must comply with requirements associated with Regional Haze, and those intended to prevent significant deterioration of air quality and any requirements to reduce hazardous pollutants such as mercury. In the commenter's view, even if DSI were genuinely technically infeasible, PGE would not be entitled to the de facto exemption from BART that it requests because the ODEQ has an obligation to identify, and prescribe, a technically feasible BART limit.

Response: As explained above, ODEQ determined that DSI is technically feasible for PGE Boardman. Although ODEQ was not aware of a similar sized unit with a DSI system, this control technology has been used on smaller units that also included fabric filters which contribute to improved efficiency of the DSI system. However, ODEQ's BART determination does not require the installation of a new fabric filter system, which would cost about an additional $100 million, but instead relies on the use of the existing ESP at the Boardman facility. Furthermore, there is additional question regarding DSI performance because of the size of the ducts between the air heater and the ESP. These ducts are much larger at the Boardman Plant than the ducts on smaller power plants where DSI has been demonstrated. This adds to the uncertainty in DSI performance because it is more difficult to adequately disperse the sorbent reagent in larger ducts and still maintain enough residence time for the sorbent to react with the SO_2. Thus, there is some uncertainty as to how well DSI will work on this particular facility. See Regional Haze SIP submittal, Appendix D at D–129, D–169 and D–170 (ODEQ's basis for projected DSI system efficiency).

Although ODEQ concluded that DSI is technically feasible, it also took into consideration that DSI at this size and type of facility may result in unacceptable levels of PM or mercury emissions. This could result in potential additional costs if the levels of these pollutants were high enough to require additional controls. Specifically, ODEQ recognized that a significant increase in PM2.5 emissions was a possible outcome of installing DSI, and that if this occurred, the installation would be subject to the PSD requirements. The resulting BACT or air quality impact analysis would require additional controls which would increase the cost of DSI. Regional Haze SIP submittal, Appendix D at D–142 and D–170. Thus, rather than avoiding other legal requirements, ODEQ considered them in its overall cost effectiveness evaluation

of the technology. ODEQ did not exclude the technology because it might trigger other legal obligation but considered them in the overall evaluation of what was the most reasonable BART for this facility.

Comment: One commenter stated that Oregon did not appropriately consider the lower emission limitation of 0.3 lb/mmBtu (DSI–2) as BART, but instead only considered it to meet reasonable further progress by 2018. The commenter explained that the DSI–2 limitation was not identified as technologically infeasible or cost prohibitive for BART, and that ODEQ has provided no reason why the study of DSI–2 cannot be conducted ''as expeditiously as practicable'' but no later than five years after EPA approves the state SIP.

Response: ODEQ determined that due to uncertainties associated with DSI–1 performance at a large coal fired-facility the size of Boardman without a baghouse, the higher, more conservative limit of 0.40 lb/mmBtu could be achieved with a high degree of certainty in 2014, whereas the lower limit of 0.3 lb/mmBtu would not be achieved with DSI–2 until 2018, when future refinements in the DSI system performance could be achieved, possibly in combination with ultra-low sulfur coal or supplemental fuels, such as biomass. Regional Haze SIP submittal, Appendix D at D–169– D–170; 76 FR 12662. See also response to comment above.

Comment: One commenter stated that loopholes in Oregon's Administrative Rules (OAR 340–223–0010 through 340–223–0080) included provisions that would inappropriately remove the requirement for DSI. In the commenter's view the condition under which DSI would not be required, including a post-BART determination of technical infeasibility or the triggering of additional CAA obligations should not be allowed to preclude the installation of BART, which is by definition technically feasible. The commenter also asks that in approving Oregon's SIP submittal, EPA interpret the conditions contained in OAR 340–223–0030(3) as requiring EPA approval or concurrence with ODEQ's determinations prior to implementation of relaxed standards. Additionally, a commenter questions whether the provision would require or allow any public comment on ODEQ's determination that DSI–1 or DSI–2 is technologically infeasible, would inhibit compliance with Oregon's mercury rules, or would trigger PSD applicability.

Response: As explained above, ODEQ determined that DSI is a technically feasible SO_2 control technology for PGE Boardman and that it can achieve 0.4 lb/mmBtu at a removal efficiency of about 35%. Regional Haze SIP submittal, Appendix D at D–127–128. While ODEQ determined that DSI was technically feasible, it also acknowledged that the technology has only been demonstrated at smaller boilers than the one at the Boardman facility.[4] Thus, the State determined it was appropriate to require additional studies. The rules being approved today provide that technical studies to evaluate the SO_2 limits, and the potential side effects of those limits, must be conducted in accordance with a plan that is preapproved by ODEQ. These studies will fully evaluate and review the effectiveness and use of DSI technology at this facility. See OAR 340–223–0030(2), see also Regional Haze SIP submittal, Attachment 7.2 at 17. The rules first establish a limit of 0.40 lb/mmBtu by July 1, 2014 and 0.30 lb/mmBtu by July 1, 2018. Then the rules describe the specific conditions under which the SO_2 limit of 0.40 lb/mmBtu or 0.30 lb/mmBtu may be exceeded. OAR 340–223–0030(3). Specifically, the rules provide that if upon completion of the specified pilot studies, the results shows that DSI is not capable of achieving the BART limit of 0.4 lb/mmBtu (between July1, 2014 and June 30, 2018) or 0.30 lb/mmBtu (between July 1, 2018 and December 31, 2020), or would prevent compliance with specified mercury limits or cause a significant air quality impact for PM10 or PM2.5, the SO_2 emission limit may be modified up to 0.55lb/mmBtu through a modification to the facility's Title V permit. The rule being approved today is clear as to what conditions must be satisfied in order for the source to exceed the 0.4 lb/mmBtu or 0.3 lb/mmBtu limits. The rule provides, that if applicable, the study may propose a limit that exceeds the 0.4 lb/mmBtu or 0.3 lb/mmBtu limits based on reduction of the sulfur dioxide emission limits to the maximum extent possible through the use of DSI or other SO_2 control system of equal or lower cost, including but not limited to the use of low sulfur coal, provided that the proposed emission limit may not exceed 0.55lb/mmBtu heat input as a 30-day rolling average. The conditions and parameters under which the 0.3 lb/mmBtu or 0.4 lb/mmBtu emission limits may be exceeded, are spelled out in the rule and were considered by EPA in its review of the proposed rule. Those conditions and parameters, including the alternate upper limit of 0.55 lb/mmBtu, are being approved today and additional approval by EPA is not necessary.

Regarding the commenter's concern relating to the opportunity for public input into this potential change in emission limits, the rule allows for the PGE Boardman's Title V operating permit to be modified to include a federally enforceable permit limit based on the performance of DSI demonstrated by the pilot study, as performed according to OAR 340–223–0030(2)(c). Thus, before the 0.4 lb/mmBbtu or 0.3 lb/mmBtu emission limits may be exceeded, the source would need to comply with the conditions in OAR 340–223–0030(3) including submitting a complete application for a Title V permit modification. The permit modification would be considered a significant permit modification under OAR 340–218–0180 and a category 3 permit under Oregon Title V rules. See OAR 340–218–0210(1). A category 3 permit is subject to the procedures in OAR 340–209–0030(3)(c) which include general public notice, opportunity for public comment and EPA review. In addition, the results of the pilot study, the technical basis and the recommended alternative limit would be provided to the public for review and comment during the Title V modification process.

Comment: The commenter also asks EPA to re-evaluate the environmental benefits from Oregon's SIP submittal based on the emission limit and reductions that EPA approval of the SIP would actually require: 0.55 lb/mmBtu, which the Oregon SIP submittal does require to be met, regardless of the results of the pilot studies.

Response: The visibility improvements to Class I areas impacted by PGE Boardman were based on the SO_2 and NO_X BART emission limits to be achieved by 2014, and on further reasonable progress emission limits for SO_2 achieved by 2018. The SO_2 BART limit of 0.40 lb/mmBtu is the applicable limit as of July 1, 2014 unless specific conditions are satisfied and ODEQ approves an alternate limit. See OAR 340–223–0030(2)(c)(E). Additionally, ODEQ explains that an alternate limit must not exceed 0.55 lb/mmBtu in order to achieve at least a 0.5 dv improvement

[4] EPA also recognizes some uncertainty regarding the effectiveness of this control at the Boardman facility. For example, EPA's ''Air Pollution Control Technology Fact Sheet'' states that ''SO_2 removal efficiencies [of DSI] are significantly lower that wet systems, between 50% and 60% for calcium-based sorbents. Sodium- based dry sorbent injection into the duct can achieve up to 80% control efficiencies.'' EPA–452/F–03–034 at 5. EPA realizes that the proposed control limit of 0.4 lb/mmBtu is below the range cited in this fact sheet, but given the larger size of the Boardman boiler and the State's desire not to overload the existing ESP PM control system, EPA believes that the proposed emission limit is reasonable.

in visibility in Mt. Hood Wilderness Area. See Id. and the Regional Haze SIP submittal, Appendix D ''Control Effectiveness'' table at D–168 and text on D–170. Thus, the State considered the visibility improvements associated with a 0.55 lb/mmBtu and the additional analysis requested by the commenter is not necessary.

Comment: One commenter stated that visibility improvements and potential improvements in other non-air quality-related impacts in the region would occur as a result of the installation of SCR at the Boardman facility and should be taken into consideration in determining BART the facility. This commenter further explained that NO_X emissions can contribute to excess nitrogen in ecosystems, which can alter the chemical balance of the soils and waterbodies with serious consequences for plant and animal life. For these reasons, the commenter concluded, ODEQ must require installation of SCR and new low NO_X burners with overfire air as BART for the Boardman facility.

Response: The estimated visibility improvements that could be achieved over current conditions with each combination of technically feasible controls were taken into consideration in determining BART for Boardman. See 76 FR 12611. More specifically, ODEQ determined that LNB and MOFA are BART for NO_X because they are cost effective and provided a 1.45 dv improvement at Mt. Hood Wilderness Area (the most impacted Class I area) and a cumulative visibility improvement of 8.75 dv in all 14 impacted Class I areas. ODEQ determined that DSI is BART for SO_2 because it is cost effective and provides a significant (0.96 dv) improvement at Mt. Hood Wilderness Area and a 7.4 dv improvement in all impacted Class I areas by July 1, 2014. For further comparison of visibility improvement associated with the various control technologies and timeframes see the Regional Haze SIP submittal, Appendix D, at D–169–172. The contribution of the facility's NO_X emissions to excess nitrogen in ecosystems, were not taken into account in the PGE Boardman BART analysis. However, it would be extremely difficult to quantify, or even to qualitatively assess, the impacts of added nitrogen from one source on an ecosystem. The impacts of deposition related effects such as nutrient enrichment and eutrophication vary considerably across ecosystems. EPA does not consider it unreasonable for ODEQ to have not taken these impacts into account in making its BART determination.

Comment: One commenter urged the Department to consider and maintain the 2018 and five year closure options for the Boardman facility. The commenter requested that ODEQ also look at additional cost-benefit and technical analysis for the 2018 option.

Response: ODEQ's final Regional Haze SIP submittal includes rules which allow PGE Boardman to either cease burning coal within five years of EPA's approval of the rules or to cease burning coal by December 31, 2020. PGE must notify ODEQ in writing no later than July 1, 2014 if it chooses to cease coal burning within 5 years of this action. If it chooses that option, one set of emission limits apply; however, if it chooses to continue operating until December 31, 2020, more stringent emission limits apply. A 2018 shutdown option was considered by ODEQ but removed from the final SIP submittal because PGE indicated that it intended to operate the Boardman facility until the end of 2020, and because ODEQ has no authority to require a facility to shut down by a certain date under the BART Rule absent a commitment by the source to do so.

Comment: A commenter stated that the regulation should specify that if PGE continues to operate the Boardman facility as a coal-fired facility after its selected closure deadline the operating permit for the facility shall be deemed void. The commenter also requested that to avoid any uncertainty regarding the availability of relief due to non-compliance, the regulation should explicitly state that the state, EPA and citizens may apply for both injunctive and civil penalty relief.

Response: A violation of a federally enforceable state rule or permit is subject to liability as provided in section 113 of the CAA, 42 USC 7413, and would be addressed as appropriate under applicable state or federal law. Additional language to restate the existing authority is not necessary.

Comment: One commenter requested that EPA correct or remove certain factual statements that were included in the notice of proposed rulemaking. Specifically, the commenter requested changes to state that PGE Boardman is a 617 megawatt (MW) plant instead of 584 MW plant and that it commenced construction on ''December 6, 1979'' instead of in ''1975''.

Response: EPA agrees that the PGE Boardman coal fired power plant is capable of producing about 617 MW of electricity, not 584 MW. According to ODEQ's BART report, construction on the PGE Boardman plant began in 1975. However, the first air contaminant discharge permit from ODEQ to PGE for Boardman was dated December 6, 1979.

Comment: One commenter stated that for the five-year closure option at Boardman, ODEQ should require additional interim controls that would reduce emissions in the remaining five remaining years of operation.

Response: OAR 340–223–0080 provides alternate requirements in the event the owner elects to permanently cease burning coal within five years of EPA's SIP approval. Under this alternative, the NO_X emission limit of 0.23 lb/mmBtu applies beginning July 1, 2011, unless the source satisfies the requirements in OAR 430–223–0080(2)(a) and it is demonstrated by December 31, 2011, that the emission limit of 0.23 lb/mmBtu cannot be achieved with combustion controls, in which case the ODEQ may grant an extension to July 1, 2013. OAR 340–223–080(2)(a).

Comment: One commenter requested that the NO_X, SO_2 and PM emission limits for PGE Boardman include emission limits during startup and shutdown.

Response: The BART rules include do startup and shutdown emission limits for the Boardman facility. See OAR 340–223–0030(1)(d). These limits, which are three-hour rolling averages, are: Sulfur dioxide, 1.20 lb/mmBtu, Nitrogen oxide, 0.70 lb/mmBtu, and particulate matter emissions must be minimized to the extent practicable pursuant to approved startup and shutdown procedures in accordance with OAR 340–214–0310.

Comment: As stated above, NPCA incorporated into their comments a number of comment letters that had previously been submitted to ODEQ. Many of the comments contained in these letters relate to emission limits or comments about technologies associated with the ''no closure'' option provided in prior versions of OAR 340–223–0050, 0060, and 0070, and ODEQ's BART determination based on PGE operating the coal-fired boiler at the Boardman facility until 2040.

Response: The Oregon Regional Haze Plan submitted to EPA included revisions to the State's regional haze rules at OAR 340–223–0010 through 340–223–0080. In this action, EPA is taking final action to approve a revision to the Oregon SIP which incorporates OAR 340–223–0010 through 340–223–0080 and specifically includes OAR 340–223–0030. As provided in OAR 340–223–0050, and as explained in the notice of proposed rulemaking, upon EPA's final approval of OAR 340–223–0030, OAR 340–223–0060 and 340–223–0070 are repealed as a matter of law. 76 FR 12662–12663. Thus, compliance

with the ''no closure option'' or operating until 2040 is no longer an alternative. Therefore, the BART determination associated with that option is no longer relevant and responses to comments regarding it are unnecessary.

III. Final Action

EPA is approving the BART measures in the Oregon Regional Haze plan as meeting the requirements of section 110(a)(2)(D)(i)(II) of the Clean Air Act with respect to the 1997 8-hour ozone and 1997 PM2.5 NAAQS. In addition, EPA is approving portions of the Oregon Regional Haze Plan, submitted on December 20, 2010, as meeting the requirements set forth in section 169A of the Act and in 40 CFR 51.308(e) regarding BART. EPA is also approving the Oregon submittal as meeting the requirements of 40 CFR 51.308(d)(2) and (4)(v) regarding the calculation of baseline and natural conditions for the Mt. Hood Wilderness Area, Mt. Jefferson Wilderness Area, Mt. Washington Wilderness Area, Kalmiopsis Wilderness Area, Mountain Lakes Wilderness Area, Gearhart Mountain Wilderness Area, Crater Lake National Park, Diamond Peak Wilderness Area, Three Sisters Wilderness Area, Strawberry Mountain Wilderness Area, Eagle Cap Wilderness Area, and Hells Canyon Wilderness Area, and the statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal Area.

IV. Oregon Notice Provision

Oregon Revised Statute 468.126, which remains unchanged since EPA last approved Oregon's SIP, prohibits ODEQ from imposing a penalty for violation of an air, water or solid waste permit unless the source has been provided five days' advanced written notice of the violation and has not come into compliance or submitted a compliance schedule within that five-day period. By its terms, the statute does not apply to Oregon's Title V program or to any program if application of the notice provision would disqualify the program from Federal delegation. Oregon has previously confirmed that, because application of the notice provision would preclude EPA approval of the Oregon SIP, no advance notice is required for violation of SIP requirements.

V. Scope of EPA Approval

Oregon has not demonstrated authority to implement and enforce the Oregon Administrative rules within ''Indian Country'' as defined in 18 U.S.C. 1151. ''Indian country'' is defined under 18 U.S.C. 1151 as: (1) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation, (2) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, and (3) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. Under this definition, EPA treats as reservations trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation. Therefore, this SIP approval does not extend to ''Indian Country'' in Oregon. See CAA sections 110(a)(2)(A) (SIP shall include enforceable emission limits), 110(a)(2)(E)(i) (State must have adequate authority under State law to carry out SIP), and 172(c)(6) (nonattainment SIPs shall include enforceable emission limits).

VI. Statutory and Executive Orders Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the rule neither imposes substantial direct compliance costs on tribal governments, nor preempts tribal law. Therefore, the requirements of section 5(b) and 5(c) of the Executive Order do not apply to this rule. Consistent with EPA policy, EPA nonetheless provided a consultation opportunity to Tribes in Idaho, Oregon and Washington in letters dated January 14, 2011. EPA received one request for consultation, and we have followed-up with that Tribe. This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 rule 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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *September 6, 2011.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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. This action 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, Intergovernmental relations, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Visibility, and Volatile organic compounds.

Dated: June 17, 2011.

Dennis J. McLerran,

Regional Administrator, Region 10.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart MM—Oregon

■ 2. Section 52.1970 is amended by adding and reserving paragraph (c)(150), and adding paragraph (c)(151) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(150) [Reserved]

(151) On December 20, 2010, the Oregon Department of Environmental Quality submitted a SIP revision to meet the regional haze requirements of Clean Air Act section 169A and the interstate transport requirements of Clean Air Act section 110(a)(2)(D)(i)(II) as it applies to visibility for the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS.

(i) Incorporation by reference.

(A) December 10, 2010, letter from ODEQ to the Oregon Secretary of State requesting filing of permanent rule amendments to OAR 340–223.

(B) December 10, 2010, filed copy of State ''Certificate and Order for Filing'' verifying the effective date of December 10, 2010, for OAR 340–223–0010, OAR 340–223–0020, OAR 340–223–0030, OAR 340–223–0040, OAR 340–223–0050 and OAR 340–223–0080.

(C) The following revised sections of the Oregon Administrative Rules, Chapter 340:

(*1*) 340–223–0010 Purpose of Rules, effective December 10, 2010.

(*2*) 340–223–0020 Definitions, effective December 10, 2010.

(*3*) 340–223–0030 BART and Additional Regional Haze Requirements for the Foster-Wheeler Boiler at the Boardman Coal-Fired Power Plant (Federal Acid Rain Program Facility ORISPL Code 6106), effective December 10, 2010.

(*4*) 340–223–0040 Federally Enforceable Permit Limits, effective December 10, 2010.

(*5*) 340–223–0050 Alternative Regional Haze Requirements for the Foster-Wheeler Boiler at the Boardman Coal-Fired Power Plant (Federal Acid Rain Program Facility ORISPL Code 6106), effective December 10, 2010.

(*6*) 340–223–0080 Alternative Requirements for the Foster-Wheeler Boiler at the Boardman Coal-Fired Power Plant (Federal Acid Rain Program Facility ORISPL code 6106) Based Upon Permanently Ceasing the Burning of Coal Within Five Years of EPA Approval of the Revision to the Oregon Clean Air Act State Implementation Plan Incorporating OAR Chapter 340, Division 223, effective December 10, 2010.

(ii) Additional material.

(A) The portion of the SIP revision relating to statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal Area and the calculation of baseline and natural visibility conditions in Oregon Class I areas, and determination of current and 2018 visibility conditions in Oregon Class I areas.

(B) [Reserved]

■ 3. Section 52.1973 is amended by adding paragraph (g) to read as follows:

§ 52.1973 Approval of plans.

* * * * *

(g) *Visibility protection.* (1) EPA approves portions of a Regional Haze SIP revision submitted by the Oregon Department of Environmental Quality on December 20, 2010, and adopted by the Oregon Department of Environmental Quality Commission on December 9, 2010, as meeting the requirements of Clean Air Act section 169A and 40 CFR 51.308(e) regarding Best Available Retrofit Technology. The SIP revision also meets the requirements of 40 CFR 51.308(d)(2) and (d)(4)(v) regarding the calculation of baseline and natural conditions for the Mt. Hood Wilderness Area, Mt. Jefferson Wilderness Area, Mt Washington Wilderness Area, Kalmiopsis Wilderness Area, Mountain Lakes Wilderness Area, Gearhart Mountain Wilderness Area, Crater Lake National Park, Diamond Peak Wilderness Area, Three Sisters Wilderness Area, Strawberry Mountain Wilderness Area, Eagle Cap Wilderness Area, and Hells Canyon Wilderness Area, and the statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal Area. The SIP revision also meets the requirements of Clean Air Act section 110(a)(2)(D)(i)(II) as it applies to visibility for the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS.

(2) [Reserved]

■ 4. Section 52.1989 is amended by adding paragraph (b) to read as follows:

§ 52.1989 Interstate Transport for the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS.

* * * * *

(b) On December 20, 2010, the Oregon Department of Environmental Quality submitted a Regional Haze SIP revision, adopted by the Oregon Environmental Quality Commission on December 9, 2010. EPA approves the portion of this submittal relating to section 110(a)(2)(D)(i)(II) as it applies to visibility for the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS. The SIP revision also meets the requirements of Clean Air Act section 169A and 40 CFR 51.308(e) regarding Best Available Retrofit Technology and the requirements of 40 CFR 51.308(d)(2) and (d)(4)(v) regarding the calculation of baseline and natural conditions for the Mt. Hood Wilderness Area, Mt. Jefferson Wilderness Area, Mt Washington Wilderness Area, Kalmiopsis Wilderness Area, Mountain Lakes Wilderness Area, Gearhart Mountain Wilderness Area, Crater Lake National Park, Diamond Peak Wilderness Area, Three Sisters Wilderness Area, Strawberry Mountain Wilderness Area, Eagle Cap Wilderness Area, and Hells Canyon Wilderness Area, and the statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal Area.

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