

scenarios where a veteran might claim a mental health disorder secondary to service-connected ED. VA agrees with the commenter's assessment that any mental disorder related to ED would be a separate claim and would require its own diagnosis, service connection, and disability evaluation under 38 CFR 4.130.

B. 38 CFR 4.14, Co-Morbidities, and Pyramiding

One commenter suggested that an example of pyramiding (38 CFR 4.14) is always helpful. The commenter wanted to examine a case scenario where a veteran with service-connected bladder cancer also has a separate service-connected primary prostate cancer. The commenter asked what would be an example of non-overlapping symptomatology warranting separate evaluations. The rating schedule evaluates bladder and prostate cancer under DC 7528, entitled Malignant Neoplasms of the Genitourinary System. VA did not propose to change the rating criteria for DC 7528. Therefore, this issue is not within the scope of this rulemaking.

The same commenter asked how VA would rate a surgical resection for a necrotic penis in end stage renal disease involving less than one half of the penis. VA assigns evaluations for service-connected disabilities in accordance with the rating schedule and based on the individual facts and medical evidence of record. As such, it cannot comment on how disabilities in particular hypothetical circumstances would be rated and finds this comment outside the scope of this rulemaking.

The same commenter also had several questions regarding the proposed transplant list provision in 38 CFR 4.115a. The commenter wanted to examine a case scenario where a veteran with hepatitis C and alcohol-related cirrhosis was placed on the transplant list but later was service-connected for kidney cancer due to Camp Lejeune service and then receives a transplant. The commenter wanted to know how the rater would determine if the transplant was due to the non-service-connected conditions and not the presumptive cancer given overlapping symptoms. Cirrhosis and kidney cancer involve two separate body systems. Cirrhosis is a liver condition, which is part of the digestive system, whereas kidney cancer is part of the genitourinary system. To the extent the commenter is describing a scenario in which a veteran was on both liver and kidney transplant lists, separation of symptomatology for two or more conditions for evaluation purposes is

made on a case-by-case in accordance with the evidence of record. VA is not proposing to change the way two separate body systems' conditions are rated. Therefore, this issue is not within the scope of this proposed rulemaking.

C. Incorrect Rulemaking

One commenter submitted a comment to the ED-2015-OSERS-001-1167 regulation published by the Office of Special Education & Rehabilitative Services in error.

VII. Comment Regarding Public Access

One commenter suggested that VA should provide transcripts, minutes, or other materials obtained from subject matter experts and the public gathered during a public forum held on January 27-28, 2011.

In the preamble to the proposed rule, VA included a general summary provision referencing the public forum in January 2011. *See* 82 FR at 35140. The goals of the forum were to improve and update VASRD criteria, and invite public participation; this process included presentations on areas of expertise and interaction with the public. (A transcript of this public forum is on file and available for public inspection in the Office of Regulation and Policy Management. Contact information for that office is noted in the ADDRESSES section of the proposed rule. *See* 82 FR at 35140.) The public forum and working group process served as an initial call to various subject matter experts and Veterans Service Organizations to provide a preliminary review of the VASRD from both internal and external stakeholders.

VA emphasizes that this review of the VASRD was not an opportunity for external stakeholders to participate in the deliberative rulemaking process; the public forum discussed the general topic of the VASRD body system and provided feedback on the areas that were subject to advances since the last major revision of the body system. To this end, VA notes that, where changes to the scientific and/or medical nature of a given condition were made in the proposed rule, VA cited the published, publicly-available source for each change. Not only does this provide the public with access to the source for a given proposed change, it also ensures that VA relied upon peer-reviewed scientific and medical information to support a given change. While similar information may have been presented at the public forum, VA relied upon the published document(s) as the primary source for a change and included such sources in the administrative record for this rulemaking. VA did not propose

scientific and/or medical changes to the VASRD in the absence of publicly available, peer-reviewed sources.

Accordingly, any references in the proposed rule to the working group phase, to include the public forum, serve as an explanatory background and introduction to the VASRD rewrite project; the changes made by this rulemaking are not a reflection of any presenter or work group member. All proposed changes based on scientific and/or medical information are a reflection of cited, published materials which are available to the public. VA has made all deliberative materials available (via citation in the rulemaking) and is providing access to materials from the public forum available for public inspection at the Office of Regulation Policy and Management.

Signing Authority

The Secretary of Veterans Affairs approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on February 13, 2019, for publication.

Dated: February 26, 2019.

Consuela Benjamin,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2019-03748 Filed 3-4-19; 8:45 am]

BILLING CODE 8320-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2018-0235-; FRL-9988-59-Region 8]

Approval and Promulgation of Air Quality Implementation Plans; State of Montana; Missoula PM₁₀ Nonattainment Area Limited Maintenance Plan and Redesignation Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to fully approve the Limited Maintenance Plan (LMP), submitted by the State of Montana to the EPA on August 3, 2016, for the Missoula moderate particulate matter with an aerodynamic diameter less than or equal to a nominal 10

micrometers (PM₁₀) nonattainment area (Missoula NAA) and concurrently redesignate the Missoula NAA to attainment of the 24-hour PM₁₀ National Ambient Air Quality Standard (NAAQS). In order to approve the LMP and redesignation, the EPA is proposing to determine that the Missoula NAA has attained the 1987 24-hour PM₁₀ NAAQS of 150 µg/m³. This determination is based upon monitored air quality data for the PM₁₀ NAAQS during the years 2015–2017. The EPA is also proposing to approve the Missoula LMP as meeting the appropriate transportation conformity requirements. Lastly, the EPA is proposing to approve certain rule revisions the Missoula City-County Air Pollution Control Program submitted on August 3, 2016 and August 22, 2018.

DATES: Written comments must be received on or before April 4, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2018–0235 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air Program, U.S. Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado

80202–1129. The 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, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT:

James Hou, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6210, [hou.james@epa.gov](mailto:houl.james@epa.gov).

SUPPLEMENTARY INFORMATION:

Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

A. Description of the Missoula Nonattainment Area

The Missoula NAA encompasses the City of Missoula and was designated nonattainment for the 1987 24-hour PM₁₀ NAAQS and classified as moderate under section 107(d)(4)(B), following enactment of the Clean Air Act (CAA) Amendments of 1990. *See* 56 FR 56694 (November 6, 1991). States containing initial moderate PM₁₀ nonattainment areas were required to submit, by November 15, 1991, a moderate nonattainment area State Implementation Plan (SIP) that, among other requirements, implemented Reasonably Available Control Measures (RACM) by December 10, 1993, and demonstrated whether it was practicable to attain the PM₁₀ NAAQS by December 31, 1994. *See generally* 57 FR 13498 (April 16, 1992); *see also* 57 FR 18070 (April 28, 1992).

The State of Montana submitted an initial PM₁₀ SIP to the EPA on August 21, 1991, and subsequently submitted three additional submittals between 1991 and 1994. The State of Montana’s SIP for the Missoula moderate nonattainment area included, among other things: a comprehensive emissions inventory; RACM; a demonstration that attainment of the PM₁₀ NAAQS would be achieved in Missoula by December 31, 1994; Reasonable Further Progress (RFP) requirements; and control measures that satisfy the contingency measures requirement of section 172(c)(9) of the CAA. The EPA fully approved the Missoula NAA PM₁₀ attainment plan on August 30, 1995 (60 FR 45051).

II. Requirements for Redesignation

A. CAA Requirements for Redesignation of Nonattainment Areas

Nonattainment areas can be redesignated to attainment after the area has measured air quality data showing it has attained the NAAQS and when certain planning requirements are met. Section 107(d)(3)(E) of the CAA, and the General Preamble to Title I provide the criteria for redesignation. *See* 57 FR 13498 (April 16, 1992). These criteria are further clarified in a policy and guidance memorandum from John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards dated September 4, 1992, “Procedures for Processing Requests to Redesignate Areas to Attainment.”¹ The criteria for redesignation are:

(1) The Administrator has determined that the area has attained the applicable NAAQS;

(2) The Administrator has fully approved the applicable SIP for the area under section 110(k) of the CAA;

(3) The state containing the area has met all requirements applicable to the area under section 110 and part D of the CAA;

(4) The Administrator has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions; and

(5) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA.

B. The LMP Option for PM₁₀ Nonattainment Areas

On August 9, 2001, the EPA issued guidance on streamlined maintenance plan provisions for certain moderate PM₁₀ nonattainment areas seeking redesignation to attainment (Memo from Lydia Wegman, Director, Air Quality Standards and Strategies Division, entitled “Limited Maintenance Plan Option for Moderate PM₁₀ Nonattainment Areas,” (hereafter the LMP Option memo)).² The LMP Option memo contains a statistical demonstration that areas meeting certain air quality criteria will, with a

¹ The “Procedures for Processing Requests to Redesignate Areas to Attainment” (Calcagni memo) outlines the criteria for redesignation. The Calcagni memo can be found at https://www.epa.gov/sites/production/files/2016-03/documents/calcagni_memo_-_procedures_for_processing_requests_to_redesignate_areas_to_attainment_090492.pdf.

² The “Limited Maintenance Plan Option for Moderate PM₁₀ Nonattainment Areas” outlines the criteria for development of a PM₁₀ limited maintenance plan and can be found at <https://www.epa.gov/sites/production/files/2016-06/documents/2001lmp-pm10.pdf>.

high degree of probability, maintain the standard 10 years into the future. Thus, the EPA has already provided the maintenance demonstration for areas meeting the criteria outlined in the LMP Option memo. It follows that future year emission inventories for these areas, and some of the standard analyses to determine transportation conformity with the SIP are no longer necessary.

To qualify for the LMP Option, the area should have attained the 1987 24-hour PM₁₀ NAAQS, based upon the most recent 5 years of air quality data at all monitors in the area, and the 24-hour design value should be at or below the Critical Design Value (CDV). The CDV is a calculated design value that indicates that the area has a low probability (1 in 10) of exceeding the NAAQS in the future. For the purposes of qualifying for the LMP option, a presumptive CDV of 98 µg/m³ is most often employed, but an area may elect to use a site-specific CDV should the average design value be above 98 µg/m³, while demonstrating that the area has a low probability of exceeding the NAAQS in the future. The annual PM₁₀ standard was effectively revoked on December 18, 2006 (71 FR 61143), and as such will not be discussed as a requirement for qualifying for the LMP option. In addition, the area should expect only limited growth in on-road motor vehicle PM₁₀ emissions (including fugitive dust) and should have passed a motor vehicle regional emissions analysis test. The LMP Option memo also identifies core provisions that must be included in the LMP. These provisions include an attainment year emissions inventory,

assurance of continued operation of an EPA-approved air quality monitoring network, and contingency provisions.

C. Conformity Under the LMP Option

The transportation conformity rule (40 CFR parts 51 and 93) and the general conformity rule (40 CFR parts 51 and 93) apply to nonattainment areas and maintenance areas covered by an approved maintenance plan. Under either conformity rule, an acceptable method of demonstrating that a federal action conforms to the applicable SIP is to demonstrate that expected emissions from the planned action are consistent with the emissions budget for the area.

While the EPA's LMP Option does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate conformity without submitting an emissions budget. Under the LMP Option, emissions budgets are treated as essentially not constraining for the length of the maintenance period because it is unreasonable to expect that the qualifying areas would experience so much growth in that period that a violation of the PM₁₀ NAAQS would result. For transportation conformity purposes, the EPA would conclude that emissions in these areas need not be capped for the maintenance period; and therefore, a regional emissions analysis would not be required. Similarly, federal actions subject to the general conformity rule could be considered to satisfy the "budget test" specified in 40 CFR 93.158(a)(5)(i)(A) for the same reasons that the budgets are essentially considered not limited.

III. Review of the Montana State Submittal Addressing the Requirements for Redesignation and Limited Maintenance Plans

A. Has the Missoula NAA attained the applicable NAAQS?

States must demonstrate that an area has attained the 24-hour PM₁₀ NAAQS through analysis of ambient air quality data from an ambient air monitoring network representing peak PM₁₀ concentrations. The data should be stored in the EPA Air Quality System (AQS) database. The EPA is proposing to determine that the Missoula NAA has attained the PM₁₀ NAAQS based on monitoring data from calendar years 2015–2017. The 24-hour standard is attained when the expected number of days with levels above 150 µg/m³ (averaged over a 3-year period) is less than or equal to one. 40 CFR 50.6(a). Three consecutive years of air quality data are generally necessary to show attainment of the 24-hour and annual standards for PM₁₀. See 40 CFR part 50, appendix K. A complete year of air quality data, as referred to in 40 CFR part 50, appendix K, is comprised of all four calendar quarters with each quarter containing data from at least 75% of the scheduled sampling days.

The Missoula NAA has one State and Local Air Monitoring Station (SLAMS) monitor operated by the Montana Department of Environmental Quality (MDEQ). Table 1 summarizes the PM₁₀ data collected from 2013–2017. The EPA deems the data collected from this monitor valid, and the data has been submitted by the MDEQ to be included in AQS.

TABLE 1—SUMMARY OF MAXIMUM 24-HOUR PM₁₀ CONCENTRATIONS (µg/m³) FOR MISSOULA 2013–2017

Year	Maximum concentration (µg/m ³)	2nd maximum concentration (µg/m ³)	Number of exceedances	Monitoring site
Based on Data from Boyd Park Station, AQS Identification Number 30–063–0024				
2013	59	58	0	Boyd Park.
2014	92	88	0	Boyd Park.
2015	90	78	0	Boyd Park.
2016	73	65	0	Boyd Park.
2017	86	86	0	Boyd Park.

The PM₁₀ concentrations reported at the Missoula monitoring site showed no measured exceedances of the 24-hour PM₁₀ NAAQS, and as such, the EPA proposes to determine that the Missoula Moderate NAA has attained the standard for the 24-hour PM₁₀ NAAQS.

B. Does the Missoula NAA have a fully approved SIP under CAA section 110(k)?

In order to qualify for redesignation, the SIP for the area must be fully approved under CAA section 110(k) and must satisfy all requirements that apply to the area. Section 189 of the CAA contains requirements and milestones for all initial moderate nonattainment

area SIPs including: (1) Provisions to assure that RACM (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of Reasonably Available Control Technology—RACT) shall be implemented no later than December 10, 1993; (2) A demonstration (including air quality modeling) that the

plan will provide for attainment as expeditiously as practicable by no later than December 31, 1994, or, where the state is seeking an extension of the attainment date under section 188(e), a demonstration that attainment by December 31, 1994, is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable (CAA sections 189(a)(1)(A)); (3) Quantitative milestones which are to be achieved every 3 years and which demonstrate RFP toward attainment by December 31, 1994, (CAA sections 172(c)(2) and 189(c)); and (4) Contingency measures to be implemented if the area fails to make RFP or attain by its attainment deadline. These contingency measures are to take effect without further action by the State or the EPA. (CAA section 172(c)(9)).

On August 30, 1995, the EPA approved Missoula moderate area plan including RACM, an attainment demonstration, emissions inventory, quantitative milestones, and control and contingency measure requirements. As such, the area has a fully approved nonattainment area SIP under section 110(k) of the CAA. 60 FR 45051.

C. Has the State met all applicable requirements under Section 110 and Part D of the CAA?

Section 107(d)(3)(E) of the CAA requires that a state containing a nonattainment area must meet all applicable requirements under section 110 and Part D of the CAA for an area to be redesignated to attainment. The EPA interprets this to mean that the state must meet all requirements that applied to the area prior to, and at the time of, the submission of a complete redesignation request. The following is a summary of how Montana meets these requirements.

(1) CAA Section 110 Requirements

Section 110(a)(2) of the CAA contains general requirements for state implementation plans. These requirements include, but are not limited to, submittal of a SIP that has been adopted by the state after reasonable notice and public hearing; provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality; implementation of a permit program; provisions for Part C—Prevention of Significant Deterioration (PSD) and Part D—New Source Review (NSR) permit programs; criteria for stationary source emission control measures, monitoring and reporting, provisions for modeling; and provisions for public and local agency

participation. See the General Preamble for further explanation of these requirements. 57 FR 13498 (April 16, 1992).

For purposes of redesignation, the EPA's review of the Montana SIP shows that the State has satisfied all requirements under section 110(a)(2) of the CAA. Further, in 40 CFR 52.1372, the EPA has approved Montana's plan for the attainment and maintenance of the national standards under section 110.

(2) Part D Requirements

Part D contains general requirements applicable to all areas designated nonattainment. The general requirements are followed by a series of subparts specific to each pollutant. All PM₁₀ nonattainment areas must meet the general provisions of Subpart 1 and the specific PM₁₀ provisions in Subpart 4, "Additional Provisions for Particulate Matter Nonattainment Areas." The following paragraphs discuss these requirements as they apply to the Missoula NAA.

(3) Subpart 1, Section 172(c)

Subpart 1, section 172(c) contains general requirements for nonattainment area plans. A thorough discussion of these requirements may be found in the General Preamble. See 57 FR 13538 (April 16, 1992). CAA section 172(c)(2) requires nonattainment plans to provide for RFP. Section 171(1) of the CAA defines RFP as "such annual incremental reductions in emissions of the relevant air pollutant as are required by this part (part D of title I) or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date." Since the EPA is proposing to determine that the Missoula NAA is in attainment of the PM₁₀ NAAQS, we believe that no further showing of RFP or quantitative milestones is necessary.

(4) Section 172(c)(3)—Emissions Inventory Section

Section 172(c)(3) of the CAA requires a comprehensive, accurate, current inventory of actual emissions from all sources in the Missoula PM₁₀ nonattainment area. Montana included an emissions inventory for the calendar year 2010 with its August 3, 2016 submittal of the LMP for the Missoula NAA. The LMP Option memo states that an attainment inventory should represent emissions during the same 5-year period associated with the air quality data used to determine that the area meets the applicability

requirements of the LMP option. The Missoula LMP includes an emission inventory from 2010, representative of the 2009–2013 5-year period which served as the 5-year period relied upon in the Missoula LMP as meeting the air quality data requirements of the LMP option memo. The LMP option memo goes on to state that "If the attainment inventory year is not one of the most recent 5 years, but the State can show that the attainment inventory did not change significantly during that 5-year period, it may still be used to satisfy the policy." An evaluation of the Missoula County 2011 National Emissions Inventory (NEI) compared to the Missoula County 2014 NEI indicates that the county experienced a roughly 50% decrease in PM₁₀ emissions. When comparing the 2011 NEI to the 2014 NEI and removing wildfires from both inventories, the area still experienced a decrease in PM₁₀ emissions. Noting the overall decrease in PM₁₀ emissions for Missoula County, the 2010 base year emissions inventory represents a current, accurate and comprehensive emission inventory; and therefore, meets the requirements of Section 172(c)(3) of the CAA.

(5) Section 172(c)(5)—NSR

The 1990 CAA Amendments contained revisions to the NSR program requirements for the construction and operation of new and modified major stationary sources located in nonattainment areas. The CAA requires states to amend their SIPs to reflect these revisions, but does not require submittal of this element along with the other SIP elements. The CAA established June 30, 1992, as the submittal date for the revised NSR programs (Section 189 of the CAA).

Montana has a fully approved nonattainment NSR program, most recently approved on August 30, 1995 (60 FR 45051). Montana also has a fully approved PSD program, most recently approved on August 30, 1995 (60 FR 45051). Upon the effective date of redesignation of an area from nonattainment to attainment, the requirements of the Part D NSR program will be replaced by the PSD program and the maintenance area NSR program.

(6) Section 172(c)(7)—Compliance with CAA Section 110(a)(2): Air Quality Monitoring Requirements

Once an area is redesignated, the state must continue to operate an appropriate air monitoring network in accordance with 40 CFR part 58 to verify attainment status of the area. The State of Montana and the City of Missoula operate one PM₁₀ SLAMS in the Missoula NAA. The

Boyd Park monitoring site meets EPA SLAMS network design and siting requirements set forth at 40 CFR part 58, appendices D and E. In Section 7.3 of the LMP that we are proposing to approve, the State commits to continued operation of the monitoring network.

(7) Section 172(c)(9)—Contingency Measures

The CAA requires that contingency measures take effect if the area fails to meet RFP requirements or fails to attain the NAAQS by the applicable attainment date. Since the Missoula NAA attained the 1987 24-hour PM₁₀ NAAQS by the applicable attainment date of December 31, 1994, contingency measures are no longer required under Section 172(c)(9) of the CAA. However, contingency provisions are required for maintenance plans under Section 175(a)(d). We describe the contingency provisions Montana provided in the Missoula LMP below.

(8) Part D Subpart 4

Part D Subpart 4, Section 189(a), (c) and (e) requirements apply to any moderate nonattainment area before the area can be redesignated to attainment. The requirements which were applicable prior to the submission of the request to redesignate the area must be fully approved into the SIP before redesignating the area to attainment. These requirements include: (a) Provisions to assure that RACM was implemented by December 10, 1993; (b) Either a demonstration that the plan provided for attainment as expeditiously as practicable but not later than December 31, 1994, or a demonstration that attainment by that date was impracticable; (c) Quantitative milestones which were achieved every 3 years and which demonstrate RFP toward attainment by December 31, 1994; and (d) Provisions to assure that the control requirements applicable to major stationary sources of PM₁₀ also apply to major stationary sources of PM₁₀ precursors except where the Administrator determined that such sources do not contribute significantly to PM₁₀ levels which exceed the NAAQS in the area. These provisions were fully approved into the SIP upon the EPA's approval of the PM₁₀ moderate area plan for the Missoula NAA on August 30, 1995 (see 60 FR 45051).

D. Has the State demonstrated that the air quality improvement is due to permanent and enforceable reductions?

The state must be able to reasonably attribute the improvement in air quality to permanent and enforceable emission

reductions. In making this showing, the state must demonstrate that air quality improvements are the result of actual enforceable emission reductions. This showing should consider emission rates, production capacities, and other related information. The analysis should assume that sources are operating at permitted levels (or historic peak levels) unless evidence is presented that such an assumption is unrealistic. Permanent and enforceable control measures in the Missoula NAA SIP include RACM. Emission sources in the Missoula NAA have been implementing RACM for at least 10 years. The State demonstrated that, by applying control measures for outdoor burning, controlling fugitive particulates from street sweeping and sanding, establishing paving requirements within the Air Stagnation Zone, restricting the use of solid fuel burning devices, establishing permit requirements for stationary sources (*e.g.*, emission control requirements and opacity restrictions), and prohibiting visible emissions from four-cycle gasoline powered vehicles, Missoula has effectively controlled PM₁₀ emissions from the largest contributing source categories of PM₁₀. Specifically, the Missoula NAA has not experienced a violation of the PM₁₀ NAAQS since 1989, reasonably indicating that the attainment of the PM₁₀ NAAQS is both permanent and enforceable.

Areas that qualify for the LMP will meet the NAAQS, even under worst case meteorological conditions. Under the LMP option, the maintenance demonstration is presumed to be satisfied if an area meets the qualifying criteria. Thus, by qualifying for the LMP, Montana has demonstrated that the air quality improvements in the Missoula area are the result of permanent emission reductions and not a result of either economic trends or meteorology. A description of the LMP qualifying criteria and how the Missoula area meets these criteria is provided in the following section.

E. Does the area have a fully approved maintenance plan pursuant to Section 175A of the CAA?

In this action, we are proposing to approve the Limited Maintenance Plan in accordance with the principles outlined in the LMP Option.

F. Has the State demonstrated that the Missoula NAA qualifies for the LMP Option?

The LMP Option memo outlines the requirements for an area to qualify for the LMP Option. First, the area should be attaining the NAAQS. As stated above in Section III.A., the EPA has

determined that the Missoula NAA is attaining the PM₁₀ NAAQS, based upon 2013–2017 data, and has had no exceedances between the years 2013–2017.

Second, the average design value (ADV) for the past 5 years of monitoring data (2013–2017) must be at or below the CDV. As noted in Section II.B., the CDV is a margin of safety value and is the value at which an area has been determined to have a 1 in 10 probability of exceeding the NAAQS. The LMP Option memo provides two methods for review of monitoring data for the purpose of qualifying for the LMP option. The first method is a comparison of a site's ADV with the CDV of 98 µg/m³ for the 24-hour PM₁₀ NAAQS. A second method that applies to the 24-hour PM₁₀ NAAQS is the calculation of a site-specific CDV and a comparison of the site-specific CDV with the ADV for the past 5 years of monitoring data. Table 2 outlines the design values for the years 2013–2017, and presents the ADV.

Table 3 summarizes a total of 19 wildfire related events that were excluded from the calculated design values in Table 2. This table includes regionally concurred exceptional events, as well as values between 98 µg/m³ and 155 µg/m³ which were treated in a manner analogous to exceedance data under the Exceptional Events Rule (EER) for the purpose of determining the LMP option eligibility.³ The EER can be found in 40 CFR 50.14 and 40 CFR 51.930, and outlines the requirements for the treatment of monitored air quality data that has been heavily influenced by an exceptional event. 40 CFR 50.14(j) defines an exceptional event as an event which affects air quality, is not reasonably controllable or preventable, is an event caused by human activity that is unlikely to recur at a particular location or a natural event and is determined by the Administrator in accordance with 40 CFR 50.14 to be an exceptional event. Exceptional events do not include stagnation of air masses or meteorological inversions, meteorological events involving high temperatures or lack of precipitation, or air pollution relating to source noncompliance. 40 CFR 50.14(b) states that the EPA shall exclude data from use in determinations of exceedances and NAAQS violations where a state demonstrates to the EPA's satisfaction that an exceptional event caused a specific air pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location and otherwise satisfies the requirements of section 50.14.

The Table 3 values between 98 µg/m³ and 155 µg/m³, were treated in a manner analogous to the exceedance data under the EER but will remain in the Air Quality System database for use in calculating DV's for every purpose besides determining LMP eligibility.³ Supporting documentation of EPA's concurrence with the 19 wildfire related events can be found in the docket.⁴

TABLE 2—SUMMARY OF 24-HOUR PM₁₀ DESIGN VALUES (µg/m³) FOR MISSOULA 2013–2017

Design value years	Design value (µg/m ³)	Monitoring site
Based on Data from Boyd Park Station, AQS Identification Number 30–063–0024		
2013–2015	78	Boyd Park
2014–2016	78	Boyd Park.
2015–2017	86	Boyd Park.
Average DV based on highest DVs.		81

TABLE 3—24-HOUR PM₁₀ EVENTS EXCLUDED FROM 2013–2017 DESIGN VALUES

Date	24-hour value (µg/m ³)	Monitoring site
8/15/2015	133	Boyd Park.
8/20/2105	101	Boyd Park.
8/21/2105	116	Boyd Park.
8/24/2015	104	Boyd Park.
8/25/2015	120	Boyd Park.
8/26/2015	104	Boyd Park.
8/27/2015	119	Boyd Park.
8/28/2015	* 181	Boyd Park.
8/29/2015	* 276	Boyd Park.
8/12/2017	105	Boyd Park.
8/23/2017	129	Boyd Park.
8/29/2017	105	Boyd Park.
8/30/2017	108	Boyd Park.
9/4/2017	* 233	Boyd Park.
9/5/2017	107	Boyd Park.
9/6/2017	* 158	Boyd Park.
9/7/2017	* 201	Boyd Park.
9/8/2017	* 193	Boyd Park.
9/9/2017	103	Boyd Park.

* EPA-Concurred Exceptional Events.

The ADV for the 24-hour PM₁₀ NAAQS for Missoula, based on data

³ Update on Application of the Exceptional Events Rule to the PM₁₀ Limited Maintenance Plan Option, US EPA, William T. Harnett, Director, Air Quality Policy Division, OAQPS, May 7, 2009.

⁴ February 8, 2019 letter to MDEQ, Re: Exceptional Events Requests Regarding Exceedances of the 24-hour PM₁₀ NAAQS and the LMP Eligibility Threshold at Montana Monitoring Sites with PM₁₀ Nonattainment Areas; and November 1, 2018 letter to MDEQ, Re: Request for EPA concurrence on exceptional event claims for fine (PM_{2.5}) and coarse (PM₁₀) particulate matter data impacted by wildfires in 2015 and 2016.

from the collocated SLAMS monitors for the years 2013–2017, is 81 µg/m³. This value falls below the presumptive 24-hour CDV of 98 µg/m³. Therefore, Missoula meets the design value criteria outlined in the LMP Option memo. For the 2013–2017 ADV calculations for PM₁₀ in Missoula, please see the supporting documents in the docket.⁵

Third, the area must meet the motor vehicle regional emissions analysis test in attachment B of the LMP Option memo. Using the methodology outlined in the memo, based on monitoring data for the period 2015–2017, the EPA has determined that the Missoula NAA passes the motor vehicle regional emissions analysis test, with a projected DV of 90.3 µg/m³ after 10 years, attributable to motor vehicle emission growth. For the calculations used to determine that Missoula has passed the motor vehicle regional analysis test, see the supporting documents in the docket.⁶

The monitoring data for the period 2015–2017 shows that Missoula has attained the 24-hour NAAQS for PM₁₀, and the 24-hour ADV for Missoula is less than the 24-hour PM₁₀ CDV. Finally, the area has met the regional vehicle emissions analysis test. Thus, the Missoula NAA qualifies for the LMP Option described in the LMP Option memo. The LMP Option memo also indicates that once a state selects the LMP Option and it is in effect, the state will be expected to determine, on an annual basis, that the LMP criteria are still being met. If the state determines that the LMP criteria are not being met, it should take action to reduce PM₁₀ concentrations enough to requalify for the LMP. One possible approach the state could take is to implement contingency measures. Please see Section 6.3. for a description of contingency provisions submitted as part of the State's submittal.

G. Does the State have an approved attainment emissions inventory which can be used to demonstrate attainment of the NAAQS?

The state's approved attainment plan should include an emissions inventory (attainment inventory) which can be used to demonstrate attainment of the NAAQS. The inventory should represent emissions during the same 5-year period associated with air quality data used to determine whether the area meets the applicability requirements of

⁵ See memo to file dated October 23, 2018 titled "PM₁₀ 24-hour Design Concentration for Missoula Montana."

⁶ See memo to file dated October 24, 2018 titled "Missoula Motor Vehicle Regional Emissions Analysis."

the LMP Option. The state should review its inventory every 3 years to ensure emissions growth is incorporated in the attainment inventory if necessary. In this instance, Montana completed an attainment year inventory for the attainment year 2010. The EPA has reviewed the 2010 emissions inventory and determined that it is current, accurate and complete. The EPA has also reviewed monitoring data for the years 2013–2017 and determined that the 2010 emissions inventory is representative of the attainment year inventory since the NAAQS was not violated during 2010. In addition, the emissions inventory submitted with the LMP for the calendar year 2010 is representative of the level of emissions during the time period used to calculate the average design value since 2010 is included in the 5-year period used to calculate the design value (2013–2017).

H. Does the LMP include an assurance of continued operation of an appropriate EPA-approved air quality monitoring network, in accordance with 40 CFR part 58?

A PM₁₀ monitoring network was established in the Missoula NAA in the 1980's and has been developed and maintained in accordance with federal siting and design criteria in 40 CFR part 58, Appendices D and E and in consultation with the EPA Region 8. In 2009 the Health Department monitoring site was discontinued, leaving the Boyd Park as the one PM₁₀/PM_{2.5} SLAMS/ National Air Monitoring Stations (NAMS) monitors for the Missoula NAA. In Section 7.3 of the Missoula LMP, Montana states that it will continue to operate its monitoring network to meet EPA requirements.

I. Does the plan meet the CAA requirements for contingency provisions for maintenance plans?

Section 175A of the CAA states that a maintenance plan must include contingency provisions, as necessary, to promptly correct any violation of the NAAQS which may occur after redesignation of the area to attainment. As explained in the LMP Option memo, these contingency measures do not have to be fully adopted at the time of redesignation. As noted above, CAA section 175A requirements are distinct from CAA section 172(c)(9) contingency measures. Section 6.3 of the Missoula Limited Maintenance Plan describes a process and timeline to identify and evaluate appropriate contingency measures in the event of a quality assured violation of the PM₁₀ NAAQS. Within 60 days of notification of a PM₁₀ exceedance, the MDEQ and the

Missoula City-County Health Department (MCCHD) will determine the significant contributor to the violation using chemical or microscopic analysis of exposed PM₁₀ filters. If the major contributing source is re-entrained road dust, the MCCHD will implement Rule 8.304, which expands the area of regulated road sanding materials to East Missoula, Southwest Missoula near Buckhouse Bridge, West Missoula between the Clark Fork and Bitterroot Rivers, and Northwest Missoula in the Grant Creek area. If the major contributing source is wood burning, the MCCHD will implement Rules 4.113 and 9.601. Rule 4.113 mandates extensive nighttime enforcement of wood burning regulations when a Stage 1 Alert is declared. Rule 9.601 rescinds and/or voids Missoula City-County Air Pollution Control Program rules that allow certain solid fuel burning devices with an alert permit to produce visible emissions during air pollution alerts. If neither wood burning nor re-entrained road dust is the major contributing source, the MCCHD will still implement one of the above contingency measures.

The Missoula LMP will retain the existing contingency provisions identified in the Missoula LMP which include the following:

- Expanding the areas subject to road sanding materials regulation under Subchapter 3;
- Extensive nighttime enforcement of wood burning regulations during a Stage I Alert; and
- Mandatory wood burning curtailment.

The current and proposed contingency provisions in the Missoula LMP meet the requirements for contingency provisions as outlined in the LMP Option memo.

J. Has the State met transportation and general conformity requirements?

(1) Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA section 176(c)(1)(B)). The EPA's conformity rule at 40 CFR part 93, subpart A requires that transportation plans, programs and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they conform. To effectuate its purpose, the conformity rule typically requires a demonstration that emissions from the Regional Transportation Plan,

if applicable, and the Transportation Improvement Program are consistent with the motor vehicle emission budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). The EPA notes that a MVEB is usually defined as the level of mobile source emissions of a pollutant relied upon in the attainment or maintenance demonstration to attain or maintain compliance with the NAAQS in the nonattainment or maintenance areas. MVEBs are, however, treated differently with respect to LMP areas.⁷

Our LMP Option memorandum does not require that MVEBs be identified in the maintenance plan. While the EPA's LMP Option memorandum does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate transportation conformity without identifying and submitting a MVEB. The basis for this provision is that it is unreasonable to expect that an LMP area will experience so much growth during the maintenance period that a violation of the PM₁₀ NAAQS would result. Therefore, for transportation conformity purposes, the EPA has concluded that mobile source emissions in LMP areas need not be capped, with respect to a MVEB, for the maintenance period and a regional emissions analysis (40 CFR 93.118), for transportation conformity purposes, is also not required. We discussed the above in additional detail in our Missoula PM₁₀ LMP Adequacy Determination Finding **Federal Register** Notice of September 27, 2018 (83 FR 48715).

However, since LMP areas are still maintenance areas, certain aspects will continue to be required for transportation projects located within the Missoula PM₁₀ maintenance area. Specifically, for conformity determinations, projects will have to demonstrate that they are fiscally constrained (40 CFR 93.108) and meet the criteria for consultation and timely implementation (as applicable) of Transportation Control Measures (40 CFR 93.112 and 40 CFR 93.113, respectively). In addition, projects located within the Missoula PM₁₀ LMP area will be required to be evaluated for potential PM₁₀ hot-spot issues in order to satisfy the "project level" conformity determination requirements. As appropriate, a project may then need to address the applicable criteria for a

⁷ Further information concerning the EPA's interpretations regarding MVEBs can be found in the preamble to the EPA's November 24, 1993, transportation conformity rule (see 58 FR 62193–62196).

PM₁₀ hot-spot analysis as provided in 40 CFR 93.116 and 40 CFR 93.123.

Finally, our proposed approval of the Missoula PM₁₀ LMP affects future PM₁₀ project-level transportation conformity determinations as prepared by the Montana Department of Transportation in conjunction with the Federal Highway Administration and the Federal Transit Administration. See 40 CFR 93.100. As such, the EPA is proposing to approve the Missoula LMP as meeting the appropriate transportation conformity requirements found in 40 CFR part 93, subpart A.

(2) General Conformity

Federal actions, other than transportation conformity, that meet specific criteria need to be evaluated with respect to the requirements of 40 CFR part 93, subpart B. The EPA's general conformity rule requirements are designed to ensure that emissions from a federal action will not cause or contribute to new violations of the NAAQS, exacerbate current violations, or delay timely attainment. However, as noted in our LMP Option memorandum and similar to the above discussed transportation conformity provisions, federal actions subject to our general conformity requirements would be considered to satisfy the "budget test," as specified in 40 CFR 93.158(a)(5)(i)(A). As discussed above, the basis for this provision in the LMP Option memorandum is that it is unreasonable to expect that an LMP area will experience so much growth during the maintenance period that a violation of the PM₁₀ NAAQS would result. Therefore, for purposes of general conformity, a general conformity PM₁₀ emissions budget does not need to be identified in the maintenance plan, nor submitted, and the emissions from federal agency actions are essentially considered to not be limited.

IV. EPA's Review of the State of Montana's August 3, 2016 and August 22, 2018 Submittals (Regulatory Text)

We evaluated Montana's August 3, 2016 submittal regarding revisions to the Missoula City-County Air Pollution Control Program (MCCACP), and Montana's August 22, 2018 submittal withdrawing items from the August 3, 2016 submittal. The August 3, 2016 submittal contained rule revisions to Chapter 4: Emergency Episode Avoidance Plan; Chapter 6: Industrial Sources; Chapter 9: Solid Fuel Burning Devices; and Chapter 14: Administrative Procedures, which were made State effective on May 14, 2010. Additionally, the August 3, 2016 submittal contained rule revisions to Chapter 2: Definitions;

Chapter 4: Emergency Episode Avoidance Plan; Chapter 6: Industrial Sources; Chapter 9: Solid Fuel Burning Devices; Chapter 14: Administrative Procedures; and Chapter 15: Penalties, which were made State effective on March 21, 2014. The August 22, 2018 submittal contained revisions to Chapter 4: Emergency Episode Avoidance Plan and was made State effective on April 6, 2018. We are proposing to approve

some of the revisions and not act on others.

A. August 3, 2016 SIP Submittal

The August 3, 2016 SIP submittal includes revisions to eight chapters on Definitions, Failure to Attain Standards, Emergency Episode Avoidance Plan, Industrial Sources, Fugitive Particulate, Solid Fuel Burning Devices, Administrative Procedures, and Penalties. A summary of the changes

that EPA is proposing to approve can be found Table 4 below. A detailed analysis of the revisions can be found in the docket. Not included in Table 4 is a revision to Chapter 9: Solid Fuel Burning Devices, Rule 9.204, which prescribes the permit requirements for solid fuel burning devices outside of the air stagnation zone. The EPA is not acting on the submitted revision to Chapter 9, Rule 9.204 in the August 3, 2016 submittal in this action.

TABLE 4—SUMMARY OF REVISIONS TO THE MISSOULA CITY-COUNTY AIR POLLUTION CONTROL PROGRAM, PROPOSED FOR APPROVAL

Chapter revised	Description of revisions
Chapter 2: Definitions	—Adds definition of PM _{2.5} and Impact Zone M.
Chapter 3: Failure to Attain Standards	—Corrects reference errors.
Chapter 4: Emergency Episode Avoidance Plan	—Sets area for Air Quality Alerts to Air Stagnation Zone and area for Stage II Warnings to Impact Zone M. —Creates Wildfire Emergency Plan Authority.
Chapter 6: Industrial Sources	—Requires Solid Fuel Burning Sources of 1,000,000 Btu heat input per hour or more to receive an air quality permit. —Sets Emission Limit of 0.1 pounds per million Btu/hr heat inputs and requires LAER for solid fuel boilers with heat input capacity to burn 1,000,000 Btu/hr or more in the Air Stagnation Zone. —Sets Emission Limit of 0.2 pounds per million Btu/hr heat inputs and requires BACT for solid fuel boilers with heat input capacity to burn 1,000,000 Btu/hr or more outside the Air Stagnation Zone.
Chapter 8: Fugitive Particulate	—Allows the use of block pavers as an alternative to asphalt or concrete paving where feasible.
Chapter 9: Solid Fuel Burning Devices	—Requires permits for all new installations of solid fuel burning devices throughout the county, excluding Airshed 2. —Sets emissions standards for new installations of solid fuel burning devices. —Expands solid fuel burning device enforcement areas during Alerts to Air Stagnation Zone and during Warnings Impact Zone M. —Sets County Wide Opacity Limit of 40% for solid fuel burning devices outside of start-up times. —Allows licensed mobile food service establishments to obtain a solid fuel burning device permit throughout the county. —Changes labeling requirements for businesses that sell solid fuel burning devices.
Chapter 14: Administrative Procedures	—Clarifies that those individuals who are adversely affected by the department’s decision to deny, modify, or issue a permit are entitled to request an administrative review by the Health Officer.
Chapter 15: Penalties	—Corrects reference errors.

B. August 22, 2018 Submittal

On August 22, 2018 the State of Montana submitted two revisions, one pertaining to Incorporation by Reference (IBR) and a second submittal with revisions to Chapter 4: Missoula County Air Stagnation and Emergency Episode Avoidance Plan. The EPA’s proposed action pertains exclusively to the Chapter 4 revisions, which withdraws previous references to PM_{2.5} in Chapter 4, denoting that those requirements are effective at the State and County level only. The EPA is proposing to approve the August 22, 2018 revisions to Chapter 4: Missoula County Air Stagnation and Emergency Episode Avoidance Plan and will act on the IBR revisions in a future action.

V. The EPA’s Proposed Action

For the reasons explained in Section III, we are proposing to approve the LMP for the Missoula NAA and the State’s request to redesignate the Missoula NAA from nonattainment to attainment for the 1987 24-hour PM₁₀ NAAQS. Additionally, the EPA is proposing to determine that the Missoula NAA has attained the NAAQS for PM₁₀. This determination is based upon monitored air quality data for the PM₁₀ NAAQS during the years 2015–2017. The EPA is proposing to approve the Missoula LMP as meeting the appropriate transportation conformity requirements found in 40 CFR part 93, subpart A. Lastly, the EPA is proposing to approve most of the revisions submitted on August 3, 2016 and August 22, 2018 (Chapter 4 revisions), to the eight chapters on Definitions,

Failure to Attain Standards, Emergency Episode Avoidance Plan, Industrial Sources, Fugitive Particulate, Solid Fuel Burning Devices, Administrative Procedures, and Penalties. As identified in Section IV, the EPA is not acting on Chapter 9, rule 9.204 in the August 3, 2016 submittal or the IBR revisions in the August 22, 2018 submittal.

VI. Incorporation by Reference

In this rule, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference MDEQ regulations discussed in Section IV, *EPA’s Review of the State of Montana’s August 3, 2016 and August 22, 2018 Submittals (Regulatory Text)*, of this preamble. The EPA has made,

and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VII. Statutory and Executive Orders Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the 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 action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: February 27, 2019.

Douglas Benevento,

Regional Administrator, EPA Region 8.

[FR Doc. 2019-03867 Filed 3-4-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2018-0801; FRL-9990-23-Region 10]

Air Plan Approval; OR; 2015 Ozone NAAQS Interstate Transport Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Clean Air Act (CAA) requires each State Implementation Plan (SIP) to contain adequate provisions prohibiting emissions that will have certain adverse air quality effects in other states. On September 25, 2018, the State of Oregon made a submission to the Environmental Protection Agency (EPA) to address these requirements for the 2015 ozone National Ambient Air Quality Standards (NAAQS). The EPA is proposing to approve the submission as meeting the requirement that each SIP contain adequate provisions to prohibit emissions that will significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

DATES: Written comments must be received on or before April 4, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2018-0801 at <https://www.regulations.gov>. Follow the online

instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not electronically submit any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Claudia Vaupel at (206) 553-6121, or vaupel.claudia@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, it is intended to refer to the EPA. This supplementary information section is arranged as follows:

Table of Contents

- I. Background
- II. State Submission
- III. EPA Evaluation
- IV. Proposed Action
- V. Statutory and Executive Order Reviews

I. Background

On October 1, 2015, the EPA promulgated a revision to the ozone NAAQS (2015 ozone NAAQS), lowering the level of both the primary and secondary standards to 0.070 parts per million (ppm).¹ Section 110(a)(1) of the CAA requires states to submit, within 3 years after promulgation of a new or revised standard, SIPs meeting the applicable requirements of section 110(a)(2).² One of these applicable requirements is found in section 110(a)(2)(D)(i), otherwise known as the good neighbor provision, which

¹ National Ambient Air Quality Standards for Ozone, Final Rule, 80 FR 65292 (October 26, 2015). Although the level of the standard is specified in the units of ppm, ozone concentrations are also described in parts per billion (ppb). For example, 0.070 ppm is equivalent to 70 ppb.

² SIP revisions that are intended to meet the applicable requirements of section 110(a)(1) and (2) of the CAA are often referred to as infrastructure SIPs and the applicable elements under 110(a)(2) are referred to as infrastructure requirements.