

Navigation Area (RNA) (2007 Final Rule) applicable to First Coast Guard District waters. (72 FR 50052; corrected by 72 FR 70780). The purpose of these amendments was to further reduce the probability of an incident that could result in the discharge or release of oil or hazardous material, or cause serious harm, to navigable waters of the United States. As part of the process to implement the 2007 Final Rule, the USCG prepared a Categorical Exclusion Determination as defined in its Agency Procedures for Implementing the National Environmental Policy Act. In a ruling on May 17, 2011, the 1st U.S. Circuit Court of Appeals determined that the USCG “failed to comply with its obligations under the National Environmental Policy Act” when it failed to prepare an Environmental Impact Statement (EIS) or an Environmental Assessment (EA).

The Coast Guard has completed a draft EA in order to cure the procedural deficiency. This analysis indicates that an Environmental Impact Statement (EIS) will not be necessary for implementation of any of the action alternatives. The Coast Guard anticipates that a Finding of No Significant Impact (FONSI) will be appropriate for implementation of the 2007 Final Rule preferred alternative.

We are seeking public input on the draft EA, including comments on the completeness and adequacy of the document, and on the measures and operating conditions described in the EA as alternatives designed to reduce or eliminate potential environmental impacts. The Coast Guard will consider public comments on the EA in determining the preferred alternative and whether to issue a Finding of No Significant Impact (FONSI), or to conduct additional NEPA analysis.

Dated: July 18, 2012.

**D.B. Abel,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 2012-18832 Filed 8-1-12; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2009-0805; EPA-R05-OAR-2012-0567; FRL-9708-9]

#### Approval and Promulgation of Air Quality Implementation Plans; Illinois; Indiana; Michigan; Minnesota; Ohio; Wisconsin; Infrastructure SIP Requirements for the 2006 PM<sub>2.5</sub> National Ambient Air Quality Standards; Indiana NSR/PSD

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve some elements, and disapprove other elements, of State Implementation Plan (SIP) submissions by Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin regarding the infrastructure requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA) for the 2006 24-hour fine particle national ambient air quality standards (2006 PM<sub>2.5</sub> NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. EPA is also proposing to approve portions of a submittal from Indiana addressing EPA's requirements for its new source review (NSR) and prevention of significant deterioration (PSD) program.

**DATES:** Comments must be received on or before September 4, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2009-0805 (infrastructure SIP elements for all Region 5 States) or EPA-R05-OAR-2012-0567 (Indiana NSR/PSD elements), by one of the following methods:

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

2. *Email:* [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov).

3. *Fax:* (312) 408-2279.

4. *Mail:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements

should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID. EPA-R05-OAR-2009-0805 (infrastructure SIP elements for all Region 5 States) or EPA-R05-OAR-2012-0567 (Indiana NSR/PSD elements). EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Andy Chang,

Environmental Engineer, at (312) 886-0258 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:**

Andy Chang, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0258, [chang.andy@epa.gov](mailto:chang.andy@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What should I consider as I prepare my comments for EPA?
- II. What is the background of these SIP submissions?
  - A. What State SIP submissions does this rulemaking address?
  - B. Why did the States make these SIP submissions?
  - C. What is the scope of this rulemaking?
- III. What guidance is EPA using to evaluate these SIP submissions?
- IV. What is the result of EPA’s review of these SIP submissions?
  - A. Section 110(a)(2)(A)—Emission Limits and Other Control Measures
  - B. Section 110(a)(2)(B)—Ambient Air Quality Monitoring/Data System
  - C. Section 110(a)(2)(C)—Program for Enforcement of Control Measures; PSD
  - D. Section 110(a)(2)(D)—Interstate Transport
  - E. Section 110(a)(2)(E)—Adequate Resources
  - F. Section 110(a)(2)(F)—Stationary Source Monitoring System
  - G. Section 110(a)(2)(G)—Emergency Powers
  - H. Section 110(a)(2)(H)—Future SIP Revisions
  - I. Section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D
  - J. Section 110(a)(2)(J)—Consultation With Government Officials; Public Notifications; PSD; Visibility Protection
  - K. Section 110(a)(2)(K)—Air Quality Modeling/Data
  - L. Section 110(a)(2)(L)—Permitting Fees
  - M. Section 110(a)(2)(M)—Consultation/Participation by Affected Local Entities
- V. What action is EPA taking?
- VI. Statutory and Executive Order Reviews

**I. What should I consider as I prepare my comments for EPA?**

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).
2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

**II. What is the background of these SIP submissions?**

*A. What State SIP submissions does this rulemaking address?*

This rulemaking addresses submittals from each State (and appropriate State agency) in EPA Region 5: Illinois Environmental Protection Agency (Illinois EPA); Indiana Department of Environmental Management (IDEM); Michigan Department of Environmental Quality (MDEQ); Minnesota Pollution Control Agency (MPCA); Ohio Environmental Protection Agency (Ohio EPA); and Wisconsin Department of Natural Resources Bureau of Air Management (WDNR). Each State made SIP submissions on the following dates: Illinois—August 9, 2011, and supplemented on August 25, 2011 and June 27, 2012; Indiana—October 20, 2009, and supplemented on June 25, 2012 and July 12, 2012; Michigan—August 15, 2011, and supplemented on July 9, 2012; Minnesota—May 23, 2011, and supplemented on June 27, 2012; Ohio—September 4, 2009, and supplemented on June 3, 2011 and July 5, 2012; and, Wisconsin—January 24, 2011, and supplemented on June 29, 2012.

The States of Indiana and Wisconsin have also made SIP submissions intended to address various EPA requirements for their respective NSR and PSD programs. IDEM submitted revisions on July 12, 2012, for incorporation into its NSR and PSD program, and also requested that EPA approve these revisions as satisfying any applicable infrastructure SIP requirements for the 2006 PM<sub>2.5</sub> NAAQS. WDNR submitted revisions to its NSR and PSD programs on May 12, 2011, and while the SIP submission was not explicitly made to satisfy the infrastructure SIP requirements for the 2006 PM<sub>2.5</sub> NAAQS, a discussion of the relevant infrastructure SIP requirements and the State’s satisfaction of these requirements is contained in the

paragraphs addressing section 110(a)(2)(C).

*B. Why did the States make these SIP submissions?*

Under sections 110(a)(1) and (2) of the CAA, and implementing EPA policy, the States are required to submit infrastructure SIPs to ensure that their SIPs provide for implementation, maintenance, and enforcement of the NAAQS, including the 2006 PM<sub>2.5</sub> NAAQS. These submissions must contain any revisions needed for meeting the applicable SIP requirements of section 110(a)(2), or certifications that their existing SIPs for particulate matter already met those requirements. EPA highlighted this statutory requirement in an October 2, 2007, guidance document entitled “Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards” (2007 Memo). States were required to make SIP submissions meeting the requirements to EPA within three years after promulgation of the revised standards. The three-year submittal window was reiterated in a September 25, 2009, EPA-issued guidance document pertaining to the 2006 PM<sub>2.5</sub> NAAQS entitled “Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS)” (2009 Memo). Because the finalized 2006 PM<sub>2.5</sub> NAAQS was signed and widely disseminated on September 21, 2006, the due date for infrastructure SIP submissions to EPA was September 21, 2009. The certifications referenced in this rulemaking pertain to the applicable requirements of sections 110(a)(1) and (2) of the CAA. The SIP submissions from the six Region 5 States being evaluated here address only the 2006 PM<sub>2.5</sub> NAAQS, and the proposed rulemaking addresses only this pollutant as well.<sup>1</sup>

*C. What is the scope of this rulemaking?*

This rulemaking will not cover four substantive issues that are not integral to acting on a state’s infrastructure SIP submission: (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction at sources, that may be contrary to the CAA and EPA’s policies addressing such excess emissions (“SSM”); (ii) existing provisions related

<sup>1</sup> On June 14, 2012, the Administrator of EPA signed a proposed rule that would strengthen various aspects of the existing PM<sub>2.5</sub> NAAQS (see 77 FR 38890). The State submittals and EPA’s rulemaking do not extend to these proposed NAAQS.

to “director’s variance” or “director’s discretion” that purport to permit revisions to SIP approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA (“director’s discretion”); (iii) existing provisions for minor source NSR programs that may be inconsistent with the requirements of the CAA and EPA’s regulations that pertain to such programs (“minor source NSR”); and, (iv) existing provisions for PSD programs that may be inconsistent with current requirements of EPA’s “Final NSR Improvement Rule,” 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (“NSR Reform”). Instead, EPA has committed to address each of these four issues in separate rulemakings. A detailed rationale for why these four substantive issues are not part of the scope of infrastructure SIP rulemakings can be found in EPA’s July 13, 2011, final rule entitled, “Infrastructure SIP Requirements for the 1997 8-hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards” in the section entitled, “What is the scope of this final rulemaking?” (see 76 FR 41075 at 41076–41079).

In addition to the four substantive issues above, EPA is not acting on portions of section 110(a)(2)(D)(i)(II)—Interstate transport; section 110(a)(2)(E)(ii)—Adequate resources; and section 110(a)(2)(f)—Consultation with government officials, public notifications, PSD, and visibility protection. EPA is also not acting on section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D, in its entirety. The rationale for not acting on elements of these requirements is discussed below.

### III. What guidance is EPA using to evaluate these SIP Submissions?

EPA’s guidance for these infrastructure SIP submissions is embodied in the 2007 Memo. Specifically, Attachment A of this memorandum (Required Section 110 SIP Elements) identified the statutory elements that states need to meet in order to satisfy the requirements for an infrastructure SIP submission. The 2009 Memo was issued to provide additional guidance for certain elements to meet the requirements of section 110(a)(1) and (2) of the CAA for 2006 PM<sub>2.5</sub> NAAQS. Where appropriate, EPA will reference the guidance contained in both the 2007 Memo and the 2009 Memo as they pertain to the Region 5 States’ submissions.

### IV. What is the result of EPA’s review of these SIP submissions?

The six States in Region 5 have certified that they meet the applicable requirements of sections 110(a)(1) and 110(a)(2) without further revisions to their respective SIPs for the 2006 PM<sub>2.5</sub> NAAQS. Therefore, consistent with the 2009 Memo, EPA believes that no public hearing or comment process was necessary at the State level for this NAAQS.<sup>2</sup> Nevertheless, the public will now have the opportunity to comment on EPA’s evaluation of each certification through our notice-and-comment rulemaking process. Illinois EPA, IDEM, MDEQ, MPCA, Ohio EPA, and WDNR provided detailed synopses of how various components of their respective SIPs meet each of the requirements in section 110(a)(2), as applicable. The following review evaluates the six States’ submissions.

#### A. Section 110(a)(2)(A)—Emission Limits and Other Control Measures

This section requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance, and other related matters. The specific nonattainment area plan requirements of section 110(a)(2)(I), however, are subject to the timing requirements of section 172, not the timing requirement of section 110(a)(1). Thus, section 110(a)(2)(A) does not require that states submit regulations or emissions limits specifically for attaining the 2006 PM<sub>2.5</sub> NAAQS. Those SIP provisions are due as part of each state’s attainment plan, and will be addressed separately from the requirements of section 110(a)(2)(A). In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state’s SIP has basic structural provisions for the implementation of the NAAQS.

The Illinois Environmental Protection Act is contained in chapter 415, section 5, of the Illinois Compiled Statutes (415 ILCS 5). 415 ILCS 5/4 provides the Director of Illinois EPA with the authority to develop rules and regulations necessary to meet ambient air quality standards. Additionally, the Illinois Pollution Control Board (IPCB) was created under 415 ILCS 5, providing the IPCB with the authority to develop rules and regulations necessary to promote the purposes of the Illinois

Environmental Protection Act. Furthermore, the IPCB ensures compliance with required laws and other elements of the State’s attainment plan that are necessary to attain the NAAQS, and to comply with the requirements of the CAA. (415 ILCS 5/10) EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

IDEM’s authority to adopt emissions standards and compliance schedules is found at Indiana Code (IC) 13–14–8, IC 13–17–3–4, IC 13–17–3–11, and IC 13–17–3–14. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

The Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), sections 324.5503 and 324.5512, provide the Director of MDEQ with the authority to regulate the discharge of air pollutants, and to promulgate rules to establish standards for emissions for ambient air quality and for emissions. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Minnesota Statute chapter 116.07 gives MPCA the authority to “[a]dopt, amend, and rescind rules and standards having the force of law relating to any purpose \* \* \* for the prevention, abatement, or control of air pollution.” EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Ohio Revised Code (ORC) 3704.03 provides the Director of Ohio EPA with the authority to develop rules and regulations necessary to meet State and Federal ambient air quality standards. EPA proposes that Ohio has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Wisconsin Statutes (WS) chapter 285.11 through WS chapter 285.19 establish general authority for monitoring, updating, and implementing necessary revisions to the Wisconsin SIP. Additional authorities related to specific pollutants are contained in WS chapter 285.21 through WS chapter 285.29. EPA proposes that Wisconsin has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

As previously noted, EPA is not proposing to approve or disapprove any existing state provisions or rules related to SSM or director’s discretion in the context of section 110(a)(2)(A).

<sup>2</sup> Although the public hearing process was not necessary at the State level, Ohio EPA held a public hearing on August 13, 2009, and provided an opportunity for written comments as well. No comments were received in person, or in writing.

*B. Section 110(a)(2)(B)—Ambient Air Quality Monitoring/Data System*

This section requires SIPs to include provisions to provide for establishing and operating ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to EPA upon request. EPA is evaluating compliance with section 110(a)(2)(B) in infrastructure SIP submissions by verifying that the state has submitted an annual monitoring plan for the relevant NAAQS, and that EPA has approved the most recent plan. This review of the annual monitoring plan includes EPA's determination that the state: (i) Monitors air quality at appropriate locations throughout the state using EPA-approved Federal Reference Methods or Federal Equivalent Method monitors; (ii) submits data to EPA's Air Quality System (AQS) in a timely manner; and, (iii) provides EPA Regional Offices with prior notification of any planned changes to monitoring sites or the network plan.

Illinois EPA continues to operate an extensive monitoring network incorporating more than 200 monitors throughout the State. Illinois EPA also publishes an annual report that summarizes air quality trends. Furthermore, Illinois EPA submits yearly monitoring network plans to EPA, and EPA approved the 2012 Annual Air Monitoring Network Plan for PM<sub>2.5</sub> on December 19, 2011. Monitoring data from Illinois EPA are entered into AQS in a timely manner, and the State provides EPA with prior notification when changes to its monitoring network or plan are being considered. EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

IDEM continues to operate an air monitoring network; EPA approved the State's 2012 Annual Air Monitoring Network Plan for PM<sub>2.5</sub> on January 3, 2012, including the plan for PM<sub>2.5</sub>. EPA noted, however, that IDEM should continue to search for a suitable replacement location for one monitoring site. IDEM enters air monitoring data into AQS, and the State provides EPA with prior notification when changes to its monitoring network or plan are being considered. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

MDEQ maintains a comprehensive network of air quality monitors throughout Michigan. EPA approved MDEQ's 2012 Annual Air Monitoring Network Plan on December 19, 2011.

MDEQ enters air monitoring data into AQS, and the State provides EPA with prior notification when changes to its monitoring network or plan are being considered. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

MPCA continues to operate an ambient pollutant monitoring network, and compiles and reports air quality data to EPA. EPA approved MPCA's 2012 Annual Air Monitoring Network Plan for PM<sub>2.5</sub> on December 19, 2011. MPCA also provides prior notification to EPA when changes to its monitoring network or plan are being considered. EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Ohio EPA continues to operate a monitoring network; EPA approved the State's 2012 Annual Air Monitoring Network Plan for PM<sub>2.5</sub> on January 11, 2012. Furthermore, Ohio EPA populates AQS with air quality monitoring data in a timely manner, and provides EPA with prior notification when considering a change to its monitoring network or plan. EPA proposes that Ohio has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

WDNR continues to operate an extensive monitoring network; EPA approved the State's 2012 Annual Air Monitoring Network Plan for PM<sub>2.5</sub> on January 3, 2012. WDNR enters air quality data into AQS in a timely manner, and gives EPA prior notification when considering a change to its monitoring network or plan. EPA proposes that Wisconsin has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

*C. Section 110(a)(2)(C)—Program for Enforcement of Control Measures; PSD*

States are required to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to meet NSR requirements under the PSD and nonattainment new source review (NNSR) programs. Part C of the CAA (sections 160–169B) addresses PSD, while part D of the CAA (sections 171–193) addresses NNSR requirements.

The evaluation of the Region 5 States' certifications addressing the infrastructure SIP requirements of section 110(a)(2)(C) covers: (i) Enforcement of SIP measures; (ii) identification of precursors to PM<sub>2.5</sub> in the PSD program; (iii) identification of PM<sub>2.5</sub> condensables in the PSD program;

(iv) oxides of nitrogen (NOx) as a precursor to ozone in the PSD program; and, (v) greenhouse gas (GHG) permitting and the "Tailoring Rule."

*Sub-Element 1: Enforcement of SIP Measures*

Illinois continues to staff and implement an enforcement program comprised, and operated by, the Compliance Section and Division of Legal Counsel. 415 ILCS 5/4 provides the Director of Illinois EPA with the authority to implement and administer this enforcement program. Furthermore, Illinois EPA has confirmed that all enforcement actions are brought by the Office of the Illinois Attorney General or local State's Attorney offices, with whom Illinois EPA consults. EPA proposes that Illinois has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

IDEM maintains an enforcement program to ensure compliance with SIP requirements. IC 13–14–1–12 provides the Commissioner with the authority to enforce rules "consistent with the purpose of the air pollution control laws." Additionally, IC 13–14–2–7 and IC 13–17–3–3 provide the Commissioner with the authority to assess civil penalties and obtain compliance with any applicable rule a board has adopted in order to enforce air pollution control laws. Lastly, IC 13–14–10–2 allows for an emergency restraining order that prevents any person from causing, or introducing contaminants, that cause or contribute to air pollution. EPA proposes that Indiana has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

MDEQ continues to staff and implement an enforcement program to assure compliance with all requirements under State law, consistent with the provisions of Act 451. Additionally, this Air Quality Enforcement Unit provides support and technical assistance to Michigan's Attorney General on all air pollution enforcement issues referred by MDEQ's Air Quality Division for escalated enforcement action. Lastly, the air quality enforcement unit at MDEQ coordinates formal administrative actions such as contested case hearings, administrative complaints, and revocation of permits to install. Therefore, EPA proposes that Michigan has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Minnesota Statute chapter 116.07 gives the MPCA the authority to enforce

any provisions of the chapter relating to air contamination. These provisions include: entering into orders; schedules of compliance; stipulation agreements; requiring owners or operators of emissions facilities to install and operate monitoring equipment; and conducting investigations. Minnesota Statute chapter 116.072 authorizes MPCA to issue orders and assess administrative penalties to correct violations of the agency's rules, statutes, and permits. Lastly, Minnesota Statute Chapter 115.071 outlines the remedies that are available to address such violations. EPA proposes that Minnesota has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Ohio EPA staffs and implements an enforcement program. ORC 3704.03 provides the Director of Ohio EPA with the authority to implement the enforcement program as well as the updated NSR provisions within Ohio Administrative Code (OAC) 3745–31. Ohio EPA compiles all air pollution control enforcement settlements in the State, and makes them available for public review on its Web site. EPA proposes that Ohio has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

WDNR maintains an enforcement program to ensure compliance with SIP requirements. The Bureau of Air Management houses an active Statewide Compliance and Enforcement Team that works in all geographic regions of the State. WDNR refers most actions to the Wisconsin Department of Justice with the involvement of WDNR. Under WS chapter 285.13, the agency has the authority to impose fees and penalties to ensure that required measures are ultimately implemented. WS chapter 285.83 and WS chapter 285.87 provide the authority to enforce violations and assess penalties. EPA proposes that Wisconsin has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

#### Sub-Element 2: Identification of Precursors to PM<sub>2.5</sub> in the PSD Program

On May 16, 2008 (*see* 73 FR 28321), EPA issued the Final Rule on the “Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers (PM<sub>2.5</sub>)” (2008 NSR Rule). The 2008 NSR Rule finalized several new requirements for SIPs to address sources that emit direct PM<sub>2.5</sub> and other pollutants that contribute to secondary PM<sub>2.5</sub> formation. One of these

requirements is for NSR permits to address pollutants responsible for the secondary formation of PM<sub>2.5</sub>, otherwise known as precursors. In the 2008 rule, the EPA identified precursors to PM<sub>2.5</sub> for the PSD program to be sulfur dioxide (SO<sub>2</sub>) and NO<sub>x</sub> (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO<sub>x</sub> emissions in an area are not a significant contributor to that area's ambient PM<sub>2.5</sub> concentrations). The 2008 NSR Rule also specifies that volatile organic compounds (VOCs) are not considered to be precursors to PM<sub>2.5</sub> in the PSD program unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of VOCs in an area are significant contributors to that area's ambient PM<sub>2.5</sub> concentrations. The explicit references to SO<sub>2</sub>, NO<sub>x</sub>, and VOCs as they pertain to secondary PM<sub>2.5</sub> formation are codified at 40 CFR 51.166(b)(49)(i) and 40 CFR 52.21(b)(50)(i). The deadline for states to submit SIP revisions to their PSD programs incorporating these changes was May 16, 2011 (*see* 73 FR 28321 at 28341).

As part of identifying pollutants that are precursors to PM<sub>2.5</sub>, the 2008 NSR Rule also required states to revise the definition of “significant” as it relates to a net emissions increase or the potential of a source to emit pollutants. Specifically, 40 CFR 51.166(b)(23)(i) and 40 CFR 52.21(b)(23)(i) define “significant” for PM<sub>2.5</sub> to mean the following emissions rates: 10 Tons per year (tpy) of direct PM<sub>2.5</sub>; 40 tpy of SO<sub>2</sub>; and 40 tpy of NO<sub>x</sub> (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO<sub>x</sub> emissions in an area are not a significant contributor to that area's ambient PM<sub>2.5</sub> concentrations).

Illinois and Minnesota have not adopted or submitted regulations for PSD, although Federally promulgated rules for this purpose are in effect in these two States, promulgated at 40 CFR 52.21. EPA has currently delegated the authority to implement these regulations to Illinois and Minnesota. These Federally promulgated rules include provisions establishing precursors to PM<sub>2.5</sub> both in the definition of “regulated NSR pollutant” and “significant.” EPA acknowledges that the States have not satisfied the requirement for a SIP submission, which results in a proposed disapproval with respect to this set of infrastructure SIP requirements of section 110(a)(2)(C). However, Illinois and Minnesota have no further obligations to EPA because both States administer the Federally promulgated PSD regulations.

Indiana submitted revisions to its PSD program incorporating the necessary changes regarding PM<sub>2.5</sub> precursors on July 12, 2012. In this rulemaking, we are proposing to approve portions of these revisions for incorporation into Indiana's SIP, and we are also proposing to find that Indiana has met this set of requirements of section 110(a)(2)(C) for the 2006 PM<sub>2.5</sub> NAAQS. Specifically, changes to 326 Indiana Administrative Code (IAC) 2–2–1(ss), “Regulated NSR pollutant,” have been made to explicitly identify SO<sub>2</sub> and NO<sub>x</sub> as precursors to PM<sub>2.5</sub> that will be evaluated in NSR permit contexts. Additionally, IDEM has also specified that VOCs are not presumed to be precursors to PM<sub>2.5</sub>.<sup>3</sup> The definition of “Significant” has been revised at 326 IAC 2–2–1(w)(1)(F) to identify the significant emissions rates for direct PM<sub>2.5</sub>, and SO<sub>2</sub> and NO<sub>x</sub> as its precursors, consistent with the 2008 NSR Rule. EPA is proposing to approve these revisions into the SIP, and also proposes that Indiana has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Michigan is in the process of adopting revisions to its PSD program that incorporate the necessary changes regarding PM<sub>2.5</sub> precursors. Specifically, changes to the Part 18 Rules (R 336.2801–R 336.2823) have been filed at the State level, and MDEQ has committed to submitting the revisions for incorporation into the SIP when the rules are adopted at the State level. Although the State has made a specific commitment to EPA to make the submission required by the 2008 NSR Rule, the deadline for when states must submit those SIP revisions has since passed. Therefore, EPA is proposing to disapprove this narrow portion of Michigan's infrastructure SIP submission for the 2006 PM<sub>2.5</sub> NAAQS with respect to the requirements of section 110(a)(2)(C) regarding the identification of PM<sub>2.5</sub> precursors for NSR permitting.

Ohio is in the process of adopting revisions to its PSD program that incorporate the necessary changes regarding PM<sub>2.5</sub> precursors. Specifically, draft changes are being made to OAC 3745–31–01, and Ohio has committed to submitting the revisions for incorporation into the SIP when final rules are adopted at the State level. For the same reasons discussed above for

<sup>3</sup> Indiana has also specified that ammonia is not a presumed precursor to PM<sub>2.5</sub>. Ammonia is relevant only in the context of NNSR; for the purposes of this rulemaking related to structural PSD elements, EPA observes that Indiana has properly identified VOCs as not being a presumed PM<sub>2.5</sub> precursor.

Michigan, EPA is proposing to disapprove this narrow portion of Ohio's infrastructure SIP submission for the 2006 PM<sub>2.5</sub> NAAQS with respect to the requirements of section 110(a)(2)(C) regarding the identification of PM<sub>2.5</sub> precursors for NSR permitting.

Wisconsin submitted revisions to its PSD program on May 12, 2011, intended to meet the requirements of the 2008 NSR Rule. Specifically, WDNR's revisions to NR 405.02(27)(a)(5) include the significant emissions rates for direct PM<sub>2.5</sub>, and SO<sub>2</sub> and NO<sub>x</sub> as PM<sub>2.5</sub> precursors, consistent with the 2008 NSR Rule. However, Wisconsin's PSD regulations include only generic language to define what constitutes a regulated NSR pollutant that does not directly account for PM<sub>2.5</sub> and its precursors in NSR permitting. NR 405.02(25i) defines "Regulated NSR air contaminant" as "[a]ny air contaminant for which a national ambient air quality standard has been promulgated and any constituents or precursors for the air contaminants identified by the administrator \* \* \*." The 2008 NSR Rule obligates the State to explicitly identify the precursors to PM<sub>2.5</sub> to be addressed in NSR permitting as part of the definition for "Regulated NSR air contaminant." EPA notes that although Wisconsin has incorporated the significant emissions rates in accordance with the 2008 NSR Rule, WDNR has not explicitly identified SO<sub>2</sub> and NO<sub>x</sub> as precursors to PM<sub>2.5</sub> in defining pollutants regulated by the PSD program. Therefore, we are proposing to disapprove this narrow portion of Wisconsin's infrastructure SIP submission for the 2006 PM<sub>2.5</sub> NAAQS with respect to the requirements of section 110(a)(2)(C) regarding the identification of PM<sub>2.5</sub> precursors.

#### Sub-Element 3: Identification of Condensables in the PSD Program

The 2008 NSR Rule did not require states to immediately account for gases that could condense to form particulate matter, known as condensables, in PM<sub>2.5</sub> and PM<sub>10</sub><sup>4</sup> emission limits in NSR permits. Instead, EPA determined that states had to account for PM<sub>2.5</sub> and PM<sub>10</sub> condensables beginning on or after January 1, 2011. This requirement is codified in 40 CFR 51.166(b)(49)(vi) and 40 CFR 52.21(b)(50)(vi). Revisions to states' PSD programs incorporating the inclusion of condensables were required be submitted to EPA by May 16, 2011 (see 73 FR 28321 at 28341).

Illinois and Minnesota have not adopted or submitted regulations for PSD, although Federal rules for this purpose, promulgated at 40 CFR 52.21, are in effect in these two States. EPA has currently delegated the authority to implement these regulations to Illinois and Minnesota. These Federally promulgated rules include provisions defining "regulated NSR pollutant" to include condensables for PM<sub>2.5</sub> and PM<sub>10</sub>. EPA acknowledges that the States have not satisfied the requirement for a SIP submission, which results in a proposed disapproval with respect to this set of infrastructure SIP requirements of section 110(a)(2)(C). However, Illinois and Minnesota have no further obligations to EPA because both States administer the Federally promulgated PSD regulations.

Indiana submitted revisions to its PSD program incorporating the necessary changes regarding PM<sub>2.5</sub> and PM<sub>10</sub> condensables on July 12, 2012. Specifically, 326 IAC 2-1.1-1(2) has been revised to account for condensables in the definition of "Direct PM<sub>2.5</sub>," and analogous changes were made at 326 IAC 2-1.1-1(10) for "Direct PM<sub>10</sub>." EPA is proposing to approve these revisions into the SIP, and also proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(C) to account for PM<sub>2.5</sub> and PM<sub>10</sub> condensables with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Michigan is in the process of adopting revisions to its regulations that incorporate the necessary changes regarding PM<sub>2.5</sub> and PM<sub>10</sub> condensables. Changes to Part 1 Rules (R 336.1101–R 336.1128) have been filed at the State level, and MDEQ has committed to submitting the revisions for incorporation into the SIP when the rules are adopted at the State level. However, for the same reasons discussed above regarding the identification of PM<sub>2.5</sub> precursors, EPA is proposing to disapprove this narrow portion of Michigan's infrastructure SIP submission for the 2006 PM<sub>2.5</sub> NAAQS with respect to the requirements of section 110(a)(2)(C) regarding the regulation of PM<sub>2.5</sub> and PM<sub>10</sub> condensables in the PSD program.

Ohio is in the process of adopting revisions to its regulations that incorporate the necessary changes regarding PM<sub>2.5</sub> and PM<sub>10</sub> condensables. Specifically, draft changes are being made to OAC 3745-31-01, and Ohio has committed to submitting the revisions for incorporation into the SIP when final rules are adopted at the State level. However, for the same reasons described above, EPA is proposing to disapprove this narrow portion of

Ohio's infrastructure SIP submission for the 2006 PM<sub>2.5</sub> NAAQS with respect to the requirements of section 110(a)(2)(C) regarding the regulation of PM<sub>2.5</sub> and PM<sub>10</sub> condensables in the PSD program.

Wisconsin submitted revisions to its PSD program on May 12, 2011. However, these revisions do not incorporate the necessary changes regarding the regulation of condensables for PM<sub>2.5</sub> and PM<sub>10</sub>, nor does Wisconsin's existing SIP account for PM<sub>2.5</sub> and PM<sub>10</sub> condensables. Therefore, EPA is proposing to disapprove this narrow portion of Wisconsin's infrastructure SIP submission for the 2006 PM<sub>2.5</sub> NAAQS with respect to the requirements of section 110(a)(2)(C) regarding the regulation of PM<sub>2.5</sub> and PM<sub>10</sub> condensables in the PSD program.

#### Sub-Element 4: NO<sub>x</sub> as a Precursor to Ozone in the PSD Program

EPA's "Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; Final Rule for Reformulated Gasoline" (Phase 2 Rule) was published on November 8, 2005 (see 70 FR 71612). Among other requirements, the Phase 2 Rule obligated states to revise their PSD programs to explicitly identify NO<sub>x</sub> as a precursor to ozone (70 FR 71612 at 71679, 71699–71700). This requirement was codified in 40 CFR 51.166, and consisted of the following<sup>5</sup>:

40 CFR 51.166(b)(1)(ii): A major source that is major for volatile organic compounds or NO<sub>x</sub> shall be considered major for ozone;

40 CFR 51.166(b)(2)(ii): Any significant emissions increase (as defined at paragraph (b)(39) of this section) from any emissions units or net emissions increase (as defined in paragraph (b)(3) of this section) at a major stationary source that is significant for volatile organic compounds or NO<sub>x</sub> shall be considered significant for ozone;

40 CFR 51.166(b)(23)(i): Ozone: 40 Tons per year of volatile organic compounds or nitrogen oxides;

40 CFR 51.166(b)(49)(i): Any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the Administrator (e.g., volatile organic compounds and NO<sub>x</sub>) are precursors for ozone; and

40 CFR 51.166(i)(5)(i)(e) footnote 1: No *de minimis* air quality level is provided for ozone. However, any net emissions increase of 100 tons per year or more of volatile organic compounds or nitrogen oxides

<sup>4</sup> PM<sub>10</sub> refers to particles with diameters between 2.5 and 10 microns, oftentimes referred to as "coarse" particles.

<sup>5</sup> Similar changes were codified in 40 CFR 52.21.



subject to PSD would be required to perform an ambient impact analysis, including the gathering of air quality data.

The Phase 2 Rule required that states submit SIP revisions incorporating the requirements of the rule, including these specific NO<sub>x</sub> as a precursor to ozone provisions, by June 15, 2007 (*see* 70 FR 71612 at 71683).

In EPA's April 28, 2011, proposed rulemaking for infrastructure SIPs for the 1997 ozone and PM<sub>2.5</sub> NAAQS, we stated that each state's PSD program must meet applicable requirements for evaluation of pollutants in PSD permits. In other words, if a state lacks provisions needed to address NO<sub>x</sub> as a precursor to ozone, the provisions of section 110(a)(2)(C) requiring a suitable PSD permitting program must be considered not to be met irrespective of the pollutant being addressed (*see* 76 FR 23757 at 23760). In the same April 28, 2011, notice, we proposed to approve all six Region 5 States' infrastructure SIPs with respect to the NO<sub>x</sub> as a precursor to ozone provisions in the PSD program requirements of section 110(a)(2)(C).

In our July 13, 2011, final rulemaking for the 1997 ozone and PM<sub>2.5</sub> NAAQS infrastructure SIPs, EPA finalized approval of the portions of the infrastructure SIPs from Indiana, Michigan, and Ohio with respect to the NO<sub>x</sub> as a precursor to ozone provisions requirement of section 110(a)(2)(C). However, EPA subsequently realized that these three States also lacked sufficient provisions to identify NO<sub>x</sub> as a precursor to ozone in their respective PSD programs, as required by the Phase 2 Rule.

In lieu of an error correction pursuant to section 110(k)(6) of the CAA, EPA informed Indiana, Michigan, and Ohio of the factual matter that portions of their infrastructure SIPs intended to address NO<sub>x</sub> as a precursor to ozone provisions were approved as an oversight. We committed to work with these States to address the NO<sub>x</sub> as a precursor to ozone provisions, consistent with the requirements of the Phase 2 Rule, in the next infrastructure SIP rulemaking, *i.e.*, today's rulemaking.

Illinois and Minnesota have not adopted or submitted regulations for PSD, although Federally promulgated rules for this purpose are in effect in these two States, promulgated at 40 CFR 52.21. EPA has currently delegated the authority to implement these regulations to Illinois and Minnesota. These Federally promulgated rules include provisions that explicitly identify NO<sub>x</sub> as a precursor to ozone. EPA acknowledges that the States have not satisfied the requirement for a SIP submission, which results in a proposed

disapproval with respect to this set of infrastructure SIP requirements of section 110(a)(2)(C). However, Illinois and Minnesota have no further obligations to EPA because both States administer the Federally promulgated PSD regulations.

On July 12, 2012, Indiana submitted revisions to its PSD program incorporating the necessary changes regarding NO<sub>x</sub> as a precursor to ozone, consistent with the requirements of the Phase 2 Rule. In this rulemaking, we are proposing to approve these revisions to Indiana's SIP, and we are also proposing to find that Indiana has met this set of requirements of section 110(a)(2)(C) for the 2006 PM<sub>2.5</sub> NAAQS. Specifically, Indiana has revised the following sections to align with EPA's own regulations contained in 40 CFR 51.166: 326 IAC 2-2-1(dd)(1); 40 CFR 51.166(b)(2)(ii); 326 IAC 2-2-1(ff)(7); 40 CFR 51.166(b)(1)(ii); 326 IAC 2-2-1(ss)(1); 40 CFR 51.166(b)(49)(i); 326 IAC 2-2-1(ww)(1)(G); 40 CFR 51.166(b)(23)(i); and, 326 IAC 2-2-4(b)(2)(vi); footnote to 40 CFR 51.166(i)(5)(i)(e). EPA is proposing to approve these revisions into the SIP, and also proposes that Indiana has met the requirements of section 110(a)(2)(C) with respect to the 2006 PM<sub>2.5</sub> NAAQS regarding the explicit identification of NO<sub>x</sub> as a precursor to ozone, consistent with the Phase 2 Rule.

Michigan is in the process of adopting revisions to its PSD program that incorporate the necessary changes regarding the explicit identification of NO<sub>x</sub> as a precursor to ozone, consistent with the requirements of the Phase 2 Rule. Specifically, changes to the Part 18 Rules (R 336.2801—R 336.2823) have been filed at the State level, and MDEQ has committed to submitting the revisions for incorporation into the SIP when the rules are adopted at the State level. However, consistent with actions in Region 5 and other regions germane to the explicit identification of NO<sub>x</sub> as a precursor to ozone in PSD programs, EPA is proposing to disapprove this narrow portion of Michigan's infrastructure SIP for the 2006 PM<sub>2.5</sub> NAAQS with respect to the requirements of section 110(a)(2)(C) regarding the explicit identification of NO<sub>x</sub> as a precursor to ozone in the PSD program.

Ohio is in the process of adopting revisions to its PSD program that incorporate the necessary changes regarding the explicit identification of NO<sub>x</sub> as a precursor to ozone, consistent with the Phase 2 Rule. Specifically, draft changes are being made to OAC 3745-31-01, and Ohio has committed to submitting the revisions for

incorporation into the SIP when final rules are adopted at the State level. For the same reasons discussed above, EPA is proposing to disapprove this narrow portion of Ohio's infrastructure SIP for the 2006 PM<sub>2.5</sub> NAAQS with respect to the requirements of section 110(a)(2)(C) regarding the explicit identification of NO<sub>x</sub> as a precursor to ozone in the PSD program.

During the comment period following the April 28, 2011, notice, two commenters observed that although we proposed to approve Wisconsin's infrastructure SIP as meeting the correct requirements for NO<sub>x</sub> as a precursor to ozone in the State's PSD program, Wisconsin's PSD SIP does not contain the most recent PSD program revisions required by EPA for this purpose. A subsequent review of Wisconsin's PSD SIP indicated that the commenters were correct in their assertion. Specifically, Wisconsin had not made necessary revisions to its PSD program with respect to the identification of NO<sub>x</sub> as a precursor to ozone, consistent with the explicit requirements of the Phase 2 Rule. As a result, EPA could not finalize this portion of Wisconsin's infrastructure SIP for the 1997 ozone and PM<sub>2.5</sub> NAAQS in our July 13, 2011, final rulemaking. Instead, a subsequent set of actions led EPA to disapprove Wisconsin's infrastructure SIP for this narrow portion of section 110(a)(2)(C) with respect to the 1997 ozone and PM<sub>2.5</sub> NAAQS on June 15, 2012 (*see* 77 FR 35870). A detailed rationale for our disapproval can be found in the associated April 20, 2012, proposed rulemaking (*see* 77 FR 23647).

This final disapproval triggered the requirement under section 110(c) that EPA promulgate a Federal Implementation Plan (FIP) no later than two years from the date of the disapproval unless the State corrects the deficiency, and the Administrator approves the plan or plan revision before the Administrator promulgates such FIP. Wisconsin has not made a subsequent submittal to address the NO<sub>x</sub> as a precursor to ozone provisions per the Phase 2 Rule. To clarify, EPA is not proposing to approve or disapprove any portion of Wisconsin's infrastructure SIP for the 2006 PM<sub>2.5</sub> NAAQS as it relates to NO<sub>x</sub> as a precursor to ozone provisions, specifically because we have already finalized disapproval of these provisions for the 1997 ozone and PM<sub>2.5</sub> NAAQS infrastructure SIPs. However, as discussed above, we are proposing to disapprove portions of Wisconsin's infrastructure SIP for the 2006 PM<sub>2.5</sub> NAAQS with respect to certain requirements obligated by the 2008 NSR

Rule, including the explicit identification of NO<sub>x</sub> as a precursor to PM<sub>2.5</sub>.

#### Sub-Element 5: GHG Permitting and the "Tailoring Rule"

On June 3, 2010, EPA issued a final rule establishing a "common sense" approach to addressing GHG emissions from stationary sources under the CAA permitting programs. The "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule," or "Tailoring Rule," set thresholds for GHG emissions that define when permits under the NSR PSD and title V operating permit programs are required for new and existing industrial facilities (75 FR 31514). The Tailoring Rule set the GHG PSD applicability threshold at 75,000 tpy as expressed in carbon dioxide equivalent; if states have not adopted this threshold, sources with GHG emissions above 100 tpy or 250 tpy (depending on source category) would be subject to PSD, effective January 2, 2011. The lower thresholds could potentially result in apartment complexes, strip malls, small farms, restaurants, etc. triggering GHG PSD requirements.

On December 23, 2010, EPA issued a subsequent series of rules that put the necessary framework in place to ensure that industrial facilities can get CAA permits covering their GHG emissions when needed, and that facilities emitting GHGs at levels below those established in the Tailoring Rule do not need to obtain CAA permits.<sup>6</sup> Included in this series of rules was EPA's issuance of the "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans," referred to as the PSD SIP "Narrowing Rule" on December 30, 2010 (75 FR 82536). The Narrowing Rule limits, or "narrows," EPA's approval of PSD programs that were previously approved into SIPs; the programs in question are those that apply PSD to sources that emit GHG. Specifically, the effect of the Narrowing Rule is that provisions that are no longer approved—e.g., portions of already approved SIPs that apply PSD to GHG emissions increases from sources emitting GHG below the Tailoring Rule thresholds—now have the status of having been submitted by the state but not yet acted upon by EPA. In other words, the Narrowing Rule focuses on eliminating the PSD obligations under Federal law for sources below the Tailoring Rule thresholds. Each Region 5 State's status with respect to its GHG

PSD program, as well as EPA's proposed actions, is discussed below.

Illinois and Minnesota have not adopted or submitted regulations for PSD, although Federally promulgated rules for this purpose are in effect in these two States, promulgated at 40 CFR 52.21. EPA has currently delegated the authority to implement these regulations to Illinois and Minnesota. These Federally promulgated rules contain the GHG thresholds as outlined in the Tailoring Rule. EPA acknowledges that the States have not satisfied the requirement for a SIP submission, which results in a proposed disapproval with respect to this set of infrastructure SIP requirements of section 110(a)(2)(C). However, Illinois and Minnesota have no further obligations to EPA because both States administer the Federally promulgated PSD regulations. Note, however, that EPA does propose that Illinois and Minnesota have met the requirement contained in section 110(a)(2)(E) regarding resources specific to permitting GHG.<sup>7</sup>

EPA finalized approval of revisions to Indiana's PSD SIP on September 28, 2011 (*see* 76 FR 59899). These revisions included the adoption of the Federal thresholds for PSD permitting of GHG-emitting sources. On June 25, 2012, Indiana clarified that they intended for our September 28, 2011 approval to satisfy applicable GHG requirements related to their 2006 PM<sub>2.5</sub> NAAQS infrastructure SIP. Therefore, EPA proposes that Indiana's GHG permitting program has met this set of requirements related to section 110(a)(2)(C) and (E) for the 2006 PM<sub>2.5</sub> NAAQS.

On July 27, 2010, Michigan informed EPA that the State has both the legal and regulatory authority, as well as the resources, to permit GHG under its SIP-approved PSD permitting program, consistent with the thresholds laid out in the Tailoring Rule.<sup>8</sup> Therefore, EPA proposes that Michigan's GHG PSD permitting program has met this set of requirements of sections 110(a)(2)(C) and (E) for the 2006 PM<sub>2.5</sub> NAAQS.

The States of Ohio and Wisconsin have the legal authority under their approved PSD SIPs to regulate GHGs as part of their PSD permitting programs. In the PSD SIP Narrowing Rule, EPA

narrowed its previous approval of these States' PSD programs to ensure that the Federally approved PSD programs in these two States only require PSD permitting of sources emitting GHG at or above the thresholds established in the Tailoring Rule.

On June 3, 2011, Ohio EPA transmitted a letter confirming that its 2006 PM<sub>2.5</sub> infrastructure SIP submittal before our review includes only those parts of their PSD SIP that remain approved after the PSD SIP Narrowing Rule. On March 28, 2011, Wisconsin transmitted a similar letter for the purposes of satisfying the same requirements for the 1997 ozone and PM<sub>2.5</sub> NAAQS infrastructure SIPs. Wisconsin also submitted revisions to its PSD program on May 4, 2011, adopting the Federal thresholds for GHG emitting sources. EPA is taking separate action on Wisconsin's May 4, 2011, submission, but for the purposes of evaluating WDNR's infrastructure SIP for the 2006 PM<sub>2.5</sub> NAAQS, EPA notes that the portions of Wisconsin's submittal before our review include only those parts of the PSD SIP that remain approved after the PSD SIP Narrowing Rule. Thus, the GHG PSD permitting requirements included in the 2006 PM<sub>2.5</sub> NAAQS infrastructure SIP submittals from Ohio and Wisconsin consist of only those portions of their PSD SIP programs that apply PSD permitting requirements to GHG emissions at or above Tailoring Rule thresholds. Therefore, EPA proposes that the GHG PSD permitting program in Ohio and Wisconsin have met this set of requirements of sections 110(a)(2)(C) and (E) for the 2006 PM<sub>2.5</sub> NAAQS.

EPA reiterates that minor NSR regulations and NSR reform regulations are not in the scope of infrastructure SIP actions. Therefore, we are not proposing to approve or disapprove existing minor NSR regulations or NSR reform regulations for each of the Region 5 States' 2006 PM<sub>2.5</sub> NAAQS infrastructure SIP. Furthermore, various sub-elements in this section overlap with elements of section 110(a)(2)(E) and section 110(a)(2)(J). These links will be discussed in the appropriate areas below.

#### D. Section 110(a)(2)(D)—Interstate Transport

Section 110(a)(2)(D)(i)(I) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of the NAAQS in another state. Furthermore, section 110(a)(2)(D)(i)(II) requires SIPs to include provisions prohibiting any

<sup>7</sup> Section 110(a)(2)(E) requires that States have the resources to administer an air quality management program. Some States that are not covered by the Narrowing Rule may not be able to adequately demonstrate that they have adequate personnel to issue GHG permits to all sources that emit GHG under the Tailoring Rule thresholds.

<sup>8</sup> Letter from the Director of MDEQ to EPA Region 5 Regional Administrator dated July 27, 2010.

<sup>6</sup> <http://www.epa.gov/NSR/actions.html#2010>.



source or other type of emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality or to protect visibility.

In this notice, we are not proposing to act on the portions of any state submittal intended to address the interstate transport requirements of section 110(a)(2)(D)(i)(I). We previously disapproved those portions of the SIP submittals from Indiana and Ohio (*see* 76 FR 43175), and today's action neither proposes to approve nor proposes to disapprove those portions of the SIP submittals from Illinois, Michigan, Minnesota, and Wisconsin. EPA intends to take separate action on the section 110(a)(2)(D)(i)(I) portion of the SIP submittals from Illinois, Michigan, Minnesota, and Wisconsin. Neither Indiana nor Ohio has a 110(a)(2)(D)(i)(I) SIP submittal pending before the Agency at this time.

With respect to the PSD requirements of section 110(a)(2)(D)(i)(II), EPA notes that each Region 5 State's satisfaction of the applicable infrastructure SIP PSD requirements for the 2006 PM<sub>2.5</sub> NAAQS has been detailed in the section addressing section 110(a)(2)(C). EPA notes that the proposed actions in that section related to PSD are consistent with the proposed actions related to PSD for section 110(a)(2)(D)(i)(II), and they are reiterated below.

Although Illinois and Minnesota have not adopted or submitted regulations for PSD, Federally promulgated rules for this purpose are in effect in each of the States, promulgated at 40 CFR 52.21. EPA has currently delegated the authority to implement these regulations to Illinois and Minnesota. The PSD regulations in question include: (i) The explicit identification of SO<sub>2</sub> and NO<sub>x</sub> as PM<sub>2.5</sub> precursors (and the significant emissions rates for direct PM<sub>2.5</sub>, and SO<sub>2</sub> and NO<sub>x</sub> as its precursors), consistent with the requirements of the 2008 NSR Rule; (ii) the regulation of PM<sub>2.5</sub> and PM<sub>10</sub> condensables consistent with the requirements of the 2008 NSR Rule; (iii) the explicit identification of NO<sub>x</sub> as a precursor to ozone consistent with the Phase 2 Rule; and, (iv) permitting of GHG emitting sources at the Federal Tailoring Rule thresholds. EPA acknowledges that the States have not satisfied the requirement for a SIP submission, which results in a proposed disapproval with respect to this set of infrastructure SIP requirements of section 110(a)(2)(D)(i)(II). However, Illinois and Minnesota have no further obligations to EPA because both States administer the Federally promulgated PSD regulations.

EPA is proposing to approve revisions to Indiana's PSD SIP that identify SO<sub>2</sub> and NO<sub>x</sub> as PM<sub>2.5</sub> precursors, along with the significant emissions rates for direct PM<sub>2.5</sub> and SO<sub>2</sub> and NO<sub>x</sub> as its precursors, consistent with the requirements of the 2008 NSR Rule. We are also proposing to approve revisions to Indiana's SIP that regulate PM<sub>2.5</sub> and PM<sub>10</sub> condensables, consistent with the requirements of the 2008 NSR Rule. Lastly, EPA is proposing to approve revisions to Indiana's SIP that explicitly identify NO<sub>x</sub> as a precursor to ozone, consistent with the requirements of the Phase 2 Rule. EPA approved revisions to Indiana's SIP on September 28, 2011, that incorporate the Federal thresholds for GHG emitting sources for PSD permitting. Therefore, EPA proposes that Indiana has met all of the infrastructure SIP requirements for PSD associated with section 110(a)(2)(D)(i)(II) for the 2006 PM<sub>2.5</sub> NAAQS.

EPA is proposing to disapprove the portions of infrastructure SIP submissions from Michigan, Ohio, and Wisconsin regarding PM<sub>2.5</sub> precursors, and PM<sub>2.5</sub> and PM<sub>10</sub> condensables, in each of these States' PSD programs. These States have not made revisions to their PSD programs consistent with the requirements of the 2008 NSR Rule, and therefore EPA proposes that they have not met the infrastructure SIP requirements to identify PM<sub>2.5</sub> precursors, or regulate PM<sub>2.5</sub> and PM<sub>10</sub> condensables, with respect to the PSD requirements of section 110(a)(2)(D)(i)(II).

EPA is proposing to disapprove the portions of infrastructure SIP submissions from Michigan and Ohio regarding the explicit identification of NO<sub>x</sub> as a precursor to ozone in each of these States' PSD programs. These States have not made revisions to their PSD programs consistent with the requirements of the Phase 2 Rule, and therefore EPA proposes that they have not met the infrastructure SIP requirements to identify NO<sub>x</sub> as a precursor to ozone with respect to the PSD requirements of section 110(a)(2)(D)(i)(II). As previously noted, EPA has already finalized disapproval of portions of Wisconsin's infrastructure SIP with respect to this requirement.

As stated above, EPA approved revisions to Indiana's SIP on September 28, 2011, that incorporate the Federal Tailoring Rule thresholds for GHG emitting sources. Michigan retains the necessary authority, resources, and personnel to permit GHG emitting sources at the Federal Tailoring Rule thresholds. Ohio and Wisconsin have the necessary authority to permit GHG

emitting sources at the Federal Tailoring Rule, and both States have transmitted letters to EPA stating that their infrastructure SIPs before our review includes only those parts of their PSD SIP that remain approved after the PSD SIP Narrowing Rule. Thus, the GHG PSD permitting requirements included in the 2006 PM<sub>2.5</sub> NAAQS infrastructure SIP submittals from Ohio and Wisconsin consist of only those portions of their PSD SIP programs that apply PSD permitting requirements to GHG emissions at or above Tailoring Rule thresholds. EPA proposes that the States of Indiana, Michigan, Minnesota, and Ohio have met the infrastructure SIP requirements for permitting GHG emitting sources at the Federal Tailoring Rule thresholds with respect to the PSD requirements of section 110(a)(2)(D)(i)(II).

EPA reiterates once again that minor NSR regulations and NSR reform regulations are not in the scope of infrastructure SIP actions. Therefore, we are not proposing to approve or disapprove existing minor NSR regulations or NSR reform regulations for each of the Region 5 States' 2006 PM<sub>2.5</sub> NAAQS infrastructure SIP.

With regard to the applicable requirements for visibility protection of section 110(a)(2)(D)(i)(II), states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). The 2009 Memo states that these requirements can be satisfied by an approved SIP addressing reasonably attributable visibility impairment, if required, and an approved SIP addressing regional haze.

EPA's final approval of Illinois' regional haze plan was published on July 6, 2012 (*see* 76 FR 39943). EPA's final approval of Indiana's regional haze plan was published on June 11, 2012 (*see* 77 FR 34218). EPA's final approval of Ohio's regional haze plan was published on July 2, 2012 (*see* 77 FR 39177). EPA's final approval of Minnesota's regional haze plan was published on June 12, 2012 (*see* 77 FR 34801). EPA's final approval of Wisconsin's regional haze plan was signed by the Regional Administrator on June 15, 2012, and is awaiting publication in the **Federal Register**. Therefore, EPA proposes that the States of Illinois, Indiana, Ohio, Minnesota, and Wisconsin have met this set of infrastructure SIP requirements of section 110(a)(2)(D)(i)(II) for the 2006 PM<sub>2.5</sub> NAAQS. EPA is taking separate action on Michigan's regional haze plan, which was submitted on November 5, 2010, and is not proposing to approve or disapprove the visibility protection

and regional haze plan requirements of section 110(a)(2)(D)(i)(II) for Michigan in today's action. We will address Michigan's satisfaction of the infrastructure SIP requirements related to visibility protection and regional haze of section 110(a)(2)(D)(i)(II) after EPA finalizes action on the regional haze submission.

Section 110(a)(2)(D)(ii) requires each SIP to contain adequate provisions requiring compliance with the applicable requirements of section 126 and section 115 (relating to interstate and international pollution abatement, respectively).

Section 126(a) requires new or modified sources to notify neighboring states of potential impacts from the source. The statute does not specify the method by which the source should provide the notification. States with SIP-approved PSD programs must have a provision requiring such notification by new or modified sources. A lack of such a requirement in state rules would be grounds for disapproval of this element.

While Illinois and Minnesota have not adopted or submitted regulations for PSD, Federally promulgated rules for this purpose are in effect in each of the States, promulgated at 40 CFR 52.21. EPA has currently delegated the authority to implement these regulations to Illinois and Minnesota. These Federally promulgated rules contain provisions requiring new or modified sources to notify neighboring states of potential negative air quality impacts. EPA acknowledges that the States have not satisfied the requirement for a SIP submission, which results in a proposed disapproval with respect to this set of infrastructure SIP requirements of section 110(a)(2)(D)(ii). However, Illinois and Minnesota have no further obligations to EPA because both States administer the Federally promulgated PSD regulations.

Indiana, Michigan, Ohio, and Wisconsin have provisions in their respective EPA-approved PSD programs requiring new or modified sources to notify neighboring states of potential negative air quality impacts. The original submissions from Indiana, Michigan, and Wisconsin reference each State's PSD program as having adequate provisions to meet the requirements of section 126(a). Ohio EPA's June 3, 2011, supplemental submission clarifies that provisions in their PSD program satisfy the requirements of section 126(a). EPA is proposing that Indiana, Michigan, Ohio, and Wisconsin have met the infrastructure SIP requirements of section 126(a) with respect to the 2006 PM<sub>2.5</sub> NAAQS. None of the Region 5

States have obligations under any other section of section 126.

The original submissions from Indiana, Michigan, Minnesota, and Wisconsin affirm that none of these States have pending obligations under section 115, while Illinois EPA's August 25, 2011, and Ohio EPA's June 3, 2011, supplemental submissions confirmed the same satisfaction of section 115. EPA therefore is proposing that all Region 5 States have met the applicable infrastructure SIP requirements of section 110(a)(2)(D)(ii) related to section 115 of the CAA (international pollution abatement).

#### *E. Section 110(a)(2)(E)—Adequate Resources*

This section requires each state to provide for adequate personnel, funding, and legal authority under state law to carry out its SIP, and related issues. Section 110(a)(2)(E)(ii) also requires each state to comply with the requirements respecting state boards under section 128.

##### *Sub-Element 1: Adequate Personnel, Funding, and Legal Authority Under State Law To Carry Out Its SIP, and Related Issues*

At the time of their submittal, Illinois EPA cited the most recent House Bill and Public Act in the State that provides appropriations for the Illinois Bureau of Air Programs and associated personnel. In addition to the environmental performance partnership agreement (EnPPA) with EPA, Illinois has confirmed that it retains all necessary resources to carry out required air programs. As discussed in previous sections, Illinois EPA has affirmed that 415 ILCS 5/4 and 415 ILCS 5/10 provide the Director, in conjunction with IPCB, with the authority to develop rules and regulations necessary to meet ambient air quality standards and respond to any EPA findings of inadequacy with the Illinois SIP program. Lastly, IPCB ensures compliance with required laws or elements of the State's attainment plan that are necessary to attain the NAAQS, or that are necessary to comply with the requirements of the CAA. EPA proposes that Illinois has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Indiana's biennial budget and their EnPPA with EPA document funding and personnel levels for IDEM every two years. As discussed in earlier sections, IC 13-14-1-12 provides the Commissioner of IDEM with the authority to enforce air pollution control laws. Furthermore, IC 13-14-8, IC 13-17-3-11, and IC 13-17-3-14 contain

the authority for IDEM to adopt air emissions standards and compliance schedules. EPA proposes that Indiana has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Michigan's budget ensures that EPA grant funds as well as State funding appropriations are sufficient to administer its air quality management program, and MDEQ has routinely demonstrated that it retains adequate personnel to carry out the duties of this program. Michigan's EnPPA with EPA documents certain funding and personnel levels for MDEQ. Furthermore, Act 451 provides the legal authority under State law to carry out the Michigan SIP. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(E) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Minnesota provided information on the State's authorized spending by program, program priorities, and the State budget. MPCA's EnPPA with EPA provides the MPCA's assurances of resources to carry out certain air programs. EPA also notes that Minnesota Statute chapter 116.07 provides the legal authority under State law to carry out the SIP. EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(E) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Ohio EPA has included its most recent biennial budget with its submittal, which details the funding sources and program priorities addressing the required SIP programs. Ohio EPA has routinely demonstrated that it retains adequate personnel to administer its air quality management program. Ohio's EnPPA with EPA documents certain funding and personnel levels at Ohio EPA. As discussed in previous sections, ORC 3704.03 provides the legal authority under State law to carry out the SIP. EPA proposes that Ohio has met the infrastructure SIP requirements of section 110(a)(2)(E) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Wisconsin's biennial budget ensures that EPA grant funds as well as State funding appropriations are sufficient to administer its air quality management program, and WDNR has routinely demonstrated that it retains adequate personnel to administer its air quality management program. Wisconsin's EnPPA with EPA documents certain funding and personnel levels at WDNR. As discussed in previous sections, basic duties and authorities in the State are outlined in WS chapter 285.11. EPA proposes that Wisconsin has met the

infrastructure SIP requirements of section 110(a)(2)(E) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

As noted above in the discussion addressing section 110(a)(2)(C), the resources needed to permit all sources emitting more than 100 tpy or 250 tpy (as applicable) of GHG would require more resources than any Region 5 State appears to have. This is not a concern in Illinois and Minnesota, because PSD permitting for GHGs is based on Federally promulgated PSD rules that “tailor” the applicability to 75,000 tons per year (expressed as carbon dioxide equivalent).

Given the effect of EPA’s Narrowing Rule to provide that approved SIPs for Ohio and Wisconsin do not involve permitting GHG sources smaller than the Tailoring Rule thresholds, EPA proposes that these States also have the resources necessary to implement the requirements of their respective SIPs.

As previously discussed, EPA approved revisions to Indiana’s PSD program adopting the Federal Tailoring Rule thresholds for GHG on September 28, 2011. Therefore, Indiana’s SIP as it relates to GHG-emitting sources for PSD does not involve permitting sources smaller than the Tailoring Rule thresholds, and EPA proposes that Indiana retains the resources necessary to implement the requirements of its SIP.

EPA confirms that Michigan’s PSD regulations provide the State with adequate resources to permit GHG consistent with the Tailoring Rule thresholds; therefore, EPA proposes that Michigan retains all the resources necessary to implement the requirements of its SIP.

#### Sub-Element 2: State Board Requirements Under Section 128 of the CAA

Section 110(a)(2)(E) also requires each SIP to contain provisions that respect the state board requirements of section 128, which has two explicit requirements: (i) that any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits and enforcement orders under this chapter, and (ii) that any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

In today’s action, EPA is neither proposing to approve or disapprove each Region 5 State’s satisfaction of the state board requirements of section

110(a)(2)(E)(ii). Instead, EPA will take separate action on compliance with section 110(a)(2)(E)(ii) for the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin at a later time. EPA is working with each of the Region 5 States to address these requirements in the most appropriate way.

#### F. Section 110(a)(2)(F)—Stationary Source Monitoring System

States must establish a system to monitor emissions from stationary sources and submit periodic emissions reports. Each plan shall also require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources. The state plan shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and correlation of such reports by each state agency with any emission limitations or standards established pursuant to this chapter. Lastly, the reports shall be available at reasonable times for public inspection.

Illinois EPA requires regulated sources to submit various reports, dependent on applicable requirements and the type of permit issued to the source. These reports are submitted to the Bureau of Air’s Compliance Unit for review, and all reasonable efforts are made by Illinois EPA to maximize the effectiveness of available resources to review the required reports. EPA proposes that Illinois has satisfied the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

The Indiana State rules for monitoring requirements are contained in 326 IAC 3. Additional emissions reporting requirements are found in 326 IAC 2–6. Emission reports are available upon request by EPA or other interested parties. EPA proposes that Indiana has satisfied the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Michigan Administrative Code (MAC) R336.2001 to R336.2004 provide requirements for performance testing and sampling. MAC R336.2101 to R336.2199 provide requirements for continuous emission monitoring, and MAC R336.201 and R336.202 require annual reporting of emissions. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Under Minnesota State air quality rules, any NAAQS is an applicable requirement for stationary sources.

Minnesota’s monitoring rules have been previously approved by EPA and are contained in Chapter 7011 of Minnesota’s SIP. Minnesota Statute chapter 116.07 gives MPCA the authority to require owners or operators of emission facilities to install and operate monitoring equipment, while Chapter 7007.0800 of Minnesota’s SIP sets forth the minimum monitoring requirements that must be included in stationary source permits. Lastly, Chapter 7017 of Minnesota’s SIP contains monitoring and testing requirements, including rules for continuous monitoring. EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Ohio EPA district offices and local air agencies are currently required to witness 50% of all source testing and review 100% of all tests. EPA recognizes that Ohio has routinely submitted quality assured analyses and data for publication. Furthermore, requirements for continuous emissions monitoring under 40 CFR part 51, appendix P are contained in OAC 3745–17–03(c). EPA proposes that Ohio has met the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Wisconsin DNR requires regulated sources to submit various reports, dependent on applicable requirements and the type of permit issued, to the Bureau of Air Management Compliance Team. The frequency and requirements for report review are incorporated as part of Wisconsin Administrative Code NR 438 and Wisconsin Administrative Code NR 439. Additionally, WDNR routinely submits quality assured analyses and data obtained from its stationary source monitoring system for review and publication. Basic authority for Wisconsin’s Federally mandated Compliance Assurance Monitoring reporting structure is provided in Wisconsin Statute Chapter 285.65. EPA proposes that Wisconsin has met the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

#### G. Section 110(a)(2)(G)—Emergency Powers

EPA is currently in the process of promulgating new guidance providing values that we would recommend for defining emergency episodes for PM<sub>2.5</sub>. Subsequent to the December 2007 submittals, EPA has provided guidance regarding PM<sub>2.5</sub> emergency episode planning. This guidance was provided in Attachment B of a memorandum dated September 25, 2009, from the

Director of the Air Quality Policy Division to the Regional Air Division Directors. In accordance with this guidance, EPA believes that all states must have general emergency authority comparable to section 303 of the CAA. With respect to contingency plans, EPA believes that where a state can demonstrate that PM<sub>2.5</sub> levels have consistently remained below 140.4 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), the state may satisfy section 110(a)(2)(G) without necessarily providing for specific emergency episode plans or contingency measures for 2006 PM<sub>2.5</sub> NAAQS.

On June 27, 2012, Illinois EPA confirmed that all monitored values of PM<sub>2.5</sub> have been well below 140.4  $\mu\text{g}/\text{m}^3$  at all monitoring sites in Illinois, and therefore Illinois does not need to submit an emergency episode plan and contingency measures for PM<sub>2.5</sub> at this time. Illinois also has the necessary general authority to address emergency episodes, and these provisions are contained in 415 ILCS 5/34 and 415 ILCS 5/43(a). EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(G) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

On June 25, 2012, IDEM confirmed that all monitored values of PM<sub>2.5</sub> have been well below 140.4  $\mu\text{g}/\text{m}^3$  at all monitoring sites in Indiana since 1999, and therefore Indiana does not need to submit an emergency episode plan and contingency measures for PM<sub>2.5</sub> at this time. Several statutory provisions in the Indiana Code and the IAC provide the proper mechanisms to address air pollution emergency episodes. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(G) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

On July 9, 2012, MDEQ confirmed that all monitored PM<sub>2.5</sub> values in Michigan have been well below 140.4  $\mu\text{g}/\text{m}^3$ , therefore, MDEQ does not need to submit an emergency episode plan and contingency measures for PM<sub>2.5</sub> at this time. Michigan R 324.5518 of Act 451 provides MDEQ with the authority to require the immediate discontinuation of air contaminant discharges that constitute an imminent and substantial endangerment to the public health, safety, or welfare, or to the environment. Furthermore, R 324.5530 of Act 451 provides for civil action by the Michigan Attorney General for violations described in R 324.5518. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(G) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

On June 27, 2012, MPCA observed that all monitored values of PM<sub>2.5</sub> have

been well below 140.4  $\mu\text{g}/\text{m}^3$  at all monitoring sites in Minnesota since 2006. Therefore, Minnesota does not need to submit an emergency episode plan and contingency measures for PM<sub>2.5</sub> at this time. Chapter 7000.5000 and 7009.1050 of the Minnesota SIP contain the emergency powers set forth in the State. Chapter 7009.1000–7009.1110 of Minnesota SIP contain the provisions necessary for determining air quality emergency episodes. EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(G) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

On July 5, 2012, Ohio EPA confirmed that all monitored values of PM<sub>2.5</sub> have been well below 140.4  $\mu\text{g}/\text{m}^3$  at all monitoring sites in Ohio, and therefore Ohio does not need to submit an emergency episode plan and contingency measures for PM<sub>2.5</sub> at this time. OAC 3745–25 provides the requirement to implement emergency action plans in the event of an Air Quality Alert or higher. EPA proposes that Ohio has met the infrastructure SIP requirements of section 110(a)(2)(G) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

On July 2, 2012, WDNR confirmed that all monitored values of PM<sub>2.5</sub> have been well below 140.4  $\mu\text{g}/\text{m}^3$  at all monitoring sites in Wisconsin, and therefore Wisconsin does not need to submit an emergency episode plan and contingency measures for PM<sub>2.5</sub> at this time. WS chapter 285.85 provides the requirement for WDNR to act upon a finding that episode or emergency conditions exist. EPA proposes that Wisconsin has met the infrastructure SIP requirements of section 110(a)(2)(G) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

#### *H. Section 110(a)(2)(H)—Future SIP Revisions*

This section requires states to have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or to an EPA finding that the SIP is substantially inadequate.

As previously mentioned, 415 ILCS 5/4 and 415 ILCS 5/10 provide the Director of Illinois EPA, in conjunction with IPCB, with the authority to develop rules and regulations necessary to meet ambient air quality standards. Furthermore, they have the authority to respond to any EPA findings of inadequacy with the Illinois SIP program. EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to the 2006 p.m.<sub>2.5</sub> NAAQS.

IDEM continues to update and implement needed revisions to

Indiana's SIP as necessary to meet ambient air quality standards. As discussed in previous sections, authority to adopt emissions standards and compliance schedules is found at IC 13–4–8, IC 13–17–3–4, IC 13–17–3–11, and IC 13–17–3–14. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to the 2006 p.m.<sub>2.5</sub> NAAQS.

Michigan Act 451 324.5503 and 324.5512 provides the authority to: promulgate rules to establish standards for ambient air quality and emissions; issue, deny, revoke, or reissue permits; make findings of fact and determinations; make, modify, or cancel orders that require the control of air pollution and/or permits rules and regulations necessary to meet NAAQS; and prepare and develop a general comprehensive plan for the control or abatement of existing air pollution and for control or prevention of any new air pollution. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to 2006 p.m.<sub>2.5</sub> NAAQS.

Minnesota Statute chapter 116.07 grants the agency the authority to “[a]dopt, amend, and rescind rules and standards having the force of law relating to any purpose \* \* \* for the prevention, abatement, or control of air pollution.” EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to the 2006 p.m.<sub>2.5</sub> NAAQS.

ORC 3704.03 provides the Director of Ohio EPA with the authority to develop rules and regulations necessary to meet ambient air quality standards. EPA proposes that Ohio has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to the 2006 p.m.<sub>2.5</sub> NAAQS.

WS chapter 285.11(6) provides WDNR with the authority to develop all rules, limits, and regulations necessary to meet the NAAQS as they evolve, and to respond to any EPA findings of inadequacy with the overall Wisconsin SIP and air management programs. EPA proposes that Wisconsin has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to the 2006 p.m.<sub>2.5</sub> NAAQS.

#### *I. Section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D*

The CAA requires that each plan or plan revision for an area designated as a nonattainment area meet the applicable requirements of part D of the CAA. Part D relates to nonattainment areas.

EPA has determined that section 110(a)(2)(I) is not applicable to the

infrastructure SIP process. Instead, EPA takes action on part D attainment plans through separate processes.

*J. Section 110(a)(2)(f)—Consultation With Government Officials; Public Notifications; PSD; Visibility Protection*

The evaluation of the Region 5 States' certifications addressing the requirements of section 110(a)(2)(f) are described below.

**Sub-Element 1: Consultation With Government Officials**

States must provide a process for consultation with local governments and Federal Land Managers (FLMs) carrying out NAAQS implementation requirements. All EPA Region 5 States consult with appropriate governments, stakeholders, and FLM in their planning efforts.

Illinois EPA is required to give notice to the Office of the Attorney General and the Illinois Department of Natural Resources during the rulemaking process. Furthermore, Illinois provides notice to reasonably anticipated stakeholders and interested parties, as well as to any FLM if the rulemaking applies to Federal land which the FLM has authority over. Additionally, Illinois EPA participates in the Lake Michigan Air Director's Consortium (LADCO), which consists of collaboration with the States of Indiana, Wisconsin, Michigan, and Ohio. Lastly, Illinois EPA participates in the Regional Haze Planning Process through its membership in the Midwest Regional Planning Organization. EPA proposes that Illinois has met the infrastructure SIP requirements of this portion of section 110(a)(2)(f) with respect to the 2006 p.m.<sub>2.5</sub> NAAQS.

IDEM actively participates in the regional planning efforts that include State rule developers, representatives from the FLMs, and other affected stakeholders. Additionally, Indiana is an active member of LADCO. EPA proposes that Indiana has met the infrastructure SIP requirements of this portion of section 110(a)(2)(f) with respect to the 2006 p.m.<sub>2.5</sub> NAAQS.

MDEQ actively participates in planning efforts that include stakeholders from local governments, the business community, and community activist groups. MDEQ also routinely involves FLMs and Tribal groups in Michigan SIP development. Michigan is also an active member of LADCO. Therefore, EPA proposes that Michigan has met the infrastructure SIP requirements of this portion of section 110(a)(2)(f) with respect to the 2006 p.m.<sub>2.5</sub> NAAQS.

MPCA actively participates in the Central Regional Air Planning Association as well as the Central States Air Resource Agencies. MPCA has historically participated in LADCO, and is in the process of becoming a full-time member of the organization. MPCA has also demonstrated that it frequently consults and discusses issues with pertinent Tribes. Therefore, EPA proposes that Minnesota has met the infrastructure SIP requirements of this portion of section 110(a)(2)(f) with respect to the 2006 p.m.<sub>2.5</sub> NAAQS.

Ohio EPA actively participates in the regional planning efforts that include both the State rule developers as well as representatives from the FLMs and other affected stakeholders. The FLMs are also included in Ohio EPA's interested party lists which provide announcements of draft and proposed rule packages. Additionally, Ohio is an active member of LADCO. Therefore, EPA proposes that Ohio has met the infrastructure SIP requirements of this portion of section 110(a)(2)(f) with respect to the 2006 p.m.<sub>2.5</sub> NAAQS.

WS chapter 285.13(5) contains the provisions for WDNR to advise, consult, contract, and cooperate with other agencies of the State and local governments, industries, other states, interstate or inter-local agencies, the Federal government, and interested persons or groups during the entire process of SIP revision development and implementation and for other elements regarding air management for which the agency is the officially charged agency. WDNR's Bureau of Air Management has effectively used formal stakeholder structures in the development and refinement of all SIP revisions. Additionally, Wisconsin is an active member of LADCO. EPA proposes that Wisconsin has satisfied the infrastructure SIP requirements of this portion of section 110(a)(2)(f) with respect to the 2006 p.m.<sub>2.5</sub> NAAQS.

**Sub-Element 2: Public Notification**

Section 110(a)(2)(f) also requires states to notify the public if NAAQS are exceeded in an area and must enhance public awareness of measures that can be taken to prevent exceedances.

Illinois EPA continues to collaborate with the Cook County Department of Environmental Control. This consists of continued and routine monitoring of air quality throughout the State, and notifying the public when unhealthy air quality is measured or forecasted. Illinois EPA provides air quality data to EPA's AIRNOW program, and also provides the daily air quality index (AQI) to the media. Additionally, Illinois EPA provides the AQI to local

stakeholder groups including Partners for Clean Air in Chicago and the Clean Air Partnership in St. Louis. Lastly, air quality data, as well as measures that can be taken to prevent exceedances, are available on Illinois EPA's Web site. EPA proposes that Illinois has met the infrastructure SIP requirements of this portion of section 110(a)(2)(f) with respect to the 2006 p.m.<sub>2.5</sub> NAAQS.

IDEM monitors air quality data daily, and reports the AQI to the interested public and media if necessary. IDEM also participates and submits information to EPA's AIRNOW program, and maintains SmogWatch, which is an informational tool created by IDEM to share air quality forecasts for each day. SmogWatch provides daily information about ground-level ozone, particulate matter concentration levels, health information, and monitoring data for seven regions in Indiana. EPA proposes that Indiana has met the infrastructure SIP requirements of this portion of section 110(a)(2)(f) with respect to the 2006 p.m.<sub>2.5</sub> NAAQS.

MDEQ actively participates in programs such as Ozone Action, AIRNOW, and EnviroFlash. Additionally, MDEQ posts current air quality concentrations on its web pages, and prepares an annual air quality report. EPA proposes that Michigan has met the infrastructure SIP requirements of this portion of section 110(a)(2)(f) with respect to the 2006 p.m.<sub>2.5</sub> NAAQS.

Minnesota consistently notifies the public when exceedances occur, participates in the AIRNOW program, and dedicates portions of the MPCA Web site to enhancing public awareness of measures that can be taken to prevent exceedances. EPA proposes that Minnesota has met the infrastructure SIP requirements of this portion of section 110(a)(2)(f) with respect to the 2006 p.m.<sub>2.5</sub> NAAQS.

Ohio EPA's district offices and local air agencies monitor air quality daily, and where required, report the daily AQI to the interested media. In addition, Ohio EPA's remote access of data system provides online reports of real time air quality data on the internet and feeds raw information to EPA's AIRNOW program. Furthermore, Ohio EPA actively involves local stakeholder groups in the AIRNOW forecast program. EPA proposes that Ohio has met the infrastructure SIP requirements of this portion of section 110(a)(2)(f) with respect to the 2006 p.m.<sub>2.5</sub> NAAQS.

In addition to maintaining an active monitoring network for multiple criteria pollutants (with NAAQS), WDNR also routinely forecasts air quality when elevated pollutant concentrations are

noted. Public notice is provided at levels associated with the extent of the monitored problems ranging from a simple advisory to alert levels, consistent with the provisions of WS chapter 285.11. Wisconsin also participates in the AIRNOW program, and dedicates portions of the WDNR Web site to enhancing public awareness of measures that can be taken to prevent exceedances. EPA proposes that Wisconsin has met the infrastructure SIP requirements of this portion of section 110(a)(2)(f) with respect to the 2006 ozone and PM<sub>2.5</sub> NAAQS.

#### Sub-Element 3: PSD

States must meet applicable requirements of section 110(a)(2)(C) related to PSD. All six Region 5 States have stated their commitment to addressing both long-term requirements to meet natural visibility levels by 2064 as well as concurrent review of new major sources and major modifications under each State's approved PSD NSR program. Each Region 5 State's PSD program in the context of infrastructure SIPs has already been discussed in the paragraphs addressing section 110(a)(2)(C) and 110(a)(2)(D)(i)(II), and EPA notes that the proposed actions for those sections are consistent with the proposed actions for this portion of section 110(a)(2)(f). Our proposed actions are reiterated below.

Although Illinois and Minnesota have not adopted or submitted regulations for PSD, Federally promulgated rules for this purpose are in effect in each of the States, promulgated at 40 CFR 52.21. EPA has currently delegated the authority to implement these regulations to Illinois and Minnesota. The PSD regulations in question include: (i) The explicit identification of SO<sub>2</sub> and NO<sub>x</sub> as PM<sub>2.5</sub> precursors (and the significant emissions rates for direct PM<sub>2.5</sub>, and SO<sub>2</sub> and NO<sub>x</sub> as its precursors) consistent with the requirements of the 2008 NSR Rule; (ii) the regulation of PM<sub>2.5</sub> and PM<sub>10</sub> condensables consistent with the requirements of the 2008 NSR Rule; (iii) the explicit identification of NO<sub>x</sub> as a precursor to ozone consistent with the Phase 2 Rule; and, (iv) permitting of GHG emitting sources at the Federal Tailoring Rule thresholds. EPA acknowledges that the States have not satisfied the requirement for a SIP submission, which results in a proposed disapproval with respect to this set of infrastructure SIP requirements of section 110(a)(2)(D)(f). However, Illinois and Minnesota have no further obligations to EPA because both States administer the Federally promulgated PSD regulations.

EPA is proposing to approve revisions to Indiana's PSD SIP that identify SO<sub>2</sub> and NO<sub>x</sub> as PM<sub>2.5</sub> precursors, along with the significant emissions rates for direct PM<sub>2.5</sub>, and SO<sub>2</sub> and NO<sub>x</sub> as its precursors, consistent with the requirements of the 2008 NSR Rule. We are also proposing to approve revisions to Indiana's SIP that regulate PM<sub>2.5</sub> and PM<sub>10</sub> condensables, consistent with the requirements of the 2008 NSR Rule. Lastly, EPA is proposing to approve revisions to Indiana's SIP that explicitly identify NO<sub>x</sub> as a precursor to ozone, consistent with the requirements of the Phase 2 Rule. EPA approved revisions to Indiana's SIP on September 28, 2011, that incorporate the Federal thresholds for GHG emitting sources for PSD permitting. Therefore, EPA proposes that Indiana has met all of the infrastructure SIP requirements for PSD associated with section 110(a)(2)(D)(f) for the 2006 p.m.<sub>2.5</sub> NAAQS.

EPA is proposing to disapprove the portions of infrastructure SIP submissions from Michigan, Ohio, and Wisconsin regarding PM<sub>2.5</sub> precursors, and PM<sub>2.5</sub> and PM<sub>10</sub> condensables, in each of these States' PSD programs. These States have not made revisions to their PSD programs consistent with the requirements of the 2008 NSR Rule, and therefore EPA proposes that they have not met the infrastructure SIP requirements to identify PM<sub>2.5</sub> precursors, or regulate PM<sub>2.5</sub> and PM<sub>10</sub> condensables, with respect to the PSD requirements of section 110(a)(2)(f).

EPA is proposing to disapprove the portions of infrastructure SIP submissions from Michigan and Ohio regarding the explicit identification of NO<sub>x</sub> as a precursor to ozone in each of these States' PSD programs. These States have not made revisions to their PSD programs consistent with the requirements of the Phase 2 Rule, and therefore EPA proposes that they have not met the infrastructure SIP requirements to identify NO<sub>x</sub> as a precursor to ozone with respect to the PSD requirements of section 110(a)(2)(f). As previously noted, EPA has already finalized disapproval of portions of Wisconsin's infrastructure SIP with respect to this requirement.

As stated above, EPA approved revisions to Indiana's SIP on September 28, 2011, that incorporate the Federal Tailoring Rule thresholds for GHG emitting sources. Michigan retains the necessary authority, resources, and personnel to permit GHG emitting sources at the Federal Tailoring Rule thresholds. Ohio and Wisconsin have the necessary authority to permit GHG emitting sources at the Federal Tailoring Rule, and both States have transmitted

letters to EPA stating that their infrastructure SIPs before our review includes only those parts of their PSD SIP that remain approved after the PSD SIP Narrowing Rule. Thus, the GHG PSD permitting requirements included in the 2006 PM<sub>2.5</sub> NAAQS infrastructure SIP submittals from Ohio and Wisconsin consist of only those portions of their PSD SIP programs that apply PSD permitting requirements to GHG emissions at or above Tailoring Rule thresholds. EPA proposes that the States of Indiana, Michigan, Minnesota, and Ohio have met the infrastructure SIP requirements for permitting GHG emitting sources at the Federal Tailoring Rule thresholds with respect to the PSD requirements of section 110(a)(2)(D)(f).

EPA reiterates once again that minor NSR regulations and NSR reform regulations are not in the scope of infrastructure SIP actions. Therefore, we are not proposing to approve or disapprove existing minor NSR regulations or NSR reform regulations for each of the Region 5 States' 2006 PM<sub>2.5</sub> NAAQS infrastructure SIP.

#### Sub-Element 4: Visibility Protection

With regard to the applicable requirements for visibility protection, states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, we find that there is no new visibility obligation "triggered" under section 110(a)(2)(f) when a new NAAQS becomes effective. This would be the case even in the event a secondary PM<sub>2.5</sub> NAAQS for visibility is established, because this NAAQS would not affect visibility requirements under part C.

EPA's final approval of Illinois' regional haze plan was published on July 6, 2012 (*see* 76 FR 39943). EPA's final approval of Indiana's regional haze plan was published on June 11, 2012 (*see* 77 FR 34218). EPA's final approval of Ohio's regional haze plan was published on July 2, 2012 (*see* 77 FR 39177). EPA's final approval of Minnesota's regional haze plan was published on June 12, 2012 (*see* 77 FR 34801). EPA's final approval of Wisconsin's regional haze plan was signed by the Regional Administrator on June 15, 2012, and is awaiting publication in the **Federal Register**. Therefore, EPA proposes that the States of Illinois, Indiana, Ohio, Minnesota, and Wisconsin have met this set of requirements of section 110(a)(2)(f). EPA is taking separate action on Michigan's



regional haze plan, which was submitted on November 5, 2010, and is not proposing to approve or disapprove the visibility protection and regional haze plan requirements of section 110(a)(2)(J) for Michigan in today's action. We will address Michigan's satisfaction of the infrastructure SIP requirements related to visibility protection and regional haze of section 110(a)(2)(J) after EPA finalizes action on the regional haze submission.

*K. Section 110(a)(2)(K)—Air Quality Modeling/Data*

SIPs must provide for performing air quality modeling for predicting effects on air quality of emissions from any NAAQS pollutant and submission of such data to EPA upon request.

Illinois EPA maintains the capability to perform modeling of the air quality impacts of emissions of all criteria pollutants, including the capability to use complex photochemical grid models. This modeling is used in support of the SIP for all nonattainment areas in the State. Illinois EPA also requires air quality modeling in support of permitting the construction of major and some minor new sources under the PSD program. These modeling data are available to EPA as well as the public upon request. Lastly, Illinois EPA participates in LADCO, which conducts regional modeling that is used for statewide planning purposes. EPA proposes that Illinois EPA has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

IDEM continues to review the potential impact of major and some minor new sources using computer models. Indiana's rules regarding air quality modeling are contained in 326 IAC 2-2-4, 326 IAC 2-2-5, 326 IAC 2-2-6, and 326 IAC 2-2-7. These modeling data are available to EPA or other interested parties upon request. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

MDEQ reviews the potential impact of major and some minor new sources, consistent with 40 CFR part 51, appendix W, "Guidelines on Air Quality Models." These modeling data are available to EPA upon request. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

MPCA reviews the potential impact of major and some minor new sources. Applicable major sources in Minnesota are required to perform modeling to show that emissions do not cause or

contribute to a violation of any NAAQS. Furthermore, MPCA maintains the capability to perform its own modeling. Because Minnesota administers the Federally promulgated PSD regulations, pre-construction permitting modeling is conducted in compliance with EPA's regulations. EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Ohio EPA reviews the potential impact of major and some minor new sources, consistent with 40 CFR part 51, appendix W, "Guidelines on Air Quality Models," as well as Ohio EPA Engineering Guide 69. These modeling data are available to EPA upon request. EPA proposes that Ohio has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

WDNR maintains the capability to perform computer modeling of the air quality impacts of emissions of all criteria pollutants, including both source-oriented and more regionally directed complex photochemical grid models. WDNR collaborates with LADCO, EPA, and other Lake Michigan States in order to perform modeling. The authorities to perform modeling in Wisconsin reside in WS chapter 285.11, WS chapter 285.13, and WS chapter 285.60—285.69. EPA proposes that Wisconsin has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

*L. Section 110(a)(2)(L)—Permitting Fees*

This section requires SIPs to mandate each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing, and enforcing a permit.

Illinois EPA implements and operates the title V permit program, which EPA approved on December 4, 2001 (66 FR 62946); therefore, EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(L).

IDEM implements and operates the title V permit program, which EPA approved on December 4, 2001 (66 FR 62969); revisions to program were approved on August 13, 2002 (67 FR 52615). EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(L).

MDEQ implements and operates the title V permit program, which EPA approved on December 4, 2001 (66 FR 62949); revisions to the program were approved on November 10, 2003 (68 FR 63735). EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(L).

MPCA implements and operates the title V permit program, which EPA

approved on December 4, 2001 (66 FR 62967); therefore, EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(L).

Ohio EPA implements and operates the title V permit program, which EPA approved on August 15, 1995 (60 FR 42045); revisions to the program were approved on November 20, 2003 (68 FR 65401). EPA proposes that Ohio has met the infrastructure SIP requirements of section 110(a)(2)(L).

WDNR implements and operates the title V permit program, which EPA approved on December 4, 2001 (66 FR 62951); revisions to the program were approved on February 28, 2006 (71 FR 9934). EPA proposes that Wisconsin has met the infrastructure SIP requirements of section 110(a)(2)(L).

EPA proposes that all Region 5 States have met the infrastructure SIP requirements of section 110(a)(2)(L) with respect to 2006 PM<sub>2.5</sub> NAAQS.

*M. Section 110(a)(2)(M)—Consultation/Participation by Affected Local Entities*

States must consult with and allow participation from local political subdivisions affected by the SIP.

All public participation procedures pertaining to Illinois EPA are consistent with 35 Illinois Administrative Code Part 164 and Part 252. Part 252 is an approved portion of Illinois' SIP. EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Any IDEM rulemaking procedure contained in IC 13-14-9 requires public participation in the SIP development process. In addition, IDEM ensures that the requirements of 40 CFR 51.102 are satisfied during the SIP development process. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

In Michigan, memoranda of understanding regarding consultation or participation in the SIP development process have been entered between MDEQ and local political subdivisions. MDEQ also provides opportunity for stakeholder workgroup participation in rule development processes. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Minnesota regularly consults with local political subdivisions affected by the SIP, where applicable. EPA observes that Minnesota Statute chapter 116.05 authorizes cooperation and agreement between MPCA and other State and local governments. Additionally, the Minnesota Administrative Procedures

Act (Minnesota Statute chapter 14) provides general notice and comment procedures that are followed during SIP development. Lastly, MPCA regularly issues public notices on proposed actions. EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

Ohio EPA follows approved procedures for allowing public participation, consistent with OAC 3745–47, which is part of the approved SIP. EPA proposes that Ohio has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

In addition to the measures outlined in the paragraph addressing WDNR's

submittal regarding consultation requirements of section 110(a)(2)(J), as contained in WS chapter 285.13(5), the State follows a formal public hearing process in the development and adoption of all SIP revisions that entail new or revised control programs or strategies and targets. EPA proposes that Wisconsin has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2006 PM<sub>2.5</sub> NAAQS.

#### V. What action is EPA taking?

EPA is proposing to approve some elements and disapprove remaining elements of submissions from the EPA Region 5 States certifying that the current SIPs are sufficient to meet the required infrastructure elements under

sections 110(a)(1) and (2) for the 2006 PM<sub>2.5</sub> NAAQS. EPA is also proposing to approve portions of a submittal from Indiana intended to meet EPA's requirements for the NSR and PSD program in that State. Specifically, they include: (i) 326 IAC 2–1.1–1(2); (ii) 326 IAC 2–1.1–1(10); (iii) 326 IAC 2–2–1(dd)(1); (iv) 326 IAC 2–2–1(ff)(7); (v) 326 IAC 2–2–1(ss)(1); (vi) 326 IAC 2–2–1(ww)(1)(F); (vii) 326 IAC 2–2–1(ww)(1)(G); and, (viii) 326 IAC 2–2–4(b)(2)(vi).

EPA's proposed actions for each Region 5 State's satisfaction of infrastructure SIP requirements, by element of section 110(a)(2) are contained in the table below.

Element	IL	IN	OH	MI	MN	WI
A: Emission limits and other control measures .....	A	A	A	A	A	A
B: Ambient air quality monitoring and data system .....	A	A	A	A	A	A
C1: Enforcement of SIP measures .....	A	A	A	A	A	A
C2: PM <sub>2.5</sub> precursors for PSD .....	D,*	A	D	D	D,*	D
C3: PM <sub>2.5</sub> and PM <sub>10</sub> condensables for PSD .....	D,*	A	D	D	D,*	D
C4: NO <sub>x</sub> as a precursor to ozone for PSD .....	D,*	A	D	D	D,*	NA
C5: GHG permitting thresholds in PSD regulations .....	D,*	A	A	A	D,*	A
D1: Contribute to nonattainment/interfere with maintenance of NAAQS .....	NA	NA	NA	NA	NA	NA
D2: PSD .....	**	**	**	**	**	**
D3: Visibility Protection .....	A	A	A	NA	A	A
D4: Interstate Pollution Abatement .....	D,*	A	A	A	D,*	A
D5: International Pollution Abatement .....	A	A	A	A	A	A
E: Adequate resources .....	A	A	A	A	A	A
E: State boards .....	NA	NA	NA	NA	NA	NA
F: Stationary source monitoring system .....	A	A	A	A	A	A
G: Emergency power .....	A	A	A	A	A	A
H: Future SIP revisions .....	A	A	A	A	A	A
I: Nonattainment area plan or plan revisions under part D .....	NA	NA	NA	NA	NA	NA
J1: Consultation with government officials .....	A	A	A	A	A	A
J2: Public notification .....	A	A	A	A	A	A
J3: PSD .....	**	**	**	**	**	**
J4: Visibility protection (Regional Haze) .....	A	A	A	NA	A	A
K: Air quality modeling and data .....	A	A	A	A	A	A
L: Permitting fees .....	A	A	A	A	A	A
M: Consultation and participation by affected local entities .....	A	A	A	A	A	A

In the above table, the key is as follows:

A Approve.

NA No Action/Separate Rulemaking.

D Disapprove.

\* Federally promulgated rules in place.

\*\* Previously discussed in element (C).

To clarify, EPA is proposing to disapprove the infrastructure SIP submissions from Illinois and Minnesota with respect to certain PSD requirements including: (i) The explicit identification of SO<sub>2</sub> and NO<sub>x</sub> as PM<sub>2.5</sub> precursors (and the significant emissions rates for direct PM<sub>2.5</sub>, and SO<sub>2</sub> and NO<sub>x</sub> as its precursors) consistent with the requirements of the 2008 NSR Rule; (ii) the regulation of PM<sub>2.5</sub> and PM<sub>10</sub> condensables consistent with the requirements of the 2008 NSR Rule; (iii) the explicit identification of NO<sub>x</sub> as a precursor to ozone consistent with the Phase 2 Rule; and, (iv) permitting of

GHG emitting sources at the Federal Tailoring Rule thresholds.

EPA is also proposing to disapprove the infrastructure SIP submissions from Illinois and Minnesota with respect to the requirements of section 110(a)(2)(D)(ii) related to interstate pollution abatement. Specifically, this section requires states with PSD programs have provisions requiring a new or modified source to notify neighboring states of the potential impacts from the source, consistent with the requirements of section 126(a).

However, Illinois and Minnesota have no further obligations to EPA because Federally promulgated rules,

promulgated at 40 CFR 52.21 are in effect in each of these States. EPA has delegated the authority to Illinois and Minnesota to administer these rules, which include provisions related to PSD and interstate pollution abatement. A final disapproval for Illinois or Minnesota for these infrastructure SIP requirements will not result in sanctions under section 179(a), nor will it obligate EPA to promulgate a FIP within two years of final action if the States do not submit revisions to their PSD SIPs addressing these deficiencies. Instead, Illinois and Minnesota are already administering the Federally promulgated PSD regulations.

The grounds for EPA's proposed disapproval of portions of the infrastructure SIP submittals from Ohio, Michigan, and Wisconsin are very narrow, and pertain only to these specific deficiencies in the States' SIPs described in the relevant sections of this proposed action.

As previously discussed, Michigan and Ohio have been working on revisions to their PSD programs, consistent with the requirements of the Phase 2 Rule and the 2008 NSR Rule. We will work with the States to rectify these issues promptly. In addition, EPA will work with WDNR to account for the explicit identification of precursors to PM<sub>2.5</sub>, as well as PM<sub>2.5</sub> and PM<sub>10</sub> condensables, in its PSD program.<sup>9</sup>

Under section 179(a) of the CAA, final disapproval of a submission that addresses a requirement of a Part D Plan (section 171—section 193 of the CAA), or is required in response to a finding of substantial inadequacy as described in section 110(k)(5) starts a sanction clock. The provisions in the submissions we are disapproving were not submitted by Michigan, Ohio, or Wisconsin to meet either of those requirements. Therefore, if EPA takes final action to disapprove these submissions, no sanctions under section 179 will be triggered.

The full or partial disapproval of a SIP revision triggers the requirement under section 110(c) that EPA promulgate a FIP no later than two years from the date of the disapproval unless the state corrects the deficiency, and the Administrator approves the plan or plan revision before the Administrator promulgates such FIP. As previously mentioned, EPA anticipates that MDEQ and Ohio EPA will make submissions rectifying each of these deficiencies. Further, EPA anticipates acting on the submissions within the two year time frame prior to our FIP obligation on these very narrow issues. In the interim, EPA expects Michigan and Ohio to treat and explicitly identify NO<sub>x</sub> as a precursor to ozone for PSD permitting consistent with the requirements of the Phase 2 Rule. EPA also expects these States to adhere to the requirements of the 2008 NSR Rule with respect to the treatment and identification of PM<sub>2.5</sub> precursors and the accounting for PM<sub>2.5</sub> and PM<sub>10</sub> condensables in permitting emissions limits in their respective PSD programs.

<sup>9</sup> Although not specific to this action, EPA will also continue to work with WDNR to ensure that revisions to the State's PSD program contain provisions that explicitly identify NO<sub>x</sub> as a precursor to ozone, consistent with the Phase 2 Rule.

EPA will actively work with Wisconsin to incorporate changes to its PSD program that explicitly identify PM<sub>2.5</sub> precursors and account for PM<sub>2.5</sub> and PM<sub>10</sub> condensables in permitting emissions limits, consistent with the 2008 NSR Rule. In the interim, EPA expects WDNR to adhere to the associated requirements of the 2008 NSR Rule in its PSD program, specifically with respect to the explicit identification of PM<sub>2.5</sub> precursors, and the accounting for PM<sub>2.5</sub> and PM<sub>10</sub> condensables in permitting emissions limits.

## VI. Statutory and Executive Order Reviews

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

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

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

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

## List of Subjects in 40 CFR Part 52

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

Dated: July 20, 2012.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2012–18880 Filed 8–1–12; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R10–OAR–2011–0194; FRL–9709–4]

### Approval and Promulgation of State Implementation Plans: Idaho; Boise-Northern Ada County Air Quality Maintenance Area; Second 10-Year Carbon Monoxide Maintenance Plan

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Idaho (the State). The Idaho State Department of Environmental Quality (IDEQ) submitted the Northern Ada County Air Quality Maintenance Area Second 10-year Carbon Monoxide Maintenance Plan on February 10, 2011. In accordance with the requirements of the Federal Clean Air Act (the Act), EPA is proposing to approve the revision because the State adequately demonstrates that the Boise-Northern Ada County Air Quality Maintenance Area will maintain air quality standards for carbon monoxide (CO) through the year 2022.

**DATES:** Comments must be received on or before September 4, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R10–