

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2008-0931; FRL-9939-29-Region 3]

#### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Attainment Demonstration for the Baltimore 8-Hour Ozone Moderate Nonattainment Area; Withdrawal of Proposed Rule

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

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The EPA is withdrawing its proposed rule to disapprove Maryland's June 4, 2007 ozone attainment demonstration for the Baltimore Area. This withdrawal action is being taken under section 110 of the CAA.

**DATES:** The proposed rule published on May 8, 2009 (74 FR 21594), regarding the ozone attainment demonstration portion of Maryland's June 4, 2007 comprehensive SIP revision request for the Baltimore Area, is withdrawn as of December 4, 2015.

**ADDRESSES:** EPA has established docket number EPA-R03-OAR-2008-0931 for this action. The index to the docket is available electronically at <http://www.regulations.gov> and in hard copy at Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

**FOR FURTHER INFORMATION CONTACT:** Maria A. Pino, 215-814-2181, or by email at [pino.maria@epa.gov](mailto:pino.maria@epa.gov).

**SUPPLEMENTARY INFORMATION:** On May 8, 2009 (74 FR 21594), EPA published a proposed rule to disapprove the ozone attainment demonstration portion of a comprehensive State Implementation Plan (SIP) revision request submitted by the State of Maryland on June 4, 2007 to meet the Clean Air Act (CAA) requirements for attaining the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) for the

Baltimore moderate nonattainment area (Baltimore Area). On May 26, 2015 (80 FR 29970), EPA determined that the Baltimore Area attained the 1997 8-hour ozone NAAQS, thereby suspending the area's obligations to submit an attainment demonstration and other planning requirements related to attainment of the 1997 8-hour ozone NAAQS for as long as the area continues to attain the standard. On October 20, 2015, the State of Maryland withdrew the attainment demonstration (including modeling and weight of evidence), 2009 attainment year inventory, contingency measures for attainment, and 2009 transportation conformity budgets contained in Maryland's June 4, 2007 SIP revision request.

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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 10, 2015.

**Shawn M. Garvin,**

*Regional Administrator, Region III.*

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**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2015-0750; FRL- 9939-65-Region 3]

#### Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Interstate Pollution Transport Requirements for the 2010 Nitrogen Dioxide Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the District of Columbia (the District). This revision pertains to the infrastructure requirement for interstate transport pollution with respect to the 2010 nitrogen dioxide (NO<sub>2</sub>) National Ambient Air Quality Standards (NAAQS). This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before January 4, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2015-0750 by one of the following methods:

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

*B. Email: [Fernandez.cristina@epa.gov](mailto:Fernandez.cristina@epa.gov).*

*C. Mail:* EPA-R03-OAR-2015-0750 Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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

*Instructions:* Direct your comments to Docket ID No. EPA-R03-OAR-2015-0750. 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 electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in [www.regulations.gov](http://www.regulations.gov) or may be viewed during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the District of Columbia Department of Energy and Environment, Air Quality Division, 1200 1st Street NE., 5th floor, Washington, DC 20002.

**FOR FURTHER INFORMATION CONTACT:**

Emlyn Velez-Rosa, (215) 814-2038, or by email at [velez-rosa.emlyn@epa.gov](mailto:velez-rosa.emlyn@epa.gov).

**SUPPLEMENTARY INFORMATION:** On June 6, 2014, the District Department of Energy and the Environment (DDOEE) submitted a SIP revision addressing the infrastructure requirements for the 2010 NO<sub>2</sub> NAAQS.

## I. Background

### A. General

Whenever new or revised NAAQS are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements, including, but not limited to, regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements.

On February 9, 2010 (75 FR 6474), EPA established a new 1-hour primary NAAQS for NO<sub>2</sub> at a level of 100 parts per billion (ppb), based on a 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. See 40 CFR 50.11. NO<sub>2</sub> is a subset, and often considered an indicator, of the broader pollutant nitrogen oxides (NOX). On February 17, 2012 (77 FR 9532), EPA published its final designations for the 2010 NO<sub>2</sub> NAAQS, based upon 2008–2010 design values. In this rulemaking, EPA determined that no area in the country was violating the standard, designating all the areas of the country as unclassifiable/attainment. The 2008–2010 design values reflect conditions at

the time throughout the country well below the 2010 NO<sub>2</sub> NAAQS, including the District and nearby states.

### B. EPA's Infrastructure Requirements

Pursuant to section 110(a)(1), states must make infrastructure SIP submissions “within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof).” Infrastructure SIP submissions should provide for the “implementation, maintenance, and enforcement” of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA’s taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that “[e]ach such plan” submission must address.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements. EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (2013 Infrastructure Guidance).<sup>1</sup> EPA developed this document to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. Within this guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions. The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2).<sup>2</sup> EPA

<sup>1</sup> “Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),” Memorandum from Stephen D. Page, September 13, 2013. This guidance is available online at [http://www.epa.gov/oar/urbanair/sipstatus/docs/Guidance\\_on\\_Infrastructure\\_SIP\\_Elements\\_Multipollutant\\_FINAL\\_Sept\\_2013.pdf](http://www.epa.gov/oar/urbanair/sipstatus/docs/Guidance_on_Infrastructure_SIP_Elements_Multipollutant_FINAL_Sept_2013.pdf).

<sup>2</sup> On September 25, 2009, EPA issued “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),” Memorandum from William T. Hartnett, Director, Air Quality Policy Division. This guidance provided that each state’s SIP submission for the 2006 24-hour PM<sub>2.5</sub> NAAQS must discuss whether emissions from the state significantly contribute to

interprets section 110(a)(1) and (2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.

Additionally, EPA has provided in previous rulemaking actions a detailed discussion of the Agency’s approach in reviewing infrastructure SIPs, including the Agency’s longstanding interpretation of requirements for section 110(a)(1) and (2), the interpretation that the CAA allows states to make multiple SIP submissions separately addressing infrastructure SIP elements in section 110(a)(2) for a specific NAAQS, and the interpretation that EPA has the ability to act on separate elements of 110(a)(2) for a NAAQS in separate rulemaking actions.<sup>3</sup>

### C. Interstate Pollution Transport Requirements

Section 110(a)(2)(D)(i)(I) of the CAA requires state SIPs to address any emissions activity in one state that contributes significantly to nonattainment, or interferes with maintenance, of the NAAQS in any downwind state. EPA sometimes refers to these requirements as prong 1 (significant contribution to nonattainment) and prong 2 (interference with maintenance), or conjointly as the “good neighbor” provision of the CAA. Specifically, section 110(a)(2)(D)(i)(I) requires the elimination of upwind state emissions that significantly contribute to nonattainment or interference with maintenance of the NAAQS in another state.

## II. Summary of SIP Revisions

On June 6, 2014, the District through DDOEE submitted a revision to its SIP to satisfy the infrastructure requirements of section 110(a)(2) of the CAA for the 2010 NO<sub>2</sub> NAAQS, including section 110(a)(2)(D)(i)(I), pertaining to interstate transport requirements. On April 13, 2015 (80 FR 19538), EPA approved the District’s infrastructure SIP submittal for the 2010 NO<sub>2</sub> NAAQS for all applicable elements

nonattainment of the NAAQS or interference with maintenance of the NAAQS in any other state and must address any such impact. This guidance is available online at [http://www.epa.gov/ttn/caaa/t1/memoranda/20090925\\_harnett\\_pm25\\_sip\\_110a12.pdf](http://www.epa.gov/ttn/caaa/t1/memoranda/20090925_harnett_pm25_sip_110a12.pdf).

<sup>3</sup> See 80 FR 2865 (January 21, 2015) (EPA’s rulemaking action proposing approval of portions of the District’s infrastructure SIP submissions for the 2008 ozone NAAQS and the 2010 NO<sub>2</sub> and sulfur dioxide (SO<sub>2</sub>) NAAQS).

of section 110(a)(2) with the exception of 110(a)(2)(D)(i)(I).<sup>4</sup> This rulemaking action is addressing the portions of the District's infrastructure submittal for the 2010 NO<sub>2</sub> NAAQS that pertain to transport requirements.<sup>5</sup>

The District's June 6, 2014 transport submittal includes emissions inventory and air quality data that concludes that the District does not have sources that can contribute to nonattainment in, or interfere with maintenance by, any other state with respect to the 2010 NO<sub>2</sub> NAAQS. Currently available air quality monitoring data included in the submittal confirms that NO<sub>2</sub> levels continue to be well below the 2010 NO<sub>2</sub> NAAQS in the District and in any areas surrounding or bordering the District.<sup>6</sup> Additionally, the District describes existing SIP-approved measures and other Federally-enforceable source-specific measures, pursuant to permitting requirements under the CAA, that apply to NO<sub>x</sub> sources within the District. EPA finds that the District's existing SIP provisions, as identified in the submittal, are adequate to prevent its emission sources from significantly contributing to nonattainment or interfering with maintenance in another state with respect to the 2010 NO<sub>2</sub> NAAQS. In light of these measures, EPA does not expect NO<sub>x</sub> emissions in the District to increase significantly, and therefore does not expect monitors in the District and nearby states, all currently measuring NO<sub>2</sub> concentrations well below the 2010 NO<sub>2</sub> NAAQS, to have difficulty continuing to attain or maintaining attainment of the NAAQS. A detailed summary of EPA's review and rationale for proposing approval of this SIP revision as meeting section 110(a)(2)(D)(i)(I) of the CAA for the 2010 NO<sub>2</sub> ozone NAAQS may be found in the Technical Support Document (TSD) for this rulemaking action, which is available online at [www.regulations.gov](http://www.regulations.gov), Docket number EPA-R03-OAR-2015-0750.

<sup>4</sup> In this final rulemaking action, EPA also approved the District's infrastructure SIPs for the 2008 ozone and 2010 SO<sub>2</sub> NAAQS with the exception of the transport elements in 110(a)(2)(D)(i)(I).

<sup>5</sup> For EPA's explanation of its ability to act on discrete elements of section 110(a)(2), see EPA's proposed rulemaking action regarding approval of portions of the District's infrastructure SIP submissions for the 2008 ozone NAAQS and the 2010 NO<sub>2</sub> and SO<sub>2</sub> NAAQS; 80 FR 2865 (January 21, 2015).

<sup>6</sup> The District's June 6, 2014 submittal included recent air quality monitoring data for the states surrounding or bordering the District within a 50 kilometer radius, which are Maryland and Virginia. The 50 kilometers radius is the standard distance for modeling analysis in EPA's Guideline on Air Quality Models (Appendix W to 40 CFR part 51).

### III. Proposed Action

EPA is proposing to approve the portions of the District's June 6, 2014 SIP revision addressing interstate transport for the 2010 NO<sub>2</sub> NAAQS for purposes of meeting section 110(a)(2)(D)(i)(I) requirements with respect to this NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

### IV. 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 proposed action:

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

health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, addressing the District's interstate transport requirements under the CAA for the 2010 NO<sub>2</sub> NAAQS, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide.

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

Dated: November 23, 2015.

**Shawn M. Garvin,**

*Regional Administrator, Region III.*

[FR Doc. 2015-30685 Filed 12-3-15; 8:45 am]

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## LEGAL SERVICES CORPORATION

### 45 CFR Parts 1604, 1609, 1611, 1614, 1626, and 1635

#### Outside Practice of Law; Fee-Generating Cases; Financial Eligibility; Private Attorney Involvement; Restrictions on Legal Assistance to Aliens; Timekeeping Requirement

**AGENCY:** Legal Services Corporation.

**ACTION:** Notice of proposed changes and request for comments.

**SUMMARY:** The Legal Services Corporation ("LSC") Office of Inspector General ("OIG") intends to revise the Compliance Supplement for Audits of LSC Recipients for the fiscal year ending December 31, 2015, and thereafter and is soliciting public comment on the proposed changes. The proposed revisions primarily affect certain regulatory requirements to be audited pursuant to LSC regulations. In addition, the LSC OIG is proposing to include for audit certain regulatory requirements which impact recipient staff's involvement in the outside practice of law. Finally, suggested audit procedures for several regulations have been updated and revised for clarification and simplification purposes.

**DATES:** All comments and recommendations must be received by January 4, 2016.