(or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Emergency AD No.: 2009–0172–E, dated August 5, 2009; and EUROCOPTER Emergency Alert Service Bulletin No. 67.18, dated August 3, 2009, for related information.

Issued in Fort Worth, Texas, on August 25, 2010.

Kimberly K. Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2010–22775 Filed 9–10–10; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2010–0669; FRL–9200–5]

Approval and Promulgation of Implementation Plans; Idaho; Interstate Transport of Pollution

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 for the purpose of addressing the "good neighbor" provisions of the Clean Air Act (CAA) section 110(a)(2)(D)(i) for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS or standards) and the 1997 $PM_{2.5}$ NAAQS. This SIP revision addresses the requirement that the State of Idaho's SIP have adequate provisions to prohibit air emissions from adversely affecting another state's air quality through interstate transport. In this action, EPA is proposing to approve the Idaho Interstate Transport SIP provisions that address the requirement of section 110(a)(2)(D)(i) that emissions from Idaho sources do not significantly contribute to nonattainment of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS in any other state, interfere with maintenance of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS in any other state, and interfere with measures required in the SIP of any other state under part C of subchapter I of the CAA to prevent significant deterioration of air quality. This action is being taken under section 110 and part C of subchapter I of the Clean Air Act (the Act or CAA).

DATES: Written comments must be received on or before October 13, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2008–0391, by one of the following methods:

A. *http://www.regulations.gov.* Follow the online instructions for submitting comments.

B. *E-Mail: R10-Public_Comments@epa.gov.*

C. *Mail:* Donna Deneen, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 900, Mail Stop: AWT–107, Seattle, WA 98101.

D. *Hand Delivery:* U.S. Environmental Protection Agency, Region 10, Attn: Donna Deneen (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101, 9th Floor. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2010–0669. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 *http://www.regulations.gov* or email. The *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 *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 you comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov index.* Although listed in the index, some information, *i.e.,* CBI or other information whose disclosure is restricted by statute, is not publicly available. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Donna Deneen, (206) 553–6706 or *deneen.donna@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this notice, the words "we", "us", or "our" means the Environmental Protection Agency (EPA).

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I. What proposed action is EPA taking?

EPA is proposing to approve a portion of Idaho's Interstate Transport State Implementation Plan (SIP) revision for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS submitted by the Idaho Department of Quality (IDEQ) on June 28, 2010. Specifically, we are proposing to approve the portion of the plan that addresses the following elements of

CAA section 110(a)(2)(D)(i): (1) Significant contribution to nonattainment of these NAAQS in any other state, (2) interference with maintenance of these NAAQS by any other state, and (3) interference with any other state's required measures to prevent significant deterioration (PSD) of its air quality with respect to these NAAQS. IDEQ addressed element (4), interference with any other state's required measures to protect visibility, by referring to its Regional Haze SIP, which will be submitted separately. EPA will take action on the visibility element in a separate action. EPA will also take action on the portion of Idaho's SIP that addresses the 2006 $PM_{2.5}$ NAAQS [1] in a separate action.

Idaho's June 28, 2010, SIP revision replaces a previously submitted section 110(a)(2)(D)(i) SIP revision submitted by IDEQ on January 30, 2007, for the 1997 $PM_{2.5}$ standards. EPA proposed approval of that SIP revision on June 26, 2007 (72 FR 35022), but did not take final action. When Idaho submitted its June 28, 2010, SIP revision, Idaho requested that EPA replace the SIP submitted on January 30, 2007, with the revised SIP submitted on June 28, 2010. In light of Idaho's resubmittal of its Interstate Transport SIP, EPA is withdrawing its June 26, 2007, proposal and is issuing this proposal to approve Idaho's June 28, 2010, SIP revision in its place. Accordingly, EPA will not be responding to comments on the June 26, 2007, proposal. Any person who wishes to comment on EPA's proposed approval of Idaho's SIP revision addressing section 110(a)(2)(D)(i) for the 1997 8-hour ozone and 1997 $PM_{2.5}$ standards should do so at this time.

II. What is a SIP?

Section 110(a) of the CAA requires each state to develop a plan that provides for the implementation, maintenance, and enforcement of the NAAQS. EPA establishes NAAQS under section 109 of the CAA. Currently, the NAAQS address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

The plan developed by a state is referred to as the SIP. The content of the SIP is specified in section 110 of the CAA, other provisions of the CAA, and applicable regulations. SIPs can be extensive, containing state regulations or other enforceable measures and various types of supporting information, such as emissions inventories, monitoring networks, and modeling demonstrations.

A primary purpose of the SIP is to provide the air pollution regulations, control strategies, and other means or techniques developed by the state to ensure that the ambient air within that state meets the NAAQS. However, another important aspect of the SIP is to ensure that emissions from within the state do not have certain prohibited impacts upon the ambient air in other states through interstate transport of pollutants. This SIP requirement is specified in section 110(a)(2)(D). Pursuant to that provision, each state's SIP must contain provisions adequate to prevent emissions that significantly contribute to violations of the NAAQS in any other state, interfere with maintenance in any other state, interfere with any other state's required measures to prevent significant deterioration of its air quality, and interfere with any other state's required measures to protect visibility.

States are required to update or revise SIPs under certain circumstances. One such circumstance is EPA's promulgation of a new or revised NAAQS. Each state must submit these revisions to EPA for approval and incorporation into the federally-enforceable SIP.

III. What is the background for this proposed action?

On July 18, 1997, EPA promulgated new standards for 8-hour ozone and fine particulate matter ($PM_{2.5}$). This action is being taken in response to the promulgation of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS. This action does not address the requirements of the 2006 $PM_{2.5}$ NAAQS or the 2008 8-hour ozone NAAQS; those standards will be addressed in a future action.

Section 110(a)(1) of the CAA requires states to submit SIPs to address a new or revised NAAQS within three years after promulgation of such standards, or within such shorter period as EPA may prescribe. Section 110(a)(2) lists the elements that such new SIPs must address, as applicable, including section 110(a)(2)(D)(i) which pertains to interstate transport of certain emissions. On August 15, 2006, EPA issued its "Guidance for State Implementation Plan (SIP) Submission to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-hour ozone and $PM_{2.5}$ National Ambient Air Quality Standards" (2006 Guidance) for SIP submissions that states should use to address the requirements of section 110(a)(2)(D)(i). EPA developed this guidance to make recommendations to states for making submissions to meet the requirements of section 110(a)(2)(D) for the 1997 8-hour ozone standards and 1997 $PM_{2.5}$ standards.

On June 28, 2010, we received a SIP revision from the State of Idaho to address the requirements of section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS. The "good neighbor" provisions in section 110(a)(2)(D)(i) require each state to submit a SIP that prohibits emissions that adversely affect another state in the ways contemplated in the statute. Section 110(a)(2)(D)(i) identifies four distinct elements related to the evaluation of impacts of interstate transport of air pollutants. In this rulemaking EPA is addressing the first three elements: (1) Significant contribution to nonattainment of these NAAQS in any other state, (2) interference with maintenance of these NAAQS by any other state, and (3) interference with any other state's required measures to prevent significant deterioration (PSD) of its air quality with respect to these NAAQS. Idaho asserts in its SIP submission that its current SIP is adequate to prevent such contribution and interference, and thus no additional controls or revisions are needed with respect to the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS. EPA is proposing to find that Idaho's Interstate Transport SIP provisions addressing elements (1), (2), and (3) of section 110(a)(2)(D)(i) are consistent with the requirements of the CAA.

IV. What is EPA's evaluation of the State's submission?

A. EPA's Evaluation of Significant Contribution to Nonattainment

Section 110(a)(2)(D)(i) provides that EPA cannot approve a state's SIP for a new or revised NAAQS unless it contains adequate measures to prohibit emissions from sources within the state from contributing significantly to nonattainment of the NAAQS in another state. EPA's August 2006 Guidance concerning section 110(a)(2)(D)(i) recommended various methods by which states might evaluate whether or not their emissions significantly contribute to nonattainment of the 1997 8-hour ozone or the 1997 $PM_{2.5}$ NAAQS in another state. Among other methods, EPA recommended consideration of available EPA modeling conducted in conjunction with the Clean Air Interstate Rule (CAIR),[2] or in the

[1] The $PM_{2.5}$ standard was revised in 2006. *See* "National Ambient Air Quality Standards for Particulate Matter," at 71 FR 61144, (October 17, 2006).

[2] *See* "Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to

Continued

absence of such EPA modeling, consideration of other information such as the amount of emissions, the geographic location of violating areas, meteorological data, or various other forms of information that would be relevant to assessing the likelihood of significant contribution to violations of the NAAQS in another state. The assessment of significant contribution to nonattainment is not restricted to impacts upon areas that are formally designated nonattainment. Consistent with EPA's approach in CAIR and in the Transport Rule Proposal, this impact must be evaluated with respect to monitors showing a violation of the NAAQS (70 FR 25172, May 12, 2005, and 63 FR 57371, October 27, 1998).[3] Furthermore, although relevant information other than modeling may be considered in assessing the likelihood of significant contribution to nonattainment of the 8-hour ozone or $PM_{2.5}$ NAAQS in another state, EPA notes that no single piece of information is by itself dispositive of the issue. Instead, the total weight of all the evidence taken together is used to evaluate significant contributions to violations of the 1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS in another state.

This proposed approval addresses the significant contribution element for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS in several ways. It takes into account Idaho's SIP submission that addressed the significant contribution element for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS by evaluating potential impacts from Idaho sources on 1997 8-hour ozone and 1997 $PM_{2.5}$ nonattainment areas in surrounding states based on a review of meteorological and other characteristics of those areas. The State's SIP submission also relied on provisions in its air quality regulations that address Idaho's authority to address nonattainment issues. In addition to the arguments presented by Idaho to support its demonstration that its SIP satisfies the significant contribution element of the CAA, EPA has supplemented its analysis with monitoring data and other information related to the 1997 $PM_{2.5}$ nonattainment areas identified by Idaho, and has also provided monitoring data and other information for the surrounding states generally. Our evaluation below regarding how Idaho's SIP satisfies the significant contribution element of the CAA is organized as follows. Section 1 addresses the 1997 $PM_{2.5}$ nonattainment areas in surrounding states (including $PM_{2.5}$ monitoring data for those nonattainment areas) and $PM_{2.5}$ monitoring data generally for surrounding states. Section 2 addresses the 1997 8-hour ozone nonattainment areas in surrounding states (including ozone monitoring data for those nonattainment areas) and ozone monitoring data generally for surrounding states. Section 3 addresses Idaho's air quality regulations for both the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS which pertain to Idaho's authority to address nonattainment issues.

1. 1997 $PM_{2.5}$ Nonattainment Areas and Monitoring Data in States Surrounding Idaho

1997 $PM_{2.5}$ Nonattainment Areas

To address whether Idaho sources significantly contribute to nonattainment of the 1997 $PM_{2.5}$ NAAQS in another state, Idaho reviewed meteorological and other characteristics of any areas designated nonattainment for the 1997 $PM_{2.5}$ NAAQS in surrounding states to determine whether transport of emissions from Idaho significantly contribute to nonattainment in those areas. Relying primarily on technical support documents (TSDs) prepared for EPA's 8-hour ozone and $PM_{2.5}$ NAAQS nonattainment designations, Idaho noted that air stagnation is cited as a major contributing factor to nonattainment in those areas and that under air stagnation conditions there is little to no transport of pollutants over long distances. Idaho also noted that none of the TSDs identified Idaho sources as significant contributors to any 1997 $PM_{2.5}$ nonattainment areas.

As a part of EPA's analysis of whether or not $PM_{2.5}$ emissions from Idaho significantly contribute to nonattainment in another state, EPA reviewed and analyzed information available for the 1997 $PM_{2.5}$ nonattainment areas in states surrounding Idaho. Although significant contribution must be measured not just against nonattainment areas, but also against areas with monitors showing violations of the NAAQS, nonattainment areas are a convenient starting point for the analysis. For the 1997 $PM_{2.5}$ NAAQS, Libby, in Lincoln County, Montana is the only designated nonattainment area in any state bordering Idaho.[4] In 2005, EPA designated this area nonattainment for the 1997 annual $PM_{2.5}$ NAAQS. 70 FR 944 (January 5, 2005) and 40 CFR 81.327.

A number of factors provide evidence that Idaho emissions do not significantly contribute to past violations of the 1997 annual $PM_{2.5}$ standards in Libby, Montana. First, in the process of designating Libby nonattainment for both the 1997 $PM_{2.5}$ NAAQS and the 2006 $PM_{2.5}$ NAAQS, EPA noted the predominantly local origins of $PM_{2.5}$ nonattainment in Libby.[5] [6] Residential wood-burning stoves during the winter-time, when frequent and persistent temperature inversions occurred, were specifically identified as a key source of PM emissions.

Although local sources were believed to predominate in the Libby nonattainment area, EPA specifically considered in the 1997 $PM_{2.5}$ designation process whether Idaho sources contributed to $PM_{2.5}$ nonattainment in Libby. While a nonattainment designation analysis is not the same inquiry that is required under CAA section 110(a)(2)(D), some of the factual findings from that effort are helpful in understanding the potential for interstate transport of pollutants in the Libby area. If there were an area in Idaho from which significant contribution would be most likely, it would arguably be from Bonner and Boundary counties in Idaho. These counties are located in Idaho's panhandle and are the only Idaho counties located to the west of the Libby nonattainment area. Transport winds generally flow across Idaho from west to east, and Libby is directly east of Bonner and Boundary counties. In the process of designating Libby nonattainment for the 1997 $PM_{2.5}$ NAAQS, EPA concluded that there was insufficient data to justify including those two Idaho counties (or any portion thereof) in the Libby nonattainment area.[7] Monitoring data from 1999 through 2009 show that $PM_{2.5}$ design value levels for both Idaho counties have remained below 30 $\mu g/m^3$ or 85 percent of the 1997 $PM_{2.5}$ NAAQS. This is consistent with a conclusion that local sources in Libby were a key

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the NO_X SIP Call; Final Rule," at 70 FR 25162 at 25263–69 (May 12, 2005).

[3] *See* Section B(1) of this notice for more history on CAIR and the Transport Rule Proposal. EPA has taken a similar approach in the recent Transport Rule Proposal discussed below.

[4] Libby is in a narrow valley surrounded by mountains 4,000 feet higher than the town. The Rocky Mountain Range to the west of Libby (and east of the Idaho border) reaches summit elevations of 12,000 feet with most summit elevations between 6000 and 7000 feet that act as a barrier to air movement between Idaho and Montana.

[5] "Technical Support for State and Tribal Air Quality Fine Particle ($PM_{2.5}$) Designations," (for Montana) Chapter 6, pp. 347–352, December 2004.

[6] "Technical Support for State and Tribal Air Quality Fine Particle ($PM_{2.5}$) Designations," (for Montana) Chapter 4.8.1, pp. 1–15, December 2008.

[7] "Technical Support for State and Tribal Air Quality Fine Particle ($PM_{2.5}$) Designations," Chapter 6, pp. 347–352, December 2004.

contributor to the area's past nonattainment. Although the predominance of local sources does not rule out the possibility of impacts from interstate transport, this fact taken in conjunction with the mountainous topography of the area, supports a conclusion that Idaho emissions do not contribute significantly to the past NAAQS violations in Libby.

Second, monitoring data from 1999 through 2009 from areas outside of Libby in Montana support a determination that Idaho does not significantly contribute to nonattainment in Libby. At all other sites in Montana, annual $PM_{2.5}$ design value levels have remained below the 15 $\mu g/m^3$ nonattainment threshold. Annual $PM_{2.5}$ design values for this period for most of these monitors remained at levels equal to, or less than, two-thirds of the 1997 NAAQS. Even the three highest design values at these monitors were 20 percent below the level of the annual standard.[8] The lower $PM_{2.5}$ levels elsewhere in Montana are evidence that local sources, and not interstate transport, are key contributors to past nonattainment in Libby.

Monitoring data from Idaho likewise supports a finding that Idaho does not significantly contribute to nonattainment elsewhere. In Idaho, annual $PM_{2.5}$ design values from 1999 through 2009 have remained below the 1997 NAAQS. The comparatively lower levels of $PM_{2.5}$ monitored throughout Idaho and elsewhere in Montana are consistent with a conclusion that local sources, and not sources in another state, are the predominant source of $PM_{2.5}$ levels in Libby. The fact that monitors located in Idaho have not registered violations of the 1997 $PM_{2.5}$ NAAQS does not conclusively establish that emissions from Idaho could not contribute in the aggregate to violations in Libby, but this fact combined with the localized nature of the violations in Libby supports the conclusion that sources in Idaho do not significantly contribute to $PM_{2.5}$ levels in Libby. By 2007–2008, the annual $PM_{2.5}$ design values for the Libby nonattainment area itself fell below the levels of the NAAQS. This reduction has been attributed to an effective wood stove replacement program that decreased $PM_{2.5}$ emissions by approximately 59 percent.[9] In other words, even if emissions from Idaho sources were reaching Libby, they would not significantly contribute to violations of the 1997 $PM_{2.5}$ NAAQS because monitoring data demonstrate that Libby is not violating the 1997 $PM_{2.5}$ NAAQS.

Finally, EPA's conclusion that emissions from Idaho do not significantly contribute to nonattainment in Libby, Montana, is further supported by a modeling analysis for monitors in the western United States.[10] This modeling concludes that in 2012 the average design values in Lincoln County, Montana for $PM_{2.5}$ will be below the threshold for consideration as a nonattainment receptor.

The next closest 1997 $PM_{2.5}$ nonattainment area to the state of Idaho is the San Joaquin Valley in California.[11] This nonattainment area is over 300 miles southwest of the closest point on the Idaho border and is on the other side of the Sierra Nevada Mountains. This 400 mile long north-south range of mountains has peaks of more than 14,000 feet which act as a natural barrier to air movement between Idaho and California. In addition, San Joaquin Valley, California, is not in the predominant direction of winds from Idaho. Transport winds across Idaho generally flow from west to east, and not toward the southwest. Given the relatively long distance between Idaho and the San Joaquin Valley, the intervening mountainous topography, and the general west-to-east direction of transport winds across Idaho, EPA believes it is reasonable to conclude that Idaho sources do not significantly contribute to nonattainment of the 1997 $PM_{2.5}$ NAAQS in the San Joaquin Valley.

$PM_{2.5}$ Monitoring Data in Other Areas of Surrounding States

As mentioned above, EPA considers not only significant contribution to designated nonattainment areas, but also significant contribution to areas with monitors showing violations of the NAAQS. A review of the most recent three years of monitoring data in EPA's Air Quality System (AQS) for the bordering states of Washington, Oregon, Nevada, Utah, Wyoming and Montana shows there are no monitors violating the 1997 $PM_{2.5}$ NAAQS. Between 1999 and 2009, just two monitors in any of these bordering states violated the 1997 $PM_{2.5}$ NAAQS. Both violations were for the annual NAAQS. The first such monitor is in Libby, Montana, which has not violated the 1997 $PM_{2.5}$ NAAQS since 2005. As discussed previously, EPA believes that existing information supports the conclusion that there is not significant contribution to nonattainment from Idaho sources to this area in Montana. The second is a monitor in Salt Lake City, Utah, which violated the 1997 $PM_{2.5}$ NAAQS at a single monitor in 2004. Since 2004 it has not violated the NAAQS. Taking into account the total weight of all of the factors discussed above, EPA concludes that Idaho does not significantly contribute to 1997 $PM_{2.5}$ NAAQS nonattainment in another state.

2. 1997 Ozone Nonattainment Areas and Monitoring Data in States Surrounding Idaho

1997 8-Hour Ozone Nonattainment Areas

To address whether Idaho sources significantly contribute to nonattainment of the 1997 8-hour ozone standard in another state, Idaho's SIP uses the same approach as it used for the 1997 $PM_{2.5}$ NAAQS. Relying primarily on TSDs prepared for EPA's 8-hour ozone and $PM_{2.5}$ nonattainment designations, Idaho noted that air stagnation is cited as a major contributing factor to nonattainment in those areas and that under stagnant air conditions there is little to no transport of pollutants over long distances. Idaho also noted that none of the TSDs identified Idaho sources as significant contributors to any 1997 8-hour ozone nonattainment area.

EPA also reviewed and analyzed information available for the designated 1997 8-hour ozone nonattainment areas in states surrounding Idaho. Although significant contribution must be measured not just against nonattainment areas, but against areas with monitors showing violations of the NAAQS, nonattainment areas are a convenient starting point for the analysis. For the 1997 8-hour ozone NAAQS, the only nonattainment area in states bordering Idaho is Clark County in southern Nevada (Las Vegas area). In 2005, EPA designated this area nonattainment for violations of the 1997 8-hour ozone standard. 69 FR 23858 (April 30, 2004) and 40 CFR 81.329. EPA has evaluated whether emissions from Idaho contribute significantly to the nonattainment of the 8-hour ozone standard in Clark County. Clark County is about 350 miles south of the closest point on the Idaho border. Distance per se is not an obstacle to long range

[8] In 2001, 2002 and 2006, design values for two monitors in Missoula County were 11.1, 11.4 and 11.8 $\mu g/m^3$. Computed from AQS monitoring data. 75 FR 16028 (March 31, 2010).

[9] State of Montana, Department of Environmental Quality, "State Implementation Plan-Libby Annual $PM_{2.5}$ Control Plan," submitted to EPA April 1, 2008.

[10] See Section B of this notice for a more complete discussion of the Transport Rule Proposal and EPA's modeling analysis of the western states.

[11] In 2005, EPA designated this area nonattainment for violations of the 1997 and annual $PM_{2.5}$ NAAQS. 70 FR 944 (January 5, 2005), and 40 CFR 81.305.

transport of ozone and/or its precursors, as discussed in the January 30, 2004, notice proposing CAIR (69 FR 4599); NO_X (the primary ozone precursor that was the object of the CAIR transport study) may be transported for long distances, contributing significantly to high ozone concentrations in other states. However, with increasing distance there are greater opportunities for ozone and/or NO_X dispersion and/or removal from the atmosphere due to the effects of winds and chemical sink processes. In this context, one may conclude that the 350 mile distance between Idaho and the Clark County nonattainment area decreases, but does not exclude, the possibility of significant contribution to this area's nonattainment. Another transport factor is wind direction. Clark County, Nevada is south of Idaho and, therefore, is not in the predominant direction of winds from Idaho. Transport winds across Idaho generally flow from west to east, and not toward the south. Given the relatively long distance between Idaho and Clark County, Nevada and the general west-to-east direction of transport winds across Idaho, EPA believes it is reasonable to conclude that Idaho sources do not significantly contribute to nonattainment of the 1997 8-hour ozone NAAQS in Clark County, Nevada.

Ozone Monitoring Data in Other Areas of Surrounding States

As mentioned above, EPA considers not only significant contribution to designated nonattainment areas, but also to areas with monitor readings showing violations of the NAAQS. A review of the most recent monitoring data from EPA's Air Quality System (AQS) for the bordering states of Washington, Oregon, Nevada, Utah, Wyoming and Montana shows no monitors violating for the 1997 8-hour ozone NAAQS. A review of past monitoring data from 1999 through 2008 shows that the only area in any of these border states that violated the 1997 8-hour ozone NAAQS was Salt Lake City, Utah. This area, however, is not currently violating and has not violated the 1997 8-hour ozone NAAQS since a violation occurred at a single monitor in 2007. Observed days of high ozone levels in the Salt Lake City metropolitan area are usually associated with a 'bowl effect' resulting from an inversion that has a stagnant air pollution mass surrounded by the Oquirrh Mountains to the west, the Great Salt Lake to the north, and the Wasatch Range on the east.[12] In light of these considerations, it is unlikely that Idaho makes a significant contribution of ozone and/or ozone precursors in the Salt Lake City area.

In addition, none of the ozone monitors in Idaho have themselves indicated a violation of the 1997 8-hour ozone NAAQS, and Boise, Idaho, the area of Idaho with the highest concentrations of ozone, is almost 300 miles from Salt Lake City. The absence of violations in Idaho itself do not rule out the possibility of transport, but taken in conjunction with other relevant information, this fact helps to support the conclusion that there is no such transport from Idaho to Salt Lake City. Distance per se is also not an obstacle to long range transport of ozone and/or its precursors, as discussed above. However, with increasing distance there are greater opportunities for ozone and/or NO_X dispersion and/or removal from the atmosphere due to the effects of winds and chemical sink processes. In this context, the 300 mile distance between Idaho and the Salt Lake City area reduces but does not exclude the possibility of significant contribution to this area's nonattainment. Taking into account the total weight of all of the factors discussed above, EPA concludes that Idaho does not significantly contribute to 1997 8-hour ozone NAAQS nonattainment in another state.

3. State Regulatory Provisions

In addition to monitoring data providing evidence that Idaho sources do not contribute to nonattainment in any other state, Idaho points to air quality provisions in its regulations that prohibit emissions that contribute significantly to nonattainment. Specifically, the State points to its air quality provisions at IDAPA 58.01.01.203.02 that require that a proposed source's projected emissions will not cause or significantly contribute to a violation of any ambient air quality standard. The state explains that this provision applies to both major and minor sources and that the owner or operator of such a source must demonstrate that the source's projected emissions will not cause or significantly contribute to a violation of any ambient air quality standard. In addition, they point out that the demonstration is not constrained to evaluating impacts solely in Idaho and that all estimates of ambient concentrations must be based on the requirements specified in 40 CFR 51, Appendix W, which look to the point of maximum concentration, not a jurisdictional boundary.

The state also relies on its rules for existing sources at IDAPA 58.01.01.401.03, which provide IDEQ with the authority to require a permit (called a "Tier II permit") if emission rate reductions are necessary to attain any ambient air quality standard. As part of the Tier II permitting process, the facility operator (or responsible official) must demonstrate the source does not cause or significantly contribute to a violation of any ambient air quality standards. The state asserts that it has used this authority in the past as part of a suite of control measures implemented to address nonattainment and other air quality issues and this authority could be used if the state's emissions were significantly contributing to nonattainment in another state. For example, between 2000 and 2003 the state issued fifteen Tier II permits to sources in two PM_{10} nonattainment areas to establish federally-enforceable emission limits on PM_{10} emissions in order to ensure that the PM_{10} NAAQS would be attained and maintained. A summary of these 15 permits, including links to the permits on the Idaho website, is included in the docket for this rulemaking.

Idaho incorporates by reference annually any updates to the NAAQS ensuring that implementation of the regulatory provisions at IDAPA 58.01.01.203.02 and IDAPA 58.01.01.40.03 are implementing the most recently revised NAAQS.

In light of these air quality provisions in Idaho's regulations and evidence that Idaho has used these air quality provisions to address nonattainment and other air quality issues in the past, EPA believes that in this case these regulatory provisions provide additional support for our conclusion that emissions from Idaho sources do not significantly contribute to nonattainment in any other state and that Idaho has the ability to address nonattainment if, in the future, the state's emissions significantly contribute to nonattainment of the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS in another state.

4. Conclusion Regarding Significant Contribution to Nonattainment

The data and weight of the evidence analysis presented above support EPA's conclusion that the Idaho Interstate Transport SIP (submitted on June 28, 2010) is adequate to ensure that emissions from Idaho do not significantly contribute to nonattainment in any other state for the

[12] Approval and Promulgation of State Implementation Plans; State of Utah; Interstate Transport of Pollution and Other Revisions (73 FR 16543, March 28, 2008).

1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS, consistent with the requirements of element (1) of CAA section 110(a)(2)(D)(i)

B. EPA's Evaluation of Interference With Maintenance

1. Background

The second element of CAA section 110(a)(2)(D)(i) requires that a state's SIP must prohibit any source or other type of emissions activity in the state from emitting pollutants that would "interfere with maintenance" of the applicable NAAQS in any other state. The CAA does not specifically mandate how interference with maintenance is to be determined. Therefore, EPA has interpreted this term in past regulatory actions, such as the 1998 NO_X SIP Call, in which EPA took action to remediate emissions of NO_X that significantly contributed to nonattainment, or interfered with maintenance of, the then applicable ozone NAAQS through interstate transport of NO_X and the resulting ozone.[13] The NO_X SIP Call was the mechanism through which EPA evaluated whether or not the NO_X emissions from sources in certain states had such prohibited interstate impacts, and if they had such impacts, required the states to adopt substantive SIP revisions to eliminate the NO_X emissions, whether through participation in a regional cap and trade program or by other means.

After promulgation of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS, EPA again recognized that regional transport was a serious concern throughout the eastern United States and therefore developed the 2005 CAIR to address emissions of SO2 and NO_X that exacerbate ambient ozone and $PM_{2.5}$ levels in many downwind areas through interstate transport.[14] Within CAIR, EPA likewise interpreted the term "interfere with maintenance" as part of the evaluation of whether or not the emissions of sources in certain states had such impacts on areas that EPA determined would either be in violation of the NAAQS, or would be in jeopardy of violating the NAAQS, in a modeled future year unless action were taken by upwind states to reduce SO2 and NO_X emissions. Through CAIR, EPA again required states that had such interstate impacts to adopt substantive SIP revisions to eliminate the SO2 and NO_X emissions, whether through participation in a regional cap and trade program or by other means.

EPA's 2006 Guidance addressed CAA section 110(a)(2)(D) requirements for the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS. For those states subject to CAIR, EPA indicated that compliance with CAIR would meet the two requirements of section 110(a)(2)(D)(i)(I) for these NAAQS. For states not within the CAIR region, EPA recommended that states evaluate whether or not emissions from their sources would "interfere with maintenance" in other states, following the conceptual approach adopted by EPA in CAIR. After recommending various types of information that could be relevant for the technical analysis to support the SIP submission, such as the amount of emissions and meteorological conditions in the state, EPA further indicated that it would be appropriate for the state to assess impacts of its emissions on other states using considerations comparable to those used by EPA "in evaluating significant contribution to nonattainment in the CAIR."[15] EPA did not make specific recommendations for how states should assess "interfere with maintenance" separately, and discussed the first two elements of section 110(a)(2)(D) together without explicitly differentiating between them.

In 2008, however, the U.S. Court of Appeals for the DC Circuit found that CAIR and the related CAIR federal implementation plan were unlawful.[16] Among other issues, the court held that EPA had not correctly addressed the second element of section 110(a)(2)(D)(i)(I) in CAIR. The court noted that "EPA gave no independent significance to the 'interfere with maintenance' prong of section 110(a)(2)(D)(i)(I) to separately identify upwind sources interfering with downwind maintenance."[17] EPA's approach, the court reasoned, would leave areas that are "barely meeting attainment" with "no recourse" to address upwind emissions sources.[18] The court therefore concluded that a plain language reading of the statute requires EPA to give independent meaning to the interfere with maintenance requirement of section 110(a)(2)(D) and that the approach used by EPA in CAIR failed to do so.

In addition to affecting CAIR directly, the court's decision in the North Carolina case indirectly affects EPA's recommendations to states in the 2006 Guidance with respect to the interfere with maintenance element of section 110(a)(2)(D) because the agency's guidance suggested that states use an approach comparable to that used by EPA in CAIR. States such as Idaho have made SIP submissions that rely upon the recommendations in EPA's 2006 Guidance. Given the court decision on CAIR in the interim, however, EPA believes that it is necessary to evaluate these state submissions for section 110(a)(2)(D) in such a way as to assure that the interfere with maintenance element of the statute is given independent meaning and is appropriately evaluated using the types of information that EPA recommended in the 2006 Guidance. To accomplish this, EPA believes it may be necessary to supplement the technical analysis provided the state in order to adequately evaluate the submissions with the respect to the interfere with maintenance element of section 110(a)(2)(D).

EPA has recently proposed a new rule to address interstate transport pursuant to section 110(a)(2)(D), the "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone" (Transport Rule Proposal), in order to address the judicial remand of CAIR.[19] As part of the Transport Rule Proposal, EPA specifically reexamined the section 110(a)(2)(D) requirement that emissions from sources in a state must not "interfere with maintenance" of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS in other states. In the proposal, EPA developed an approach to identify areas that it predicts to be close to the level of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS, and therefore at risk to become nonattainment for these NAAQS unless emissions from sources in other states are appropriately controlled. This approach starts by identifying those specific geographic areas for which further evaluation is appropriate, and differentiates between areas where the concern is with interference with maintenance, rather than with significant contribution to nonattainment.

As described in more detail below, EPA's analysis evaluates data from existing monitors over three overlapping three year periods (*i.e.,* 2003–2005, 2004–2006, and 2005–2007), as well as

[13] *See,* 63 FR 57356 (October 27, 1998). EPA's general approach to section 110(a)(2)(D) was upheld in *Michigan* v. *EPA, 213 F.3d 663* (D.C. Cir. 2000), cert denied, 532 U.S. 904 (2001). However, EPA's approach to interference with maintenance in the NO_X SIP Call was not explicitly reviewed by the court. *See, North Carolina* v. *EPA, 531 F.3d 896, 907*–09 (D.C. Cir. 2008).

[14] *See,* 70 FR 25162 (May 12, 2005).

[15] 2006 Guidance at page 5.

[16] *See, North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Circuit 2008).

[17] Id. 531, F.3d at 909.

[18] Id.

[19] *See* "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone," 75 FR 45210 (August 2, 2010).

air quality modeling data, in order to determine which areas are predicted as likely to be violating the 1997 8-hour ozone and $PM_{2.5}$ NAAQS in 2012, and which areas are predicted to potentially have a difficulty with maintaining attainment as of that date. In essence, if an area's projected data for 2012 indicates that it would be violating the NAAQS based on the average of these three overlapping periods, then this monitor location is appropriate for comparison for purposes of the significant contribution to nonattainment element of section 110(a)(2)(D). If, however, an area's projected data indicate that it would be violating the NAAQS based on the highest single period, but not over the average of the three periods, then this monitor location is appropriate for comparison for purposes of the interfere with maintenance element of the statute.[20]

By this method, EPA has identified those areas with monitors that are appropriate "maintenance sites" or maintenance "receptors" for evaluating whether the emissions from sources in another state could interfere with maintenance in that particular area. EPA then uses other analytical tools to examine the potential impacts of emissions from upwind states on these maintenance sites in downwind states. EPA believes that this new approach for identifying those areas that are predicted to have maintenance problems is appropriate to evaluate the section 110(a)(2)(D) SIP submission of a state for the interfere with maintenance element.[21] EPA's 2006 Guidance did not provide this specific recommendation to states, but in light of the court's decision on CAIR, EPA will itself follow this approach in acting upon the Idaho submission.

As explained in the 2006 Guidance, EPA does not believe that section 110(a)(2)(D) SIP submissions from all states necessarily need to follow precisely the same analytical approach of CAIR or the Transport Rule Proposal. In the 2006 Guidance, EPA stated that: "EPA believes that the contents of the SIP submission required by section 110(a)(2)(D) may vary, depending upon the facts and circumstances related to the specific NAAQS. In particular, the data and analytical tools available at the time the State develops and submits a SIP for a new or revised NAAQS necessarily affects the contents of the required submission."[22] EPA also indicated in the 2006 Guidance that it did not anticipate that sources in states outside the geographic area covered by CAIR were significantly contributing to nonattainment, or interfering with maintenance, in other states.[23] As noted in the Transport Rule Proposal, EPA continues to believe that the more widespread and serious transport problems in the eastern United States are analytically distinct.[24] For the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS, EPA believes that nonattainment and maintenance problems in the western United States are relatively local in nature with only limited impacts from interstate transport. In the Transport Rule Proposal, EPA did not calculate interstate ozone or $PM_{2.5}$ contributions to or from western states.

Accordingly, EPA believes that section 110(a)(2)(D) SIP submissions for states outside the geographic area of the Transport Rule Proposal may be evaluated using a "weight of the evidence" approach that takes into account available relevant information, such as that recommended by EPA in the 2006 Guidance for states outside the area affected by CAIR. Such information may include, but is not limited to, the amount of emissions in the state relevant to the NAAQS in question, the meteorological conditions in the area, the distance from the state to the nearest monitors in other states that are appropriate receptors, or such other information as may be probative to consider whether sources in the state may interfere with maintenance of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS in other states. These submissions can rely on modeling when acceptable modeling technical analyses are available, but EPA does not believe that modeling is necessarily required if other available information is sufficient to evaluate the presence or degree of interstate transport in a given situation.

2. Idaho's Interference With Maintenance Demonstration

To show that Idaho emissions, as controlled under its SIP, do not interfere with maintenance of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS in another state, Idaho's submittal analyzed several types of factors to support its assertion. First, for its $PM_{2.5}$ analysis, Idaho relied on information from the Western Regional Air Partnership (WRAP) Technical Support System (TSS). The WRAP TSS is a system developed in a collaborative effort by state and tribal governments and federal agencies to provide the tools needed to comply with the federal Regional Haze Rule. Idaho used it to provide general insight on how Idaho sources influence $PM_{2.5}$ concentrations in Class I areas in surrounding states. For the 8-hour ozone NAAQS, Idaho evaluated NO_X and VOC emissions data from Idaho sources. These emissions data were evaluated to understand how Idaho's emissions sources may contribute to ozone impacts in surrounding states. The WRAP TSS results provided in Idaho's submittal to address the 1997 $PM_{2.5}$ standard and Idaho's evaluation of NO_X and VOC emissions data from Idaho sources to address the 1997 8-hour ozone NAAQS are discussed later.

Idaho also relied on information about air stagnation conditions in other states to show that Idaho sources do not interfere with maintenance of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS. Idaho argued that stagnant air conditions are associated with weak transport and were cited in technical support documents for the 8-hour ozone and $PM_{2.5}$ designations as a major contributing factor to poor air quality in surrounding states. Idaho also identified its state air quality regulations to demonstrate both that Idaho can, and does, work with other states and tribes to ensure that an Idaho activity would not interfere with maintenance by any other State with respect to the NAAQS.

Idaho also relies on its permitting rules discussed earlier that not only require for new sources a demonstration that the proposed source's emissions will not cause or significantly contribute to a violation of any ambient air quality standard, but also specifically require for existing sources an operating permit if emission rate reductions are necessary to attain or maintain any ambient air quality standard. It also points out that neither of these required demonstrations is limited to an analysis of impacts solely in Idaho. In light of these provisions and evidence that Idaho has used these air quality provisions in the

[20] A memorandum in the docket for this action provides the information EPA used in order to identify monitors that are receptors for evaluation of interference with maintenance for certain states in the western United States. See, Memorandum from Brian Timin of EPA's Office of Air Quality Planning and Standards, Air Quality Modeling Group entitled "Documentation of Future Year Ozone and Annual PM2.5 Design Values for Western States" (August 2010) (Timin Memo).

[21] To begin this analysis, EPA first identifies all monitors projected to be in nonattainment or, based on historic variability in air quality, projected to have maintenance problems in 2012. The "problem" is that these maintenance areas are at risk not to stay in attainment because they are so close to the level of the 1997 ozone and $PM_{2.5}$ NAAQS that minor variations in weather or emissions could result in violations of the NAAQS in 2012.

[22] 2006 Guidance at 4.

[23] Id. at 5.

[24] See, Transport Rule Proposal, 75 FR 45210 (August 2, 2010) at page 45227.

past, as discussed in the section on significant contribution (section IV.A), EPA believes that in this case these regulatory provisions support our conclusion that Idaho does not interfere with maintenance in any other state and that Idaho has the ability to address interference with maintenance if in the future the state's emissions interfere with maintenance of the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS in another state.

3. EPA Supplemental Analysis

On July 6, 2010, the EPA proposed a rulemaking proposal (the Transport Rule Proposal) in response to the judicial remand of CAIR. The Transport Rule Proposal includes a new approach to determine whether emissions from a state interfere with maintenance of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS in other states. EPA is using a comparable approach to that of the Transport Rule Proposal in this action in order to evaluate whether emissions from Idaho sources interfere with maintenance of these NAAQS in other states.

In the Transport Rule Proposal, EPA projected future concentrations of ozone and $PM_{2.5}$ to identify areas that are expected to be out of attainment with the NAAQS or to have difficulty maintaining compliance with the NAAQS in 2012. These areas are referred to as nonattainment and maintenance receptors, respectively. These nonattainment and maintenance receptors are based on projections of future air quality at existing ozone and $PM_{2.5}$ monitoring sites in those locations. EPA then used these sites as the receptors for examining the contributions of emissions from sources located in upwind states to nonattainment and maintenance problems at these monitoring locations. Monitoring data was obtained from AQS.

For the $PM_{2.5}$ NAAQS EPA evaluated concentrations of both the annual $PM_{2.5}$ NAAQS and the 24-hour $PM_{2.5}$ NAAQS. The 1997 annual $PM_{2.5}$ NAAQS is met when the 3-year average of the annual mean concentration is 15.0 micrograms per cubic meter ($\mu g/m^3$) or less. The 3-year average annual mean concentration is computed at each site by averaging the daily Federal Reference Method (FRM) samples by quarter, averaging these quarterly averages to obtain an annual average, and then averaging the three annual averages to get the design value. The 2006 24-hour $PM_{2.5}$ NAAQS is met when the 3-year average of the annual 98th percentile $PM_{2.5}$ concentrations is 35 $\mu g/m^3$ or less. The 1997 24-hour $PM_{2.5}$ NAAQS is met when the 3-year average of the annual 98th percentiles is 65 $\mu g/m^3$ or less. The 3-year average mean 98th percentile concentration is computed at each site by averaging the 3 individual annual 98th percentile values at each site. The 3-year average 98th percentile concentration is referred to as the 24-hour average design value. In this action, EPA is only evaluating whether Idaho's emissions impact other states' ability to maintain the 1997 annual and 24-hour $PM_{2.5}$ NAAQS and the 1997 8-hour ozone NAAQS, because those are the NAAQS at issue in this section 110(a)(2)(D) SIP submission. In later actions, the state and EPA will evaluate the impacts of interstate transport from emissions from Idaho sources with respect to other NAAQS.

For the ozone NAAQS, EPA evaluated concentrations relevant to the 1997 8-hour ozone NAAQS. The level of the 1997 8-hour ozone NAAQS is 0.08 parts per million (ppm). The 8-hour ozone standard is met if the 3-year average of the annual 4th highest daily maximum 8-hour ozone concentration is less than or equal to 0.08 ppm (*i.e.,* less than 0.085 ppm based on the rounding convention in 40 CFR part 50 Appendix I). This 3-year average is referred to as the "design value."

To project future ozone and annual $PM_{2.5}$ design values, EPA projected future ozone values based on an average of three design value periods which include the years 2003–2007 (*i.e.,* design values for 2003–2005, 2004–2006, and 2005–2007). The average of the three design values creates a "5-year weighted average" value. The 5-year weighted average values were then projected to the future years that were analyzed for the Transport Rule Proposal.[25] [26] EPA used the 5-year weighted average concentrations to project concentrations anticipated in 2012 to determine which monitoring sites are expected to be nonattainment in this future year. EPA also projected 2012 design values based on each of the three year periods (*i.e.,* 2003–2005, 2004–2006, and 2005–2007). The highest projection is referred to as the "maximum design value" and gives an indication of potential variability in future projections due to differences in actual meteorology and emissions from what was modeled.

EPA identified those sites that are projected to be attainment based on the 5-year weighted average design value, but that have a maximum design value (based on a single three year period) that exceeds the NAAQS, as maintenance sites because EPA anticipates that there will be more difficulty in maintaining attainment of the NAAQS at these locations if there are adverse variations in meteorology or emissions. These projected maintenance sites are the ones that EPA has used to determine if emissions from Idaho sources potentially interfere with maintenance of the 1997 8-hour ozone NAAQS and 1997 annual $PM_{2.5}$ NAAQS in other states in this action.

For the annual $PM_{2.5}$ NAAQS, EPA identified from the modeling analyses conducted for the Transport Rule Proposal the following sites as maintenance receptors: A site in Cook County, Illinois in the Chicago area; a site in Harris County, Texas, in the Houston/Galveston/Brazoria area. From the modeling analysis conducted for states not included in the Transport Rule Proposal, EPA identified only sites in southern California. Based on recent monitoring data (2007–2009 design values that are under final EPA review), the highest 24-hour $PM_{2.5}$ design value in the 47 states of the continental U.S. (not including California) is 50 $\mu g/m^3$, which is well below the level of the 1997 24-hour $PM_{2.5}$ NAAQS of 65 $\mu g/m^3$.[27] Therefore, outside of California, there are no areas that we would expect to have difficulty in maintaining the 1997 24-hour $PM_{2.5}$ NAAQS.

From the modeling analyses conducted for the Transport Rule Proposal, EPA identified a number of maintenance sites or receptors for the 1997 8-hour ozone NAAQS: Several sites in the Texas area and other sites in Georgia, Pennsylvania, New York and Connecticut.[28] For the modeling analysis conducted for states not included in the Transport Rule Proposal (*i.e.* states not included fully in the 12 km Transport Rule Proposal modeling domain), EPA identified several maintenance sites in southern and central California using available 36 km modeling.[29] The 12 km Transport Rule Proposal modeling domain extends from Texas northward to North Dakota and eastward from the Rocky Mountains to

[25] *See,* the Transport Rule Proposal at 75 FR 45210 (August 2, 2010).

[26] Additional information concerning these weighted averages is provided in the docket in the Timin Memo.

[27] Data undergoing review from EPA's Air Quality System which is EPA's repository of ambient air quality data. (*http://www.epa.gov/ttn/airs/airsaqs/).*

[28] Transport Rule Proposal, 75 FR 45210, (August 2, 2010), pages 45253–45270, and Timin Memo.

[29] The Transport Rule Proposal identifies nonattainment and maintenance receptors in the Eastern U.S. It does not include modeling results for the West. The Timin Memo documents further evaluation of the 2012 modeling to identify nonattainment and maintenance receptors in the West.

the east coast and includes 37 states and the District of Columbia.

Significantly, for both the 1997 $PM_{2.5}$ NAAQS and the 1997 8-hour ozone NAAQS, EPA's analysis did not identify any maintenance receptors in the states that border Idaho (Washington, Oregon, Nevada, Utah, Wyoming and Montana).

(a) Interfere With Maintenance Evaluation for the $PM_{2.5}$ NAAQS

For the 1997 $PM_{2.5}$ NAAQS, the closest maintenance receptor site identified by the Transport Rule Proposal was in Cook County, Illinois. Cook County, Illinois is over 1000 miles east of the closest point on Idaho's border, and on the other side of the Rocky Mountains. Given the relatively long distance and the intervening mountainous topography between Idaho and Cook County, EPA believes it is reasonable to conclude that there is a very low probability that Idaho sources interfere with maintenance in that area. It is also reasonable to conclude that Idaho emissions would not have such impacts at other identified maintenance sites east of Cook County.

In the west, the closest maintenance receptor to Idaho was in Fresno County, California. Fresno County is located almost 400 miles southwest of the closest point on the Idaho border and on the other side of the Sierra Nevada Mountains, which act as a natural barrier to air movement between Idaho and California. In addition, Fresno County, located in southern California, is not in the predominant direction of winds from Idaho. As noted earlier, transport winds across Idaho generally flow from west to east, and not toward the southwest. Given the relatively long distance between Idaho and southern California, the intervening mountainous topography, and the general direction of west-to-east transport winds across Idaho, EPA concludes that there is no reasonable basis to conclude that Idaho sources interfere with maintenance of the 1997 $PM_{2.5}$ NAAQS in those areas. It is likewise reasonable to conclude that Idaho emissions would not have such impacts at other identified maintenance sites in California. Based on EPA modeling and all of these factors taken together, EPA believes it is reasonable to conclude that Idaho emissions under the SIP do not interfere with maintenance of the 1997 $PM_{2.5}$ NAAQS in any other state.

This conclusion is consistent with the information and analysis Idaho provided in its SIP submittal regarding interference with maintenance of the 1997 $PM_{2.5}$ NAAQS. With respect to $PM_{2.5}$, Idaho used the WRAP TSS tools to provide general insight on how Idaho sources influence $PM_{2.5}$ concentrations in surrounding states and to conclude that Idaho sources did not interfere with maintenance of the 1997 $PM_{2.5}$ NAAQS in any other state. Due to the limitations and purpose of the WRAP TSS, Idaho only evaluated impacts on Class I areas in surrounding states using these tools. Because EPA's analysis did not predict any of these Class I areas to have a difficulty with maintaining attainment of the 1997 $PM_{2.5}$ NAAQS, any impact Idaho might have on those areas would not, by definition, interfere with maintenance. Therefore, further evaluation of Idaho's analysis of $PM_{2.5}$ impacts on those areas is unnecessary.

(b) Interfere With Maintenance Evaluation for the 8-Hour Ozone NAAQS

For the 1997 8-hour ozone NAAQS, the closest maintenance receptor site to the east of Idaho was the Dallas-Ft Worth area in Texas. Dallas-Ft Worth is located over 1,000 miles southeast of the closest point on Idaho's border and on the other side of the Rocky Mountains. Given the relatively long distance and the intervening mountainous topography between Idaho and Dallas-Ft Worth, it is reasonable to conclude that Idaho sources do not interfere with maintenance in the Dallas-Ft Worth area. It is also reasonable to conclude that Idaho emissions would not have such impacts at other identified maintenance sites elsewhere further east or south of Dallas-Ft Worth.

In the west, the closest maintenance receptor to Idaho was in Nevada County, California. Nevada County is almost 300 miles southwest of the closest point on Idaho's border and located on the other side of the Sierra Nevada Mountains, which act as a natural barrier to air movement between Idaho and California. In addition, Nevada County is in central California and is not in the predominant direction of transport winds. As noted earlier, transport winds across Idaho generally flow from west to east. Although westerly winds are not always the case, meteorological data show that transport winds in Idaho tend to be southerly or westerly during hot and stagnant weather conditions conducive to ozone formation in California. Given the relatively long distance between Idaho and central California, the intervening mountainous topography, and the general direction of west-to-east transport winds across Idaho, EPA believes it is reasonable to conclude that Idaho sources do not interfere with maintenance of the 1997 8-hour ozone NAAQS in Nevada County, California. It is also reasonable to conclude that Idaho emissions would not have such impacts at other identified maintenance receptor sites elsewhere in central or southern California. Based on all of these factors taken together, EPA believes it is reasonable to conclude that Idaho emissions do not interfere with maintenance of the 1997 8-hour ozone NAAQS in any other state.

This conclusion is consistent with the information Idaho provided in its SIP submittal regarding interference with maintenance of the 1997 8-hour ozone NAAQS. For this element for the 8-hour ozone NAAQS, Idaho evaluated NO_X and VOC emissions data to understand how Idaho's emissions sources may contribute to ozone impacts in surrounding states and to conclude that Idaho sources do not interfere with maintenance of the 1997 8-hour ozone NAAQS in any other states. Because EPA modeling did not predict any of the areas in states surrounding Idaho to have difficulty with maintaining attainment of the 8-hour ozone NAAQS, any impact Idaho might have on those areas would not, by definition, interfere with maintenance. Therefore, further evaluation of Idaho's analysis of ozone impacts on those areas is unnecessary.

4. Conclusion Regarding Interference With Maintenance

The data and weight of evidence analysis presented above support the conclusion that the Idaho Interstate Transport SIP (submitted on June 28, 2010) is adequate and that emissions from Idaho do not interfere with maintenance in any other state for the 1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS, consistent with the requirements of element (2) of CAA section 110(a)(2)(D)(I).

C. EPA's Evaluation of Interference With PSD Measures in Other States

The third element of section 110(a)(2)(D)(i) requires a SIP to contain adequate provisions prohibiting emissions that interfere with any other state's required measures to prevent significant deterioration of its air quality. EPA's 2006 Guidance made recommendations for SIP submissions to meet this requirement with respect to both the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS.

EPA believes that Idaho's submission is consistent with the 2006 Guidance, when considered in conjunction with PSD program revisions that EPA proposed to approve on March 18, 2010 (75 FR 13058). EPA's proposed approval of Idaho's SIP for purposes of meeting the requirements of section 110(a)(2)(D)(i)(II) is contingent upon the final approval of the PSD program

revisions in the form specified in EPA's proposed approval, referenced above. The State's submittal indicates in Section 4, "Interfere with Prevention of Significant Deterioration of Air Quality," that the State's SIP provisions include an EPA-approved PSD program. Idaho's regulations for its PSD program were last approved by EPA and made part of the SIP on January 16, 2003 (68 FR 2217), 40 CFR 52.670, effective February 18, 2003. On March 18, 2010, EPA proposed to approve Idaho's PSD rule revisions incorporating into the State's rules the provisions of EPA's PSD requirements as of July 1, 2008, including the November 29, 2005, Phase 2 rule for the 1997 8-hour ozone NAAQS (70 FR 71612), and the May 16, 2008, $PM_{2.5}$ Implementation Rule (73 FR 28321) for the 1997 $PM_{2.5}$ NAAQS. We anticipate taking final action approving Idaho's PSD rule revisions before taking final action on this interstate transport proposal. Therefore, EPA proposes to approve this SIP provision as adequate for purposes of section 110(a)(2)(D)(i)(II) if EPA has taken final action to approve the revisions to Idaho's PSD requirements that are consistent with our proposed action.

EPA believes that the PSD revision for the 1997 8-hour ozone NAAQS that makes NO_X a precursor for ozone for PSD purposes and the PSD revision for the 1997 $PM_{2.5}$ NAAQS that makes SO_2 and NO_X precursors for $PM_{2.5}$ for PSD purposes, taken together with the revised PSD SIP that EPA proposed to approve on March 18, 2010, and the Interstate Transport SIP that EPA is proposing to approve in this action, satisfy the requirements of the third element of section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS. That is, these provisions ensure that there will be no interference with any other state's required PSD measures because Idaho's SIP, as proposed for approval in this action along with the March 18, 2010 proposed action on the revised PSD rules, will meet current CAA requirements for PSD.

V. Proposed Action

In light of the data and the weight of the evidence analysis presented above, EPA is proposing to approve revisions to the Idaho SIP, submitted on June 28, 2010, which adequately demonstrate that for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS, air pollutant emissions from sources within Idaho do not (1) significantly contribute to nonattainment of the NAAQS in any other state, (2) interfere with maintenance of the NAAQS by any other state, and (3) interfere with any other state's required measures to prevent significant deterioration of its air quality, as required by section 110(a)(2)(D)(i).

As noted previously, EPA will address element (4), interference with any other state's required measures to protect visibility, in a separate action. EPA will also take action on the portion of Idaho's SIP that addresses the 2006 $PM_{2.5}$ NAAQS in a separate action.

VI. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive 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 Clean Air Act; 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 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 2, 2010.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2010–22773 Filed 9–10–10; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 100

RIN 0906–AA74

National Vaccine Injury Compensation Program: Revisions to the Vaccine Injury Table

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: Through this proposed rule, the Secretary proposes to change the Vaccine Injury Table (Table) to create distinct and separate listings for hepatitis A, trivalent influenza, meningococcal, and human papillomavirus (HPV) vaccines. The Table includes a list of covered vaccines under the National Vaccine Injury Compensation Program (VICP). The VICP provides a system of no-fault compensation for certain individuals who have been injured by covered childhood vaccines. This proposed rule is technical in nature. The four categories of vaccines described in this notice are already covered vaccines under the VICP (starting in 2004) and are currently listed in a placeholder category (box XIII) in the Table. This document proposes to list these vaccines as separate categories on the Table, with no associated injuries noted at this time, in order to make the Table more clear to the public.