

If you file your comment on paper, write "Hobby Protection Rules Review" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610 (Annex B), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex B), Washington, DC 20024.

Visit the Commission Web site at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before September 22, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

By direction of the Commission.

**Donald S. Clark,**  
Secretary.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2011-0969; EPA-R05-OAR-2012-0991; EPA-R05-OAR-2013-0435; FRL-9913-16-Region-5]

### Approval and Promulgation of Air Quality Implementation Plans; Illinois; Infrastructure SIP Requirements for the 2008 Ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve some elements and disapprove other elements of a state implementation plan (SIP) submission from Illinois regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2008 8-hour ground level ozone, 2010 nitrogen dioxide (NO<sub>2</sub>), and 2010 sulfur dioxide (SO<sub>2</sub>) National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management

program are adequate to meet the state's responsibilities under the CAA. Illinois already administers Federally promulgated regulations that address the proposed disapprovals described in today's rulemaking. Therefore, the state will not be obligated to submit any new or additional regulations as a result of a future final disapproval.

**DATES:** Comments must be received on or before August 13, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2011-0969 (2008 ozone infrastructure elements), EPA-R05-OAR-2012-0991 (2010 NO<sub>2</sub> infrastructure elements), or EPA-R05-OAR-2013-0435 (2010 SO<sub>2</sub> infrastructure elements) by one of the following methods:

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

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

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

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

5. *Hand Delivery*: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID. EPA-R05-OAR-2011-0969 (2008 ozone infrastructure elements), EPA-R05-OAR-2012-0991 (2010 NO<sub>2</sub> infrastructure elements), or EPA-R05-OAR-2013-0435 (2010 SO<sub>2</sub> infrastructure elements). EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity

or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Andy Chang, Environmental Engineer, at (312) 886-0258 before visiting the Region 5 office.

#### FOR FURTHER INFORMATION CONTACT:

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

#### SUPPLEMENTARY INFORMATION:

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

- I. What should I consider as I prepare my comments for EPA?
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  - C. Section 110(a)(2)(C)—Program for Enforcement of Control Measures; PSD
  - D. Section 110(a)(2)(D)—Interstate Transport
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  - G. Section 110(a)(2)(G)—Emergency Powers
  - H. Section 110(a)(2)(H)—Future SIP Revisions
  - I. Section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D
  - J. Section 110(a)(2)(J)—Consultation With Government Officials; Public Notifications; PSD; Visibility Protection
  - K. Section 110(a)(2)(K)—Air Quality Modeling/Data
  - L. Section 110(a)(2)(L)—Permitting Fees
  - M. Section 110(a)(2)(M)—Consultation/Participation by Affected Local Entities
- V. What action is EPA taking?
- VI. Statutory and Executive Order Reviews

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

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).
2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

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

#### A. What state SIP submissions does this rulemaking address?

This rulemaking addresses a December 31, 2012, submission and a June 11, 2014, clarification from the

Illinois Environmental Protection Agency (Illinois EPA) intended to address all applicable infrastructure requirements for the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

#### B. Why did the state make these SIP submissions?

Under sections 110(a)(1) and (2) of the CAA, states are required to submit infrastructure SIPs to ensure that their SIPs provide for implementation, maintenance, and enforcement of the NAAQS, including the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS. These submissions must contain any revisions needed for meeting the applicable SIP requirements of section 110(a)(2), or certifications that their existing SIPs for the NAAQS already meet those requirements.

EPA highlighted this statutory requirement in an October 2, 2007, guidance document entitled "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards" (2007 Memo). On September 25, 2009, EPA issued an additional guidance document pertaining to the 2006 PM<sub>2.5</sub><sup>1</sup> NAAQS entitled "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS)" (2009 Memo), followed by the October 14, 2011, "Guidance on infrastructure SIP Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS)" (2011 Memo). Most recently, EPA issued "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)" on September 13, 2013 (2013 Memo). The SIP submissions referenced in this rulemaking pertain to the applicable requirements of section 110(a)(1) and (2), and address the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS. To the extent that the prevention of significant deterioration (PSD) program is comprehensive and non-NAAQS specific, a narrow evaluation of other NAAQS, such as the 1997 8-hour ozone and 2006 PM<sub>2.5</sub> NAAQS will be included in the appropriate sections.

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

EPA is acting upon the SIP submission from Illinois that address the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the

<sup>1</sup>PM<sub>2.5</sub> refers to particulate matter of 2.5 microns or less in diameter, oftentimes referred to as "fine" particles.

2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS. The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make 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)," and these SIP submissions are to 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.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as "infrastructure SIP" submissions. Although the term "infrastructure SIP" does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as "nonattainment SIP" or "attainment plan SIP" submissions to address the nonattainment planning requirements of part D of title I of the CAA, "regional haze SIP" submissions required by EPA rule to address the visibility protection requirements of CAA section 169A, and nonattainment new source review (NSR) permit program submissions to address the permit requirements of CAA, title I, part D.

This rulemaking will not cover three substantive areas that are not integral to acting on a state's infrastructure SIP submission: (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction at sources, that may be contrary to the CAA and EPA's policies addressing such excess emissions ("SSM"); (ii) existing provisions related to "director's variance" or "director's discretion" that purport to permit revisions to SIP approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA ("director's discretion"); and, (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's "Final NSR Improvement Rule," 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) ("NSR

Reform”). Instead, EPA has the authority to address each one of these substantive areas in separate rulemakings. A detailed history, interpretation, and rationale as they relate to infrastructure SIP requirements can be found in EPA’s May 13, 2014, proposed rule entitled, “Infrastructure SIP Requirements for the 2008 Lead NAAQS” in the section, “What is the scope of this rulemaking?” (see 79 FR 27241 at 27242–27245).

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

EPA’s guidance for these infrastructure SIP submissions is embodied in the 2007 Memo. Specifically, attachment A of this memorandum (Required Section 110 SIP Elements) identifies the statutory elements that states need to submit in order to satisfy the requirements for an infrastructure SIP submission. The 2009 Memo was issued to provide additional guidance for certain elements to meet the requirements of section 110(a)(1) and (2) of the CAA, and the 2011 Memo echoes previously issued guidance while also providing specific guidance with respect to the 2008 lead NAAQS. Lastly, the 2013 Memo identifies and further clarifies aspects of infrastructure SIPs that are not NAAQS specific.

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

As noted in the 2011 Memo and reiterated in the 2013 Memo, pursuant to section 110(a), states must provide reasonable notice and opportunity for public hearing for all infrastructure SIP submissions. The public comment period for Illinois EPA’s infrastructure SIP submission ended on December 26, 2012; during this period, the state did not receive any written comments, nor was there a request for a public hearing. EPA is also soliciting comment on our evaluation of the state’s infrastructure SIP submission in this notice of proposed rulemaking. Illinois provided a detailed synopsis of how various components of its SIP meet each of the applicable requirements in section 110(a)(2) for the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS, as applicable. The following review evaluates the state’s submissions.

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

This section requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance, and other related matters. However, EPA has long interpreted emission limits and control measures for attaining the standards as

being due when nonattainment planning requirements are due.<sup>2</sup> In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state’s SIP has basic structural provisions for the implementation of the NAAQS.

The Illinois Environmental Protection Act is contained in chapter 415, section 5, of the Illinois Compiled Statutes (415 ILCS 5). 415 ILCS 5/4 provides Illinois EPA with the authority to develop rules and regulations necessary to meet ambient air quality standards. Additionally, the Illinois Pollution Control Board (IPCB) was created under 415 ILCS 5, providing the IPCB with the authority to develop rules and regulations necessary to promote the purposes of the Illinois Environmental Protection Act. Furthermore, the IPCB ensures compliance with required laws and other elements of the state’s attainment plan that are necessary to attain the NAAQS, and to comply with the requirements of the CAA (415 ILCS 5/10). EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

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

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

This section requires SIPs to include provisions to provide for establishing and operating ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to EPA upon request. This review of the annual monitoring plan includes EPA’s determination that the state: (i) Monitors air quality at appropriate locations throughout the state using EPA-approved Federal Reference Methods or Federal Equivalent Method monitors; (ii) submits data to EPA’s Air Quality System (AQS) in a timely manner; and, (iii) provides EPA Regional Offices with prior notification of any planned changes to monitoring sites or the network plan.

Illinois EPA continues to operate an extensive monitoring network incorporating more than 200 monitors throughout the state. Illinois EPA also publishes an annual report that

summarizes air quality trends. Furthermore, Illinois EPA submits yearly monitoring network plans to EPA, and EPA approved the 2014 Annual Air Monitoring Network Plan for ozone, NO<sub>2</sub>, and SO<sub>2</sub> on August 21, 2013. Monitoring data from Illinois EPA are entered into AQS in a timely manner, and the state provides EPA with prior notification when changes to its monitoring network or plan are being considered. EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

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

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

The evaluation of Illinois EPA’s submission addressing the infrastructure SIP requirements of section 110(a)(2)(C) covers: (i) Enforcement of SIP measures; (ii) Identification of oxides of nitrogen (NO<sub>x</sub>) as a precursor to ozone provisions in the PSD program; (iii) identification of precursors to PM<sub>2.5</sub> and the identification of PM<sub>2.5</sub> and PM<sub>10</sub><sup>3</sup> condensables in the PSD program; (iv) PM<sub>2.5</sub> increments in the PSD program; and, (v) greenhouse gas (GHG) permitting and the “Tailoring Rule.”<sup>4</sup>

#### Sub-Element 1: Enforcement of SIP Measures

Illinois continues to staff and implement an enforcement program comprised of and operated by the Compliance Section and Division of Legal Counsel. 415 ILCS 5/4 provides the Director of Illinois EPA with the

<sup>3</sup> PM<sub>10</sub> refers to particles with diameters between 2.5 and 10 microns, oftentimes referred to as “coarse” particles.

<sup>4</sup> In EPA’s April 28, 2011, proposed rulemaking for infrastructure SIPs for the 1997 ozone and PM<sub>2.5</sub> NAAQS, we stated that each state’s PSD program must meet applicable requirements for evaluation of all regulated NSR pollutants in PSD permits (see 76 FR 23757 at 23760). This view was reiterated in EPA’s August 2, 2012, proposed rulemaking for infrastructure SIPs for the 2006 PM<sub>2.5</sub> NAAQS (see 77 FR 45992 at 45998). In other words, if a state lacks provisions needed to adequately address NO<sub>x</sub> as a precursor to ozone, PM<sub>2.5</sub> precursors, PM<sub>2.5</sub> and PM<sub>10</sub> condensables, PM<sub>2.5</sub> increments, or the Federal GHG permitting thresholds, the provisions of section 110(a)(2)(C) requiring a suitable PSD permitting program must be considered not to be met irrespective of the NAAQS that triggered the requirement to submit an infrastructure SIP.

<sup>2</sup> See, e.g., EPA’s 73 FR 66964 at 67034, final rule on “National Ambient Air Quality Standards for Lead.”

authority to implement and administer this enforcement program. Furthermore, Illinois EPA has confirmed that all enforcement actions are brought by the Office of the Illinois Attorney General or local State's Attorney offices, with whom Illinois EPA consults. EPA proposes that Illinois has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

EPA recognizes that Illinois has not adopted or submitted regulations intended to meet each of the PSD program and GHG permitting/Tailoring Rule sub-element requirements, as described below. However, Federally promulgated rules for each of these regulations and their associated requirements are in effect in the state, promulgated at 40 CFR 52.21. EPA has currently delegated the authority to implement these regulations to Illinois and as a result, the state has no further obligations to EPA, i.e., to submit new or revised regulations, because it already administers the Federally promulgated PSD regulations.

Sub-Element 2: Identification of NO<sub>x</sub> as a Precursor to Ozone Provisions in the PSD Program

EPA's "Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; Final Rule for Reformulated Gasoline" (Phase 2 Rule) was published on November 29, 2005 (see 70 FR 71612). Among other requirements, the Phase 2 Rule obligated states to revise their PSD programs to explicitly identify NO<sub>x</sub> as a precursor to ozone (70 FR 71612 at 71679, 71699–71700). This requirement was codified in 40 CFR 51.166, and consisted of the following<sup>5</sup>:

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

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

40 CFR 51.166 (b)(23)(i): Ozone: 40 tons per year (tpy) of VOCs or NO<sub>x</sub>;

40 CFR 51.166 (b)(49)(i)<sup>6</sup>: Any pollutant for which a NAAQS has been promulgated and any constituents or precursors for such pollutants identified by the Administrator (e.g., VOCs and NO<sub>x</sub>) are precursors for ozone; and

40 CFR 51.166 (i)(5)(i)(e) footnote 1: No *de minimis* air quality level is provided for ozone. However, any net emissions increase of 100 tpy or more of VOCs or NO<sub>x</sub> subject to PSD would be required to perform an ambient impact analysis, including the gathering of air quality data.

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

Sub-Element 3: Identification of Precursors to PM<sub>2.5</sub> and the Identification of PM<sub>2.5</sub> and PM<sub>10</sub> Condensables in the PSD Program

On May 16, 2008 (see 73 FR 28321), EPA issued the Final Rule on the "Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers (PM<sub>2.5</sub>)" (2008 NSR Rule). The 2008 NSR Rule finalized several new requirements for SIPs to address sources that emit direct PM<sub>2.5</sub> and other pollutants that contribute to secondary PM<sub>2.5</sub> formation. One of these requirements is for PSD permits to address pollutants responsible for the secondary formation of PM<sub>2.5</sub>, otherwise known as precursors. In the 2008 rule, EPA identified precursors to PM<sub>2.5</sub> for the PSD program to be sulfur dioxide (SO<sub>2</sub>) and NO<sub>x</sub> (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO<sub>x</sub> emissions in an area are not a significant contributor to that area's ambient PM<sub>2.5</sub> concentrations). The 2008 NSR Rule also specifies that VOCs are not considered to be precursors to PM<sub>2.5</sub> in the PSD program unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of VOCs in an area are significant contributors to that area's ambient PM<sub>2.5</sub> concentrations.

The explicit references to SO<sub>2</sub>, NO<sub>x</sub>, and VOCs as they pertain to secondary PM<sub>2.5</sub> formation are codified at 40 CFR 51.166(b)(49)(i)(b) and 40 CFR 52.21(b)(50)(i)(b). As part of identifying

<sup>6</sup> Note that this section of 40 CFR 51.166 has been amended as a result of EPA's Final Rule on the "Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers (PM<sub>2.5</sub>); the regulatory text as listed was current as of the issuance of the Phase 2 Rule. The current citation for the VOCs and NO<sub>x</sub> as precursors for ozone are contained in 40 CFR 51.166 (b)(49)(i)(b)(i).

pollutants that are precursors to PM<sub>2.5</sub>, the 2008 NSR Rule also required states to revise the definition of "significant" as it relates to a net emissions increase or the potential of a source to emit pollutants. Specifically, 40 CFR 51.166(b)(23)(i) and 40 CFR 52.21(b)(23)(i) define "significant" for PM<sub>2.5</sub> to mean the following emissions rates: 10 tpy of direct PM<sub>2.5</sub>; 40 tpy of SO<sub>2</sub>; and 40 tpy of NO<sub>x</sub> (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO<sub>x</sub> emissions in an area are not a significant contributor to that area's ambient PM<sub>2.5</sub> concentrations). The deadline for states to submit SIP revisions to their PSD programs incorporating these changes was May 16, 2011 (see 73 FR 28321 at 28341).<sup>7</sup>

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

<sup>7</sup> EPA notes that on January 4, 2013, the U.S. Court of Appeals for the D.C. Circuit, in *Natural Resources Defense Council v. EPA*, 706 F.3d 428 (D.C. Cir.), held that EPA should have issued the 2008 NSR Rule in accordance with the CAA's requirements for PM<sub>10</sub> nonattainment areas (Title I, Part D, subpart 4), and not the general requirements for nonattainment areas under subpart 1 (*Natural Resources Defense Council v. EPA*, No. 08–1250). As the subpart 4 provisions apply only to nonattainment areas, the EPA does not consider the portions of the 2008 rule that address requirements for PM<sub>2.5</sub> attainment and unclassifiable areas to be affected by the court's opinion. Moreover, EPA does not anticipate the need to revise any PSD requirements promulgated by the 2008 NSR rule in order to comply with the court's decision. Accordingly, the EPA's action on Illinois' infrastructure SIP as to elements (C), (D)(i)(II), or (J) with respect to the PSD requirements promulgated by the 2008 implementation rule does not conflict with the court's opinion. The Court's decision with respect to the nonattainment NSR requirements promulgated by the 2008 implementation rule also does not affect EPA's action on the present infrastructure action. EPA interprets the CAA to exclude nonattainment area requirements, including requirements associated with a nonattainment NSR program, from infrastructure SIP submissions due three years after adoption or revision of a NAAQS. Instead, these elements are typically referred to as nonattainment SIP or attainment plan elements, which would be due by the dates statutorily prescribed under subpart 2 through 5 under part D, extending as far as 10 years following designations for some elements.

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

Sub-Element 5: PM<sub>2.5</sub> Increments in the PSD Program

On October 20, 2010, EPA issued the final rule on the “Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)” (2010 NSR Rule). This rule established several components for making PSD permitting determinations for PM<sub>2.5</sub>, including a system of “increments” which is the mechanism used to estimate significant deterioration of ambient air quality for a pollutant. These increments are codified in 40 CFR 51.166(c) and 40 CFR 52.21(c), and are included in the table below.

TABLE 1—PM<sub>2.5</sub> INCREMENTS ESTABLISHED BY THE 2010 NSR RULE IN MICROGRAMS PER CUBIC METER

	Annual arithmetic mean	24-Hour max
Class I .....	1	2
Class II .....	4	9
Class III .....	8	18

The 2010 NSR Rule also established a new “major source baseline date” for PM<sub>2.5</sub> as October 20, 2010, and a new trigger date for PM<sub>2.5</sub> as October 20, 2011. These revisions are codified in 40 CFR 51.166(b)(14)(i)(c) and (b)(14)(ii)(c), and 40 CFR 52.21(b)(14)(i)(c) and (b)(14)(ii)(c). Lastly, the 2010 NSR Rule revised the definition of “baseline area” to include a level of significance of 0.3 micrograms per cubic meter, annual average, for PM<sub>2.5</sub>. This change is codified in 40 CFR 51.166(b)(15)(i) and 40 CFR 52.21(b)(15)(i).

Sub-Element 5: GHG Permitting and the “Tailoring Rule”

On June 3, 2010, EPA issued a final rule establishing a “common sense” approach to addressing GHG emissions from stationary sources under the CAA permitting programs. The “Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule,” or “Tailoring Rule,” set thresholds for GHG emissions that define when permits under the NSR PSD and title V operating permit programs are required for new and existing industrial facilities (see 75 FR 31514). The Tailoring Rule set the GHG PSD applicability threshold at 75,000 tpy as expressed in carbon dioxide equivalent; if states have not adopted this threshold, sources with GHG emissions above 100 tpy or 250 tpy (depending on source category) would

be subject to PSD, effective January 2, 2011. The lower thresholds could potentially result in certain residential and commercial sources triggering GHG PSD requirements.

On December 23, 2010, EPA issued a subsequent series of rules that put the necessary framework in place to ensure that industrial facilities can get CAA permits covering their GHG emissions when needed, and that facilities emitting GHGs at levels below those established in the Tailoring Rule do not need to obtain CAA permits.<sup>8</sup> Included in this series of rules was EPA’s issuance of the “Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans,” referred to as the PSD SIP “Narrowing Rule” on December 30, 2010 (see 75 FR 82536). The Narrowing Rule limits, or “narrows,” EPA’s approval of PSD programs that were previously approved into SIPs; the programs in question are those that apply PSD to sources that emit GHG. Specifically, the effect of the Narrowing Rule is that provisions that are no longer approved—e.g., portions of already approved SIPs that apply PSD to GHG emissions increases from sources emitting GHG below the Tailoring Rule thresholds—now have the status of having been submitted by the state but not yet acted upon by EPA. In other words, the Narrowing Rule focuses on eliminating the PSD obligations under Federal law for sources below the Tailoring Rule thresholds.

Note that while EPA is proposing to disapprove this set of infrastructure SIP requirements of section 110(a)(2)(C), we are proposing that Illinois has met the requirement contained in section 110(a)(2)(E) regarding resources specific to permitting GHG.<sup>9</sup>

For the purposes of the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS infrastructure SIPs, EPA reiterates that NSR reform regulations are not in the scope of these actions. Therefore, we are not taking action on existing NSR reform regulations for Illinois. To address the pre-construction regulation of the modification and construction of minor stationary sources and minor modifications of major stationary sources, an infrastructure SIP submission should identify the existing

<sup>8</sup> <http://www.epa.gov/NSR/actions.html#2010>.

<sup>9</sup> Section 110(a)(2)(E) requires that states have the resources to administer an air quality management program. Some states that are not covered by the Narrowing Rule may not be able to adequately demonstrate that they have adequate personnel to issue GHG permits to all sources that emit GHG under the Tailoring Rule thresholds.

EPA-approved SIP provisions and/or include new provisions that govern the minor source pre-construction program that regulates emissions of the relevant NAAQS pollutants. EPA approved Illinois’ minor NSR program on May 31, 1972 (37 FR 10862). Since this date, Illinois EPA and EPA have relied on the existing minor NSR program to ensure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

Certain sub-elements in this section overlap with elements of section 110(a)(2)(D)(i), section 110(a)(2)(E) and section 110(a)(2)(J). These links will be discussed in the appropriate areas below.

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

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

On June 11, 2014, Illinois EPA transmitted a letter to EPA clarifying that the portions of its December 31, 2012, infrastructure SIP submission with respect to section 110(a)(2)(D)(i)(I) were only intended to address the 2010 NO<sub>2</sub> NAAQS. In other words, the interstate transport provisions of section 110(a)(2)(D)(i)(I) that are before EPA for evaluation do not extend to the 2008 ozone or 2010 SO<sub>2</sub> NAAQS. In today’s rulemaking, EPA is not proposing to approve or disapprove Illinois’ compliance with section 110(a)(2)(D)(i)(I) with respect to the 2008 ozone and 2010 SO<sub>2</sub> NAAQS. Instead, we will address the state’s satisfaction of these requirements with respect to these two NAAQS in a separate rulemaking.

With respect to the 2010 NO<sub>2</sub> NAAQS, EPA promulgated designations for this NAAQS on February 17, 2012, stating, “The EPA is designating areas as “unclassifiable/attainment” to mean that available information does not indicate that the air quality in these areas exceeds the 2010 NO<sub>2</sub> NAAQS” (see 77 FR 9532). For comparison purposes, EPA examined the design values<sup>10</sup> from NO<sub>2</sub> monitors in Illinois

<sup>10</sup> The level of the 2010 NO<sub>2</sub> NAAQS for is 100 parts per billion (ppb) and the form is the 3-year average of the annual 98th percentile of the daily 1-hour maximum. For the most recent design values, see <http://www.epa.gov/airtrends/values.html>.

and surrounding states. The highest design value based on data collected between 2010 and 2012 was 62 parts per billion at a monitor in Chicago, Illinois. Additionally, Illinois' SIP contains two sets of substantial provisions that limit NO<sub>2</sub> (and SO<sub>2</sub>) emissions from electric generating units. The Combined Pollutant Standards (CPS) are contained in Illinois Administrative Code 225.233, and the Multi-Pollutant Standards (MPS) are contained in Illinois Administrative Code 225.293–225.299. EPA believes that with the continued implementation of CPS, MPS, Federally promulgated PSD regulations, and the state's NNSR regulations found in Part 203 of the SIP, these low monitored values of NO<sub>2</sub> will continue in and around Illinois. In other words, the NO<sub>2</sub> emissions from Illinois are not expected to cause or contribute to a violation of the 2010 NO<sub>2</sub> NAAQS in another state, and these emissions are not likely to interfere with the maintenance of the 2010 NO<sub>2</sub> NAAQS in another state. Therefore, EPA proposes that Illinois has met this set of requirements related to section 110(a)(2)(D)(i)(I) for the 2010 NO<sub>2</sub> NAAQS.

Section 110(a)(2)(D)(i)(II) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality or to protect visibility in another state.

Illinois' satisfaction of the applicable infrastructure SIP PSD requirements for the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS has been detailed in the section addressing section 110(a)(2)(C). As previously noted, Illinois has not adopted or submitted regulations for PSD, which results in a proposed disapproval with respect to these requirements. However, Illinois has no further obligations to EPA because it administers the Federally promulgated PSD regulations, promulgated at 40 CFR 52.21, through delegation.

States also have an obligation to ensure that sources located in nonattainment areas do not interfere with a neighboring state's PSD program. One way that this requirement can be satisfied is through an NNSR program consistent with the CAA that addresses any pollutants for which there is a designated nonattainment area within the state.

Illinois' EPA-approved NNSR regulations can be found in Part 203 of the SIP; these regulations contain provisions for how the state must treat and control sources in nonattainment areas, consistent with 40 CFR 51.165, or appendix S to 40 CFR part 51. EPA proposes that Illinois has met the

requirements with respect to the prohibition of interference with a neighboring state's PSD program for the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS related to section 110(a)(2)(D)(i)(II).

With regard to the applicable requirements for visibility protection of section 110(a)(2)(D)(i)(II), states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). The 2009 Memo, the 2011 Memo, and 2013 Memo state that these requirements can be satisfied by an approved SIP addressing reasonably attributable visibility impairment, if required, or an approved SIP addressing regional haze.

On July 6, 2012, EPA published its final approval of Illinois' regional haze plan (*see* 77 FR 39943). Notably, Illinois has two sets of provisions in its SIP that meet the Best Available Retrofit Technology requirement of electric generating stations without relying on Federally promulgated regulations such as the Clean Air Interstate Rule (CAIR) or the Cross-State Air Pollution Rule (CSAPR).<sup>11</sup> Therefore, EPA is proposing that Illinois has met the visibility protection requirements of section 110(a)(2)(D)(i)(II) for the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

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

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

As previously mentioned, Illinois administers the Federally promulgated PSD regulations promulgated at 40 CFR 52.21, through delegation. These

<sup>11</sup> These provisions are the CPS and MPS as alluded to in the discussion addressing section 110(a)(2)(D)(i)(I), and are contained in Illinois Administrative Code 225.233 and Illinois Administrative Code 225.293–225.299, respectively. Reliance on the CPS and MPS in the context of Illinois' regional haze plan as satisfying the visibility protection requirements of section 110(a)(2)(D)(i)(II) in lieu of dependence on Federally promulgated regulations such as CAIR or CSAPR is consistent with EPA's previous final action for the 2006 PM<sub>2.5</sub> NAAQS (*see* 77 FR 65478 at 65481).

Federal rules contain provisions requiring new or modified sources to notify neighboring states of potential negative air quality impacts. EPA acknowledges that the state has not satisfied the requirement for a SIP submission, which results in a proposed disapproval with respect to this set of infrastructure SIP requirements of section 110(a)(2)(D)(ii). However, Illinois has no further obligations to EPA because it administers the Federally promulgated PSD regulations.

Illinois affirmed in its submission that it does not have any pending obligations under section 115. Therefore, EPA is proposing that Illinois has met the applicable infrastructure SIP requirements of section 110(a)(2)(D)(ii) related to section 115 of the CAA (international pollution abatement) for the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

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

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

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

At the time of its submittal, Illinois EPA cited the recently passed Public Act in the state that provides appropriations for the Illinois Bureau of Air Programs and associated personnel. In addition to the environmental performance partnership agreement with EPA, Illinois has confirmed that it retains all necessary resources to carry out required air programs. As discussed in previous sections, Illinois EPA has affirmed that 415 ILCS 5/4 and 415 ILCS 5/10 provide the Director, in conjunction with IPCB, with the authority to develop rules and regulations necessary to meet ambient air quality standards and respond to any EPA findings of inadequacy with the Illinois SIP program. Lastly, the IPCB ensures compliance with required laws or elements of the state's attainment plan that are necessary to attain the NAAQS, or that are necessary to comply with the requirements of the CAA. EPA proposes that Illinois has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E) with respect to the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

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

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

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

In today’s action, EPA is neither proposing to approve or disapprove the portions of the submission from Illinois intended to address the state board requirements of section 110(a)(2)(E)(ii). Instead, EPA will take separate action on compliance with section 110(a)(2)(E)(ii) for the state at a later time. EPA is working with Illinois EPA to address these requirements in the most appropriate way.

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

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

Illinois EPA requires regulated sources to submit various reports,

dependent on applicable requirements and the type of permit issued to the source. These reports are submitted to the Bureau of Air’s Compliance Unit for review, and all reasonable efforts are made by Illinois EPA to maximize the effectiveness of available resources to review the required reports. EPA proposes that Illinois has satisfied the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

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

This section requires that a plan provide for authority that is analogous to what is provided in section 303 of the CAA, and adequate contingency plans to implement such authority. The 2013 Memo states that infrastructure SIP submissions should specify authority, rested in an appropriate official, to restrain any source from causing or contributing to emissions which present an imminent and substantial endangerment to public health or welfare, or the environment.

Illinois has the necessary authority to address emergency episodes, and these provisions are contained in 415 ILCS 5/34. 415 ILCS 5/43(a) authorizes the Illinois EPA to request a state’s attorney from Illinois Attorney General’s office to seek immediate injunctive relief in circumstances of substantial danger to the environment or to the public health of persons. EPA proposes that Illinois has met the applicable infrastructure SIP requirements for this portion of section 110(a)(2)(G) with respect to the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

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

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

As previously mentioned, 415 ILCS 5/4 and 415 ILCS 5/10 provide the Director of Illinois EPA, in conjunction with IPCB, with the authority to develop rules and regulations necessary to meet ambient air quality standards. Furthermore, they have the authority to respond to any EPA findings of inadequacy with the Illinois SIP program. EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

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

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

EPA has determined that section 110(a)(2)(I) is not applicable to the infrastructure SIP process. Instead, EPA takes action on part D attainment plans through separate processes.

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

The evaluation of the submissions from Illinois with respect to the requirements of section 110(a)(2)(J) are described below.

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

States must provide a process for consultation with local governments and Federal Land Managers (FLMs) carrying out NAAQS implementation requirements.

Illinois EPA is required to give notice to the Office of the Attorney General and the Illinois Department of Natural Resources during the rulemaking process. Furthermore, Illinois provides notice to reasonably anticipated stakeholders and interested parties, as well as to any FLM if the rulemaking applies to Federal land which the FLM has authority over. Additionally, Illinois EPA participates in the Lake Michigan Air Director’s Consortium (LADCO), which consists of collaboration with EPA and the states of Indiana, Michigan, Minnesota, Ohio, and Wisconsin. Illinois EPA also consults with Missouri through a process established in a Memorandum of Agreement. EPA proposes that Illinois has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

##### Sub-Element 2: Public Notification

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

Illinois EPA continues to collaborate with the Cook County Department of Environmental Control. This consists of continued and routine monitoring of air quality throughout the state, and notifying the public when unhealthy air quality is measured or forecasted. Illinois EPA actively populates EPA’s AIRNOW program and distributes the

information to interested stakeholders such as Partners for Clean Air in Chicago, the Clean Air Partnership in St. Louis, and the Cook County Department of Environmental Control. The state maintains portions of its Web site specifically for air quality alerts,<sup>12</sup> and prepares annual data reports from its complete monitoring network. Therefore, EPA proposes that Illinois has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

Sub-Element 3: PSD

States must meet applicable requirements of section 110(a)(2)(C) related to PSD. Illinois' satisfaction of the applicable infrastructure SIP PSD requirements for the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS has been detailed in the section addressing section 110(a)(2)(C). As previously noted, Illinois has not adopted or submitted regulations for PSD, which results in a proposed disapproval with respect to these requirements. However, Illinois has no further obligations to EPA because it administers the Federally promulgated PSD regulations, promulgated at 40 CFR 52.21, through delegation.

Sub-Element 4: Visibility Protection

With regard to the applicable requirements for visibility protection, states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, we find that there is no new visibility obligation "triggered" under section 110(a)(2)(J) when a new NAAQS

becomes effective. In other words, the visibility protection requirements of section 110(a)(2)(J) are not germane to infrastructure SIPs for the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

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

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

Illinois EPA maintains the capability to perform modeling of the air quality impacts of emissions of all criteria pollutants, including the capability to use complex photochemical grid models. This modeling is used in support of the SIP for all nonattainment areas in the state. Illinois EPA also requires air quality modeling in support of permitting the construction of major and some minor new sources under the PSD program. These modeling data are available to EPA as well as the public upon request. Lastly, Illinois EPA participates in LADCO, which conducts regional modeling that is used for statewide planning purposes. EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

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

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

Illinois EPA implements and operates the title V permit program, which EPA approved on December 4, 2001 (66 FR 62946) and the provisions, requirements, and structures associated with the costs for reviewing, approving, implementing, and enforcing various types of permits are contained in 415

ILCS 5/39.5. EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(L) for the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

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

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

All public participation procedures pertaining to Illinois EPA are consistent with 35 Illinois Administrative Code Part 164 (Procedures for Informational and Quasi-Legislative Public Hearings) and 35 Illinois Administrative Code Part 252 (Public Participation in the Air Pollution Control Permit Program); the latter is an approved portion of Illinois' SIP. EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

V. What action is EPA taking?

EPA is proposing to approve most elements of a submission from Illinois certifying that its current SIP is sufficient to meet the required infrastructure elements under sections 110(a)(1) and (2) for the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS. We are also proposing to disapprove some elements of the state's submission as they relate to its PSD program. As described above, Illinois already administers Federally promulgated PSD regulations through delegation, and therefore no practical effect is associated with today's proposed disapproval or future final disapproval of those elements.

EPA's proposed actions for the state's satisfaction of infrastructure SIP requirements, by element of section 110(a)(2) and NAAQS, are contained in the table below.

Element	2008 Ozone	2010 NO <sub>2</sub>	2010 SO <sub>2</sub>
(A): Emission limits and other control measures .....	A	A	A
(B): Ambient air quality monitoring and data system .....	A	A	A
(C)1: Enforcement of SIP measures .....	A	A	A
(C)2: NO <sub>x</sub> as a precursor to ozone for PSD .....	D,*	D,*	D,*
(C)3: PM <sub>2.5</sub> Precursors/PM <sub>2.5</sub> and PM <sub>10</sub> condensables for PSD .....	D,*	D,*	D,*
(C)4: PM <sub>2.5</sub> Increments .....	D,*	D,*	D,*
(C)5: GHG permitting thresholds in PSD regulations .....	D,*	D,*	D,*
(D)1: Contribute to nonattainment/interfere with maintenance of NAAQS .....	NA	A	NA
(D)2: PSD .....	**	**	**
(D)3: Visibility Protection .....	A	A	A
(D)4: Interstate Pollution Abatement .....	D,*	D,*	D,*
(D)5: International Pollution Abatement .....	A	A	A
(E): Adequate resources .....	A	A	A
(E): State boards .....	NA	NA	NA
(F): Stationary source monitoring system .....	A	A	A

<sup>12</sup> See, e.g., <http://www.epa.state.il.us/air/air-quality-menu.html>.

Element	2008 Ozone	2010 NO <sub>2</sub>	2010 SO <sub>2</sub>
(G): Emergency power .....	A	A	A
(H): Future SIP revisions .....	A	A	A
(I): Nonattainment area plan or plan revisions under part D .....	NA	NA	NA
(J)1: Consultation with government officials .....	A	A	A
(J)2: Public notification .....	A	A	A
(J)3: PSD .....	**	**	**
(J)4: Visibility protection .....	+	+	+
(K): Air quality modeling and data .....	A	A	A
(L): Permitting fees .....	A	A	A
(M): Consultation and participation by affected local entities .....	A	A	A

In the above table, the key is as follows:

A .....	Approve.
NA .....	No Action/Separate Rulemaking.
D .....	Disapprove.
+ .....	Not germane to infrastructure SIPs.
* .....	Federally promulgated rules in place.
** .....	Previously discussed in element (C).

To clarify, EPA is proposing to disapprove the infrastructure SIP submission from Illinois with respect to certain PSD requirements including: (i) The explicit identification of NO<sub>x</sub> as a precursor to ozone consistent with the Phase 2 Rule; (ii) the explicit identification of SO<sub>2</sub> and NO<sub>x</sub> as PM<sub>2.5</sub> precursors (and the significant emissions rates for direct PM<sub>2.5</sub>, and SO<sub>2</sub> and NO<sub>x</sub> as its precursors), and the regulation of PM<sub>2.5</sub> and PM<sub>10</sub> condensables, consistent with the requirements of the 2008 NSR Rule; (iii) the PM<sub>2.5</sub> increments and associated implementation rules consistent with the 2010 NSR Rule; and, (iv) permitting of GHG emitting sources at the Federal Tailoring Rule thresholds.

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

However, Illinois has no further obligations to EPA because Federally promulgated rules, promulgated at 40 CFR 52.21 are in effect in the state. EPA has delegated the authority to Illinois to administer these rules, which include provisions related to PSD and interstate pollution abatement. A final disapproval for Illinois for these infrastructure SIP requirements will not result in sanctions under section 179(a), nor will it obligate EPA to promulgate a Federal implementation plan within two years of final action if the state does not submit revisions to its PSD SIPs addressing these deficiencies. Instead,

Illinois is already administering the Federally promulgated PSD regulations.

**VI. Statutory and Executive Order Reviews**

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

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

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

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

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Nitrogen dioxide, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: June 23, 2014.

**Susan Hedman,**  
Regional Administrator, Region 5.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R05-OAR-2014-0119; FRL-9912-18-Region 5]

**Approval and Promulgation of Air Quality Implementation Plans; Illinois; Latham Pool Adjusted Standard**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a request submitted by the Illinois Environmental Protection Agency on January 8, 2014, to revise the Illinois State Implementation Plan (SIP) for volatile organic matter (VOM). The approval revises the Illinois SIP by substituting a new party as the holder of the adjusted