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).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile Organic Compounds.

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

Dated: April 29, 2015.

Shaun L. McGrath,

Regional Administrator, Region 8.

[FR Doc. 2015–11338 Filed 5–11–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2015–0297; FRL–9927–54–Region 9]

Partial Approval and Partial Disapproval of Air Quality State Implementation Plans; Arizona; Infrastructure Requirements for Lead and Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to partially approve and partially disapprove a State Implementation Plan (SIP) revision submitted by the State of Arizona to address the requirements of section 110(a)(1) and (2) of the Clean Air Act (CAA) for the 2008 Lead (Pb) and 2008 ozone national ambient air quality standards (NAAQS). Section 110(a) of the CAA requires that each State adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS. We refer to such SIP revisions as ''infrastructure'' SIPs because they are intended to address basic structural SIP requirements for each new or revised NAAQS including, but not limited to, legal authority, regulatory structure, resources, permit programs, monitoring and modeling necessary to assure attainment and maintenance of the standards. We are taking comments on this proposal and plan to follow with a final action.

DATES: Written comments must be received on or before June 11, 2015.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R09–OAR–2015–0297, by one of the following methods:

1. *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Email:* Jeffrey Buss at *buss.jeffrey@epa.gov.*

3. *Mail:* Jeffrey Buss, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne, San Francisco, California 94105.

4. *Hand or Courier Delivery:* Jeffrey Buss, Air Planning Section (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne, San Francisco, California 94105. Such deliveries are only accepted during the Regional Office's normal hours of operation. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R09–OAR–2015–0297. 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,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *www.regulations.gov* or email that you consider to be CBI or otherwise protected from disclosure. The *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,* 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* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection during normal business hours.

FOR FURTHER INFORMATION CONTACT: Jeffrey Buss, Office of Air Planning, U.S. Environmental Protection Agency, Region 9, (415) 947–4152, email: *buss.jeffrey@epa.gov.*

SUPPLEMENTARY INFORMATION:
Throughout this document, the terms ''we,'' ''us,'' and ''our'' refer to EPA.

Table of Contents

I. Background

A. EPA's Approach to the Review of Infrastructure SIP Submittals

EPA is acting upon several SIP submittals from Arizona that address the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2008 ozone and 2008 Pb NAAQS. The requirement for states to make a SIP submittal of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submittals ''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 submittals are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submittals, and the requirement to make the submittals 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'' submittal must address.

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

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submittals, and section 110(a)(2) provides more details concerning the required contents of these submittals. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[1] EPA therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, EPA believes that the list of required elements for infrastructure SIP submittals provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submittal.

The following examples of ambiguities illustrate the need for EPA to interpret some section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submittals for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that ''each'' SIP submittal must meet the list of requirements therein, while EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in part D of title I of the Act, which specifically address nonattainment SIP requirements.[2] Section 110(a)(2)(I) pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submittals to address nonattainment area requirements are due. For example, section 172(b) requires EPA to establish a schedule for submittal of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) allows up to two years, or in some cases three years, for such designations to be promulgated.[3] This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, EPA must determine which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submittal.

Another example of ambiguity within sections 110(a)(1) and 110(a)(2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submittal, and whether EPA must act upon such SIP submittal in a single action. Although section 110(a)(1) directs states to submit ''a plan'' to meet these requirements, EPA interprets the CAA to allow states to make multiple SIP submittals separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submittals to meet the infrastructure SIP requirements, EPA can elect to act on such submittals either individually or in a larger combined action.[4] Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submittal for a given NAAQS without concurrent action on the entire submittal. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submittal.[5]

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[1] For example: Section 110(a)(2)(E)(i) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a SIP-approved program to address certain sources as required by part C of title I of the CAA; and section 110(a)(2)(G) provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

[2] *See, e.g.,* ''Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_X SIP Call; Final Rule,'' 70 FR 25162, at 25163–25165, May 12, 2005 (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[3] EPA notes that this ambiguity within section 110(a)(2) is heightened by the fact that various subparts of part D set specific dates for submittal of certain types of SIP submittals in designated nonattainment areas for various pollutants. Note, *e.g.,* that section 182(a)(1) provides specific dates for submittal of emissions inventories for the ozone NAAQS. Some of these specific dates are necessarily later than three years after promulgation of the new or revised NAAQS.

[4] *See, e.g.,* ''Approval and Promulgation of Implementation Plans; New Mexico; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Permitting,'' 78 FR 4339, January 22, 2013 (EPA's final action approving the structural PSD elements of the New Mexico SIP submitted by the State separately to meet the requirements of EPA's 2008 $PM_{2.5}$ NSR rule), and ''Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport Requirements for the 2006 $PM_{2.5}$ NAAQS,'' 78 FR 4337, January 22, 2013 (EPA's final action on the infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS).

[5] On December 14, 2007, the State of Tennessee, through the Tennessee Department of Environment and Conservation, made a SIP revision to EPA demonstrating that the State meets the requirements of sections 110(a)(1) and (2). EPA proposed action for infrastructure SIP elements (C) and (J) on January 23, 2012 (77 FR 3213) and took final action on March 14, 2012 (77 FR 14976). On April 16, 2012 (77 FR 22533) and July 23, 2012 (77 FR 42997), EPA took separate proposed and final actions on all other section 110(a)(2) infrastructure SIP elements of Tennessee's December 14, 2007 submittal.

Ambiguities within sections 110(a)(1) and 110(a)(2) may also arise with respect to infrastructure SIP submittal requirements for different NAAQS. Thus, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS. The states' attendant infrastructure SIP submittals for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submittal for purposes of section 110(a)(2)(B) could be very different for different pollutants, for example because the content and scope of a state's infrastructure SIP submittal to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[6]

EPA notes that interpretation of section 110(a)(2) is also necessary when EPA reviews other types of SIP submittals required under the CAA. Therefore, as with infrastructure SIP submittals, EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submittals. For example, section 172(c)(7) requires that attainment plan SIP submittals required by part D have to meet the ''applicable requirements'' of section 110(a)(2). Thus, for example, attainment plan SIP submittals must meet the requirements of section 110(a)(2)(A) regarding enforceable emission limits and control measures and section 110(a)(2)(E)(i) regarding air agency resources and authority. By contrast, it is clear that attainment plan SIP submittals required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the air quality prevention of significant deterioration (PSD) program required in part C of title I of the CAA, because PSD does not apply to a pollutant for which an area is designated nonattainment and thus subject to part D planning requirements. As this example illustrates, each type of SIP submittal may implicate some elements of section 110(a)(2) but not others.

Given the potential for ambiguity in some of the statutory language of section 110(a)(1) and section 110(a)(2), EPA believes that it is appropriate to interpret the ambiguous portions of section 110(a)(1) and section 110(a)(2) in the context of acting on a particular SIP submittal. In other words, EPA assumes that Congress could not have intended that each and every SIP submittal, regardless of the NAAQS in question or the history of SIP development for the relevant pollutant, would meet each of the requirements, or meet each of them in the same way. Therefore, EPA has adopted an approach under which it reviews infrastructure SIP submittals against the list of elements in section 110(a)(2), but only to the extent each element applies for that particular NAAQS.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submittals for particular elements.[7] EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (2013 Infrastructure SIP Guidance).[8] EPA developed this document to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. Within this guidance, EPA describes the duty of states to make infrastructure SIP submittals to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submittals.[9] The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, EPA interprets sections 110(a)(1) and 110(a)(2) such that infrastructure SIP submittals need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submittal for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.

As an example, section 110(a)(2)(E)(ii) is a required element of section 110(a)(2) for infrastructure SIP submittals. Under this element, a state must meet the substantive requirements of section 128, which pertain to state boards that approve permits or enforcement orders and heads of executive agencies with similar powers. Thus, EPA reviews infrastructure SIP submittals to ensure that the state's SIP appropriately addresses the requirements of section 110(a)(2)(E)(ii) and section 128. The 2013 Infrastructure SIP Guidance explains EPA's interpretation that there may be a variety of ways by which states can appropriately address these substantive statutory requirements, depending on the structure of an individual state's permitting or enforcement program (*e.g.,* whether permits and enforcement orders are approved by a multi-member board or by a head of an executive agency). However they are addressed by the state, the substantive requirements of section 128 are necessarily included in EPA's evaluation of infrastructure SIP submittals because section 110(a)(2)(E)(ii) explicitly requires that the state satisfy the provisions of section 128.

As another example, EPA's review of infrastructure SIP submittals with respect to the PSD program requirements in sections 110(a)(2)(C), (D)(i)(II), and (J) focuses upon the structural PSD program requirements contained in part C, title I of the Act and EPA's PSD regulations. Structural PSD program requirements include provisions necessary for the PSD program to address all regulated sources and regulated NSR pollutants, including greenhouse gases (GHGs). By contrast, structural PSD program requirements do not include provisions that are not required under EPA's regulations at 40 Code of Federal Regulations (CFR) 51.166 but are merely available as an option for the state, such as the option to provide grandfathering of complete permit applications with respect to the 2012 $PM_{2.5}$ NAAQS. Accordingly, the latter optional provisions are types of provisions EPA considers irrelevant in the context of an infrastructure SIP action.

For other section 110(a)(2) elements, however, EPA's review of a state's infrastructure SIP submittal focuses on assuring that the state's SIP meets basic

[6] For example, implementation of the 1997 $PM_{2.5}$ NAAQS required the deployment of a system of new monitors to measure ambient levels of that new indicator species for the new NAAQS.

[7] EPA notes, however, that nothing in the CAA requires EPA to provide guidance or to promulgate regulations for infrastructure SIP submittals. The CAA directly applies to states and requires the submittal of infrastructure SIP submittals, regardless of whether or not EPA provides guidance or regulations pertaining to such submittals. EPA elects to issue such guidance in order to assist states, as appropriate.

[8] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' Memorandum from Stephen D. Page, September 13, 2013.

[9] EPA's September 13, 2013, guidance did not make recommendations with respect to infrastructure SIP submittals to address section 110(a)(2)(D)(i)(I). EPA issued the guidance shortly after the U.S. Supreme Court agreed to review the D.C. Circuit decision in *EME Homer City,* 696 F.3d7 (D.C. Cir. 2012) which had interpreted the requirements of section 110(a)(2)(D)(i)(I). In light of the uncertainty created by ongoing litigation, EPA elected not to provide additional guidance on the requirements of section 110(a)(2)(D)(i)(I) at that time. As the guidance is neither binding nor required by statute, whether EPA elects to provide guidance on a particular section has no impact on a state's CAA obligations.

structural requirements. For example, section 110(a)(2)(C) includes, *inter alia,* the requirement that states have a program to regulate minor new sources. Thus, EPA evaluates whether the state has a SIP-approved minor NSR program and whether the program addresses the pollutants relevant to that NAAQS. In the context of acting on an infrastructure SIP submittal, however, EPA does not think it is necessary to conduct a review of each and every provision of a state's existing minor source program (*i.e.,* already in the existing SIP) for compliance with the requirements of the CAA and EPA's regulations that pertain to such programs.

With respect to certain other issues, EPA does not believe that an action on a state's infrastructure SIP submittal is necessarily the appropriate type of action in which to address possible deficiencies in a state's existing SIP. These issues include: (i) Existing provisions related to excess emissions from sources during periods of startup, shutdown, or malfunction 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 may be contrary to the CAA because they purport to allow revisions to SIP-approved emissions limits while limiting public process or not requiring further approval by EPA; 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''). Thus, EPA believes it may approve an infrastructure SIP submittal without scrutinizing the totality of the existing SIP for such potentially deficient provisions and may approve the submittal even if it is aware of such existing provisions.[10] It is important to note that EPA's approval of a state's infrastructure SIP submittal should not be construed as explicit or implicit re-approval of any existing potentially deficient provisions that relate to the three specific issues just described.

EPA's approach to review of infrastructure SIP submittals is to identify the CAA requirements that are logically applicable to that submittal. EPA believes that this approach to the review of a particular infrastructure SIP submittal is appropriate, because it would not be reasonable to read the general requirements of section 110(a)(1) and the list of elements in 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts. These provisions, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when EPA evaluates adequacy of the infrastructure SIP submittal. EPA believes that a better approach is for states and EPA to focus attention on those elements of section 110(a)(2) of the CAA most likely to warrant a specific SIP revision due to the promulgation of a new or revised NAAQS or other factors.

For example, EPA's 2013 Infrastructure SIP Guidance gives simpler recommendations with respect to carbon monoxide than other NAAQS pollutants to meet the visibility requirements of section 110(a)(2)(D)(i)(II), because carbon monoxide does not affect visibility. As a result, an infrastructure SIP submittal for any future new or revised NAAQS for carbon monoxide need only state this fact in order to address the visibility prong of section 110(a)(2)(D)(i)(II).

Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of sections 110(a)(1) and 110(a)(2) because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.[11] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submittals.[12] Significantly, EPA's determination that an action on a state's infrastructure SIP submittal is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submittal, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.[13]

B. Statutory Framework and Scope of Infrastructure SIPs

As discussed in Section A of this proposed rule, CAA section 110(a)(1) requires each state to submit to EPA, within three years after the promulgation of a primary or secondary NAAQS or any revision thereof, an infrastructure SIP revision that provides for the implementation, maintenance, and enforcement of such NAAQS. Section 110(a)(2) sets the content requirements of such a plan, which generally relate to the information and authorities, compliance assurances, procedural requirements, and control measures that constitute the ''infrastructure'' of a state's air quality management program. These infrastructure SIP elements required by section 110(a)(2) are as follows:

- Section 110(a)(2)(A): Emission limits and other control measures.
- Section 110(a)(2)(B): Ambient air quality monitoring/data system.

[10] By contrast, EPA notes that if a state were to include a new provision in an infrastructure SIP submittal that contained a legal deficiency, such as a new exemption for excess emissions during SSM events, then EPA would need to evaluate that provision for compliance against the rubric of applicable CAA requirements in the context of the action on the infrastructure SIP.

[11] For example, EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. See ''Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revisions,'' 76 FR 21639, April 18, 2011.

[12] EPA has used this authority to correct errors in past actions on SIP submittals related to PSD programs. See ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536, December 30, 2010. EPA has previously used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See, *e.g.,* 61 FR 38664, July 25, 1996 and 62 FR 34641, June 27, 1997 (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062, November 16, 2004 (corrections to California SIP); and 74 FR 57051, November 3, 2009 (corrections to Arizona and Nevada SIPs).

[13] See, *e.g.,* EPA's disapproval of a SIP submittal from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). See, *e.g.,* 75 FR 42342 at 42344, July 21, 2010 (proposed disapproval of director's discretion provisions); 76 FR 4540, January 26, 2011 (final disapproval of such provisions).

• Section 110(a)(2)(C): Program for enforcement of control measures and regulation of new and modified stationary sources.
• Section 110(a)(2)(D)(i): Interstate pollution transport.
• Section 110(a)(2)(D)(ii): Interstate and international pollution abatement.
• Section 110(a)(2)(E): Adequate resources and authority, conflict of interest, and oversight of local and regional government agencies.
• Section 110(a)(2)(F): Stationary source monitoring and reporting.
• Section 110(a)(2)(G): Emergency episodes.
• Section 110(a)(2)(H): SIP revisions.
• Section 110(a)(2)(J): Consultation with government officials, public notification, PSD, and visibility protection.
• Section 110(a)(2)(K): Air quality modeling and submittal of modeling data.
• Section 110(a)(2)(L): Permitting fees.
• Section 110(a)(2)(M): Consultation/participation by affected local entities.

Two elements identified in section 110(a)(2) are not governed by the three-year submittal deadline of section 110(a)(1) and are therefore not addressed in this action. These two elements are: section 110(a)(2)(C), to the extent it refers to permit programs required under CAA part D (nonattainment NSR), and section 110(a)(2)(I), pertaining to the nonattainment planning requirements of part D. As a result, this action does not address infrastructure for the nonattainment NSR portion of section 110(a)(2)(C) or the whole of section 110(a)(2)(I).

C. Regulatory Background

2008 Pb NAAQS

On October 15, 2008, EPA issued a revised NAAQS for Pb.[14] This action triggered a requirement for states to submit an infrastructure SIP to address the applicable requirements of CAA section 110(a)(2) within three years. On October 14, 2011, EPA issued ''Guidance on Section 110 Infrastructure SIPs for the 2008 Pb NAAQS'', referred to herein as EPA's 2011 Pb Guidance.[15] Depending on the timing of a given submittal, some states relied on the earlier draft version of this guidance, referred to herein as EPA's 2011 Draft Pb Guidance.[16] EPA issued additional guidance on infrastructure SIPs on September 13, 2013.[17]

2008 Ozone NAAQS

On March 27, 2008, EPA issued a revised NAAQS for 8-hour Ozone.[18] This action triggered a requirement for states to submit an infrastructure SIP to address the applicable requirements of CAA section 110(a)(2) within three years. EPA did not, however, prepare guidance at this time for states in submitting infrastructure SIP revisions for the 2008 Ozone NAAQS.[19] On September 13, 2013, EPA issued ''Guidance of Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' which provides advice on the development of infrastructure SIPs for the 2008 ozone NAAQS (among other pollutants) as well as infrastructure SIPs for new or revised NAAQS promulgated in the future.[20]

II. Arizona's Submittals

The Arizona Department of Environmental Quality (ADEQ) has submitted several infrastructure SIP revisions pursuant to EPA's promulgation of the Pb and ozone NAAQS addressed by this proposed rule, including the following:

• October 14, 2011—''Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2); 2008 Lead NAAQS,'' to address all of the CAA section 110(a)(2) requirements, except for section 110(a)(2)(G),[21] for the 2008 Pb NAAQS (2011 Pb I–SIP Submittal).
• December 27, 2012—''Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2); 2008 8-hour Ozone NAAQS,'' to address all of the CAA section 110(a)(2) requirements for the 2008 8-hour Ozone NAAQS (2012 Ozone I–SIP Submittal).

On February 19, 2015 EPA approved elements of the above submittals along with others with respect to the 2008 Pb and 2008 8-hour ozone NAAQS infrastructure SIP requirements in CAA sections 110(a)(2)(A), (B), (E), (F), (G), (H), (L) and (M).[22] That action also explained that we would separately act on the permitting infrastructure SIP elements in CAA sections 110(a)(2)(C), (D), (J), and (K) in a subsequent rulemaking. These permitting related provisions are the subject of today's proposal.

In addition to the above 2011 and 2012 infrastructure SIP submittals, ADEQ submitted ''New Source Review State Implementation Plan Submission'' on October 29, 2012, and ''Supplemental Information to 2012 New Source Review State Implementation Plan Submission'' on July 2, 2014 (NSR Submittals). In addition to addressing revisions to Arizona's New Source Review (NSR) program, these submissions also relate to infrastructure SIP elements in CAA sections 110(a)(2)(C), (D), (J), and (K), which EPA is proposing action on in today's rulemaking.

As discussed in our November 24, 2014 proposed action, and our March 18, 2015 proposed action on Arizona's NSR Submittals,[23] we have found that the submittals we are acting on today fulfill the procedural requirements for public participation and other completeness criteria described in 40 CFR 51 Appendix V.

III. EPA's Evaluation

EPA has evaluated the 2011 Pb I–SIP Submittal, the 2012 Ozone I–SIP Submittal and the NSR Submittals, as well as existing provisions of the Arizona SIP for compliance with the following CAA section 110(a)(2) permit-related infrastructure SIP requirements for the 2008 Pb and ozone NAAQS:

[14] 73 FR 66964 (November 12, 2008). The 1978 Pb standard (1.5 μg/m^3 as a quarterly average) was modified to a rolling 3 month average not to exceed 0.15 μg/m^3. EPA also revised the secondary NAAQS to 0.15 μg/m^3 and made it identical to the revised primary standard. Id.

[15] See Memorandum from Stephen D. Page, Director, Office of Air Quality Planning and Standards, to Regional Air Division Directors, Regions 1–10 (October 14, 2011).

[16] ''DRAFT Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS),'' June 17, 2011 version.

[17] *See* Memorandum dated September 13, 2013 from Stephen D. Page, Director, EPA Office of Air Quality Planning and Standards, to Regional Air Directors, EPA Regions 1–10, ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)'' (referred to herein as ''2013 Infrastructure SIP Guidance'').

[18] 73 FR 16436 (March 27, 2008).

[19] Preparation of guidance for the 2008 Ozone NAAQS was postponed given EPA's reconsideration of the standard. See 78 FR 34183 (June 6, 2013).

[20] See Memorandum dated September 13, 2013 from Stephen D. Page, Director, EPA Office of Air Quality Planning and Standards, to Regional Air Directors, EPA Regions 1–10, ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)'' (referred to herein as ''2013 Infrastructure SIP Guidance'').

[21] In a separate rulemaking, EPA fully approved Arizona's SIP to address the requirements regarding air pollution emergency episodes in CAA section 110(a)(2)(G) for the 1997 8-hour ozone NAAQS. 77 FR 62452 (October 15, 2012). Although ADEQ did not submit an analysis of Section 110(a)(2)(G) requirements, we discuss them in our TSD, which is in the docket for this rulemaking.

[22] ''Approval and Promulgation of State Implementation Plans; Arizona; Infrastructure requirements for the 2008 Lead (Pb) and the 2008 8-Hour Ozone National Ambient Air Quality Standards (NAAQS)'' was signed on February 19, 2015 but, as of April 30, 2015, has not yet published in the **Federal Register**. This action was proposed in the **Federal Register** on November 24, 2014 (79 FR 69796).

[23] 80 FR 14044.

• Section 110(a)(2)(C): Program for enforcement of control measures and regulation of new and modified stationary sources for the 2008 Pb and ozone NAAQS.

• Section 110(a)(2)(D)(i)—Prongs 1 and 2: Interstate transport—contribute significantly to nonattainment in, or interfere with maintenance by, any other State for the 2008 Pb NAAQS.

• Section 110(a)(2)(D)(i)—Prong 3: Interstate transport—prevention of significant deterioration for the 2008 Pb and ozone NAAQS.

• Section 110(a)(2)(D)(i)—Prong 4: Interstate transport—protection of visibility for the 2008 Pb NAAQS.

• Section 110(a)(2)(J): Consultation with government officials, public notification, PSD, and visibility protection for the 2008 Pb and ozone NAAQS.

• Section 110(a)(2)(K): Air quality modeling and submission of modeling data for the 2008 Pb and ozone NAAQS.

In general, the submittals demonstrate Arizona's compliance with most of these permit-related infrastructure requirements by describing appropriate existing requirements regarding new and modified stationary source permits, interstate transport, consultation and air quality modeling. CAA section 110(l) prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the Act. We propose to determine that our approval of these submittals with respect to the permit-related infrastructure SIP elements would comply with CAA section 110(l) because nothing in this approval would relax any existing SIP requirement and the proposed SIP revision would not interfere with the on-going process for ensuring that requirements for RFP and attainment of the NAAQS are met.

Based upon this analysis, EPA proposes to partially approve the submittals with respect to the permit-related infrastructure SIP requirements.

However, we have also identified several infrastructure SIP requirements that Arizona has not demonstrated are fulfilled by the submittals. EPA proposes to partially disapprove Arizona's Infrastructure SIP Submittals with respect to the 2008 Pb and 2008 Ozone NAAQS, as follows (details of the partial disapprovals and partial approvals are presented after this list):

• 110(a)(2)(C) (in part): Program for enforcement of control measures and regulation of new and modified stationary sources.

• 110(a)(2)(D)(i) (in part): Interstate pollution transport.

• 110(a)(2)(D)(ii) (in part): Interstate pollution abatement and international air pollution.

• 110(a)(2)(J) (in part): Consultation with government officials, public notification, PSD, and visibility protection.

• 110(a)(2)(K): Air quality modeling and submission of modeling data.

PSD Programs

With respect to the requirement in section 110(a)(2)(C) to include a program to provide for regulation of the modification and construction of stationary sources, including a PSD program under part C of title I, EPA is proposing to: (1) Disapprove the 2011 Pb and 2012 Ozone Infrastructure SIP for ADEQ and Pinal County because the SIP-approved PSD programs lack certain ''structural'' PSD program elements as identified in our TSD, and (2) disapprove the 2011 Pb and 2012 Ozone Infrastructure SIP for Maricopa and Pima counties, which do not have SIP-approved PSD programs. We note that although the SIP remains deficient with respect to PSD requirements in ADEQ, Pinal, Maricopa, and Pima counties for I–SIP purposes, no further action is necessary for these purposes because the Federal PSD program addresses the deficiencies in all four areas. However, we do recommend SIP revisions consistent with the CAA infrastructure SIP requirements.

With respect to the first two ''prongs'' of CAA section 110(a)(D)(i) (regarding significant contribution to nonattainment or interference with maintenance in any other State), we are proposing approval for the 2008 Pb NAAQS for the reasons stated in our TSD. We are not proposing any action today on the first two prongs for the 2008 Ozone NAAQS. With respect to the third prong, EPA is proposing to disapprove the 2011 Pb and 2012 ozone Infrastructure SIP for the reasons discussed in our TSD regarding ''structural'' PSD requirements under section 110(a)(2)(C). With respect to the fourth prong, EPA is proposing approval for the 2008 Pb NAAQS. EPA is not proposing any action on prong four today for the 2008 ozone NAAQS and will address this requirement in a subsequent rulemaking. Finally, with respect to the requirements of CAA section 110(a)(2)(D)(ii), EPA is proposing to approve the 2011 Pb and 2012 ozone Infrastructure SIP with respect to ADEQ and Pinal County, which both implement SIP-approved PSD programs that contain the required notice provisions, but to disapprove the SIP with respect to Maricopa County and Pima County, which are subject to the Federal PSD program in 40 CFR 52.21.

With respect to the requirement in 110(a)(2)(J) to ''meet the applicable requirements of section 121 (relating to consultation), section 127 (relating to public notification), and part C (relating to prevention of significant deterioration of air quality and visibility protection),'' we propose to find that Arizona meets the requirements of sections 121 and 127 of the Clean Air Act but to disapprove it for failure to fully satisfy the requirements of part C relating to PSD.

With respect to the requirement in 110(a)(2)(K) that the SIP provide for specified air quality modeling and the submission of data related to such air quality monitoring to the Administrator, we propose to disapprove the 2011 Pb I–SIP and 2012 ozone I–SIP because ADEQ, Pinal, Pima, and Maricopa counties have not submitted adequate provisions or a narrative that explain how existing state and county law satisfy the requirements of 110(a)(2)(K). For Pima and Maricopa counties, the Federal PSD program in 40 CFR 52.21 addresses this deficiency and therefore no further action is necessary. However, we do recommend SIP revisions consistent with the CAA infrastructure SIP requirements.

For all the elements that do not meet the CAA Section 110(a)(2) requirements in today's proposed rule, there are existing FIPs in place with the exception of the modeling requirements under CAA section 110(a)(2)(K) for Pinal County and ADEQ. We note that to the extent our proposed approval or disapproval of an I–SIP element relies on our March 18, 2015 proposed action on Arizona's NSR submittals, our final action on the I–SIP elements identified in this notice is contingent upon our taking final action on Arizona's NSR submittals to approve the NSR submittals into the SIP, which may be in the form of a limited approval/limited disapproval action, as proposed in our March 18, 2015 proposed action on those submittals.

Our Technical Support Document (TSD) contains more details about our evaluation and is available in the public docket for this rulemaking.

IV. Proposed Action

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is proposing a partial approval of the submittals with respect to the permit-related infrastructure SIP requirements in CAA sections 110(a)(2)(C), (D), (J) and (K) for the 2008 Pb and ozone NAAQS. EPA is simultaneously proposing a partial disapproval of the submittals because of

deficiencies summarized above. If this partial disapproval is finalized, sanctions will not be imposed under section 179 of the Act because infrastructure SIPs are not required under Title 1, Part D of the Act.

V. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* because this proposed partial approval and partial disapproval of SIP revisions under CAA section 110 will not in-and-of itself create any new information collection burdens but simply proposes to approve certain State requirements, and to disapprove certain other State requirements, for inclusion into the SIP. Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule, we certify that this proposed action will not have a significant impact on a substantial number of small entities. This proposed rule does not impose any requirements or create impacts on small entities. This proposed partial SIP approval and partial SIP disapproval under CAA section 110 will not in-and-of itself create any new requirements but simply proposes to approve certain State requirements, and to disapprove certain other State requirements, for inclusion into the SIP. Accordingly, it affords no opportunity for EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. Therefore, this action will not have a significant economic impact on a substantial number of small entities.

We continue to be interested in the potential impacts of this proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. EPA has determined that the proposed partial approval and partial disapproval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This action proposes to approve certain pre-existing requirements, and to disapprove certain other pre-existing requirements, under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this proposed action.

E. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely proposes to approve certain State requirements, and to disapprove certain other State requirements, for inclusion into the SIP and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175, Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP on which EPA is proposing action would not 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. Thus, Executive Order 13175 does not apply to this proposed action.

IV.G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This proposed action is not subject to Executive Order 13045 because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This proposed partial approval and partial disapproval under CAA section 110 will not in-and-of itself create any new regulations but simply proposes to approve certain State requirements, and to disapprove certain other State requirements, for inclusion into the SIP.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus

standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The EPA believes that this proposed action is not subject to requirements of Section 12(d) of NTTAA because application of those requirements would be inconsistent with the Clean Air Act.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this proposed rulemaking.

List of Subjects in 40 CFR Part 52

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

Dated: May 1, 2015.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2015–11340 Filed 5–11–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Parts 47 and 48

RIN 1090–AA98

Land Exchange Procedures and Procedures To Amend the Hawaiian Homes Commission Act, 1920

AGENCY: Office of the Secretary, Interior.

ACTION: Proposed rule.

SUMMARY: This rule would remove ambiguities the State of Hawai'i faces in administration of the Hawaiian Homes Commission Act. It would facilitate the goal of the rehabilitation of the Native Hawaiian community, including the return of native Hawaiians to the land, consistent with the Hawaiian Homes Commission Act, the State of Hawai'i Admission Act, and the Hawaiian Home Lands Recovery Act. The rule clarifies the land exchange process, the documents required, and the respective responsibilities of the Department of the Interior, the Department of Hawaiian Home Lands, and other entities engaged in land exchanges of Hawaiian home lands. It also clarifies the documents required and the responsibilities of the Secretary of the Interior in the approval process for proposed amendments by the State of Hawai'i to the Hawaiian Homes Commission Act, 1920, as amended.

DATES: Comments must be submitted on or before July 13, 2015.

ADDRESSES: You may submit comments on the rulemaking by either of the methods listed below. Please use Regulation Identifier Number 1090–AA98 in your message.

1. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions on the Web site for submitting comments.

2. U.S. mail, courier, or hand delivery: Office of Native Hawaiian Relations, Department of the Interior, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ka'i'ini Kimo Kaloi, Director, Office of Native Hawaiian Relations, telephone (202) 208–7462.

SUPPLEMENTARY INFORMATION:

I. Background

In 1921, Congress enacted the Hawaiian Homes Commission Act (HHCA), 42 Stat. 108, to provide a homesteading program for native Hawaiians by placing approximately 200,000 acres of land (known as Hawaiian home lands) into trust. The HHCA and the Hawaiian Home Lands Trust are administered by the Department of Hawaiian Home Lands (DHHL), an agency of the State of Hawai'i. The HHCA provides the DHHL the authority to propose to the Secretary of the Interior the exchange of Hawaiian home lands for land privately or publicly owned in furtherance of the purposes of the HHCA.

The Hawaiian Homes Commission Act, among other things, created a series of funds HHCA section 213, 42 Stat. 108 (as amended). The intent of one of these funds is the ''rehabilitation of native Hawaiians,'' which includes the rehabilitation of ''the educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.'' *Id.* The Department of the Interior interprets the term ''rehabilitation'' to include political, cultural and social reorganization that would facilitate the stated goals of rehabilitation.[1] By providing a clear process for the Department's review and approval of land exchanges and HHCA amendments, this regulation will further the goals of the HHCA, including rehabilitation.

In 1959, Congress enacted the Hawai'i Admission Act, 73 Stat. 4, to admit the State of Hawai'i into the United States. In compliance with the Hawai'i Admission Act, and as a compact between the State of Hawai'i and the United States relating to the management and disposition of the Hawaiian home lands, the State of Hawai'i adopted the HHCA, as amended, as a law of the State through Article XII of the Constitution of the State. Because Congress in the HHCA section 223 reserved the right to alter, amend, or repeal Title 2 of the HHCA, section 4 of the Hawai'i Admission Act provides that the HHCA is subject to amendment or repeal by the State of Hawai'i only with the consent of the United States. Recognizing, however, that it was granting the State administrative authority, Congress in section 4 also provided exceptions within which the State could amend certain administrative provisions of the HHCA without the consent of the United States.

During the territorial period of Hawai'i, the HHCA was included in the compilation of the Revised Laws of Hawai'i. Following Hawai'i's statehood, the HHCA was not repealed and remains in effect with elements of both Federal and State law. The compilation of the HHCA was removed from the text of the United States Code and inserted into a note in the Code, recognizing the State's authority to amend provisions of the HHCA that do not alter the responsibilities of the United States or infringe upon its interests or the interests of the beneficiaries.

[1] *See generally* Hearings on the Rehabilitation and Colonization of Hawaiians and Other Proposed Amendments to the Organic Act of the Territory of Hawai'i before the House Committee on the Territories, H.R. Rep. No. 839, 66th Cong., 2d Sess., at 4 (1920) (Sen. John H. Wise testified, ''The Hawaiian people are a farming people and fishermen, out-of-door people, and [being] frozen out of their lands . . . is one of the reasons why the Hawaiian people are dying. Now, the only way to save them, I contend, is to take them back to the lands and give them the mode of living that their ancestors were accustomed to and in that way rehabilitate them.'').