pollutant and, thus, is not subject to any reasonable further progress requirements. Air quality monitoring is currently available in the county for ozone. A comparison of the Collier County data in relation to the National Ambient Air Quality Standards for ozone is indicating that value is well within the compliance level. The ozone design value for 2011–2013 in Collier County is 0.060 parts per million (ppm).

The proposed SIP revision involves emissions of volatile organic compounds (VOC), a precursor to ozone. For fine particulate matter ($PM_{2.5}$), County-level nitrogen oxide, volatile organic compound and ammonia emissions were not considered because ambient $PM_{2.5}$ concentrations in the southeastern U.S. tend to be impacted most significantly by emissions of direct $PM_{2.5}$ emissions and SO_2 emissions. As a result of the time involved in the chemical and physical transformations of the precursor emissions, the primary impact of the source cannot be explicitly determined but can be evaluated in terms of its addition to the county and regional emissions from all sources in this area.

The proposed source is currently operating in the county and is simply moving a relatively short distance (1.6 miles) within the same general area. Emissions of VOC from gasoline operations at the relocated source are estimated to be the same as VOC emissions at the existing facility, even when the increased storage capacity at the new location is considered. Specifically, VOC emissions are estimated to be less than 3 tons per year—minor in comparison to the county total of 31,816 tons per year. Since ozone concentration levels are currently well below the ambient air quality standard of 0.075 ppm, and emissions of VOC will not increase as a result of the relocation of this source, EPA has preliminary determined that the variance will not interfere with the area's ability to continue to maintain the ozone standards. Thus, EPA has preliminarily determined that the changes are consistent with the Clean Air Act (CAA or Act).

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the ''Combs Oil Company Source Specific Variance'' order granting variance on August 20, 2008. EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

IV. Final Action

EPA is proposing to approve a source specific SIP revision submitted by the Florida DEP on July 31, 2009. The revision grants a variance to the Combs Oil Company, located in Naples, Florida. This source specific revision relieves the Combs Oil Company of the requirement to comply with the Florida rule governing installation and operation of vapor collection and control systems on loading racks at bulk gasoline plants. It should be noted that approval of the variance for Combs Oil Company only relieves them from the requirements of Rule 62–296.418(2)(b)2 F.A.C., for its new bulk gasoline plant, it does not relieve them from any requirements established in 40 CFR parts 60 and 63.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 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 proposed action merely approves a state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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, Particulate Matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: July 6, 2015.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2015–17736 Filed 7–17–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2013–0185; FRL–9930–87–Region 4]

Approval and Promulgation of Implementation Plans; Alabama; Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve in part, and disapprove, the November 4, 2011, State Implementation Plan (SIP) submission, provided by the Alabama

Department of Environmental Management (ADEM) for inclusion into the Alabama SIP. This proposal pertains to the Clean Air Act (CAA or the Act) infrastructure requirements for the 2008 Lead national ambient air quality standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. ADEM certified that the Alabama SIP contains provisions that ensure the 2008 Lead NAAQS is implemented, enforced, and maintained in Alabama. With the exception of provisions pertaining to prevention of significant deterioration (PSD) permitting, which EPA is proposing no action through this notice, and with the exception of the provisions respecting state boards, for which EPA is proposing disapproval, EPA is proposing to approve Alabama's infrastructure SIP submission provided to EPA on November 4, 2011, as satisfying the required infrastructure elements for the 2008 Lead NAAQS.

DATES: Written comments must be received on or before August 19, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2013–0185, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-ARMS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2013–0185,'' Air Regulatory Management Section, (formerly the Regulatory Development Section), Air Planning and Implementation Branch, (formerly the Air Planning Branch) Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's 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 No. EPA–R04–OAR–2013–0185. 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 whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. 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. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Zuri Farngalo, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9152. Mr. Farngalo can be reached via electronic mail at *farngalo.zuri@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background

On October 5, 1978, EPA promulgated a primary and secondary NAAQS under section 109 of the Act. *See* 43 FR 46246. Both the primary and secondary standards were set at a level of 1.5 micrograms per cubic meter (μg/m^3), measured as Lead in total suspended particulate matter (Pb–TSP), not to be exceeded by the maximum arithmetic mean concentration averaged over a calendar quarter. This standard was based on the 1977 Air Quality Criteria for Lead (USEPA, August 7, 1977). On November 12, 2008 (75 FR 81126), EPA issued a final rule to revise the primary and secondary Lead NAAQS. The revised primary and secondary Lead NAAQS were revised to 0.15 μg/m^3. By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised NAAQS. Sections 110(a)(1) and (2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs to EPA no later than October 15, 2011, for the 2008 Lead NAAQS.[1]

[1] In these infrastructure SIP submissions states generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the federally-approved SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2). Throughout this rulemaking, unless otherwise indicated, the term ''ADEM Administrative Code'' or ''ADEM Admin. Code'' refers to regulations that have been approved

Today's action is proposing to in part approve and in part disapprove portions of Alabama's infrastructure SIP submissions for the applicable requirements of the 2008 Lead NAAQS. On March 18, 2015, EPA approved Alabama's November 4, 2011, infrastructure SIP submission regarding the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i) and (J) for the 2008 Lead NAAQS. *See* 80 FR 14019. Therefore, EPA is not proposing any action today pertaining to the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i), and (J) for the 2008 Lead NAAQS. With respect to Alabama's infrastructure SIP submissions related to section 110(a)(2)(E)(ii) requirements respecting the section 128 state board requirements, EPA is proposing to disapprove this element of Alabama's submissions in today's rulemaking. For the aspects of Alabama's submittal proposed for approval today, EPA notes that the Agency is not approving any specific rule, but rather proposing that Alabama's already approved SIP meets certain CAA requirements.

II. What elements are required under sections 110(a)(1) and (2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 2008 Lead NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with the 1978 Lead NAAQS.

Section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of this proposed rulemaking are listed below [2] and in EPA's October 14, 2011, memorandum entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Sections 110(a)(1) and 110(a)(2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS)'' (2011 Lead Infrastructure SIP Guidance).

- 110(a)(2)(A): Emission limits and other control measures
- 110(a)(2)(B): Ambient air quality monitoring/data system
- 110(a)(2)(C): Program for enforcement, PSD, and new source review (NSR) [3]
- 110(a)(2)(D)(i): Interstate transport provisions
- 110(a)(2)(D)(ii): Interstate and International transport provisions
- 110(a)(2)(E): Adequate personnel, funding, and authority
- 110(a)(2)(F): Stationary source monitoring and reporting
- 110(a)(2)(G): Emergency episodes
- 110(a)(2)(H): Future SIP revisions
- 110(a)(2)(I): Nonattainment area plan or plan revision under part D.[4]
- 110(a)(2)(J): Consultation with government officials, public notification, PSD and visibility protection
- 110(a)(2)(K): Air quality modeling/data
- 110(a)(2)(L): Permitting fees
- 110(a)(2)(M): Consultation/participation by affected local entities

III. What is EPA's approach to the review of infrastructure SIP submissions?

EPA is acting upon the SIP submission from Alabama that addresses the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the Lead 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 permit program submissions to address the permit requirements of CAA, title I, part D.

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions, and section 110(a)(2) provides more details concerning the required contents of these submissions. 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.[5] EPA

into Alabama's federally-approved SIP. The terms ''Alabama Code'' or ''Ala. Code'' indicate Alabama's state statutes, which are not a part of the SIP unless otherwise indicated.

[2] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA, and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. Today's proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C).

[3] This rulemaking only addresses requirements for this element as they relate to attainment areas.

[4] As mentioned above, this element is not relevant to today's proposed rulemaking.

[5] 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

Continued

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 submissions provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission.

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 submissions for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that ''each'' SIP submission 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.[6] Section 110(a)(2)(I) pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submissions to address nonattainment area requirements are due. For example, section 172(b) requires EPA to establish a schedule for submission 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.[7] 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 submission.

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 submission, and whether EPA must act upon such SIP submission 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 submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action.[8] Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a given NAAQS without concurrent action on the entire submission. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.[9]

Ambiguities within sections 110(a)(1) and 110(a)(2) may also arise with respect to infrastructure SIP submission 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 submissions for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submission for purposes of section 110(a)(2)(B) could be very different for different pollutants because the content and scope of a state's infrastructure SIP submission to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[10]

EPA notes that interpretation of section 110(a)(2) is also necessary when EPA reviews other types of SIP submissions required under the CAA. Therefore, as with infrastructure SIP submissions, EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submissions. For example, section 172(c)(7) requires that attainment plan SIP submissions required by part D have to meet the ''applicable requirements'' of section 110(a)(2). Thus, for example, attainment plan SIP submissions 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 submissions required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the 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 submission 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 submission. In other words, EPA assumes that Congress could not have intended that each and every SIP submission, 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 submissions 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

emergencies as well as contingency plans that are triggered in the event of such emergencies.

[6] 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 25163–65 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[7] 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 submission of certain types of SIP submissions in designated nonattainment areas for various pollutants. Note, *e.g.,* that section 182(a)(1) provides specific dates for submission 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.

[8] 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).

[9] 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.

[10] 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.

individual SIP submissions for particular elements.[11] EPA issued the Lead Infrastructure SIP Guidance on October 14, 2011.[12] EPA developed this document to provide states with up-to-date guidance for the 2008 Lead infrastructure SIPs. Within this guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions. The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, EPA interprets sections 110(a)(1) and 110(a)(2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.[13]

EPA's approach to review of infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. EPA believes that this approach to the review of a particular infrastructure SIP submission 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 submission. 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.

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.[14] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[15] Significantly, EPA's determination that an action on a state's infrastructure SIP submission 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 submission, 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.[16]

IV. What is EPA's analysis of how Alabama addressed the elements of sections 110(a)(1) and (2) ''infrastructure'' provisions?

The Alabama infrastructure submission addresses the provisions of sections 110(a)(1) and (2) as described below.

1. 110(a)(2)(A): *Emission limits and other control measures:* Several regulations within Alabama's SIP are relevant to air quality control regulations. The regulations described below have been federally approved in the Alabama SIP and include enforceable emission limitations and other control measures. Alabama's infrastructure SIP submission cites provisions of the Administrative Code that provide ADEM with the necessary authority to adopt and enforce air quality controls such as Administrative Codes 335–3–1–.03, ''Ambient Air Quality Standards,'' 335–3–1.05 ''Sampling and Testing,'' 335–3–1–.06 ''Compliance Schedule,'' 335–3–14–.03(1)(g) ''Standards for Granting Permits'' and 335–3–4–.15 ''Secondary Lead Smelters.'' EPA has made the preliminary determination that the provisions contained in these chapters and Alabama's practices are adequate to protect the 2008 Lead NAAQS in the State.

In this action, EPA is not proposing to approve or disapprove any existing State provisions with regard to excess emissions during startup, shutdown and malfunction (SSM) of operations at a facility. EPA believes that a number of states have SSM provisions which are contrary to the CAA and existing EPA guidance, ''State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown'' (September 20, 1999), and

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

[12] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements Required under Clean Air Act Sections 110(a)(1) and 110(a)(2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS),'' Memorandum from Stephen D. Page, October 14, 2001.

[13] Although not intended to provide guidance for purposes of infrastructure SIP submissions for the 2008 Lead NAAQS, EPA notes, that following the 2011 Lead Infrastructure SIP Guidance, EPA issued the ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2).'' Memorandum from Stephen D. Page, September 13, 2013. This 2013 guidance provides recommendations for air agencies' development and the EPA's review of infrastructure SIPs for the 2008 ozone primary and secondary NAAQS, the 2010 primary nitrogen dioxide (NO_2) NAAQS, the 2010 primary sulfur dioxide (SO_2) NAAQS, and the 2012 primary fine particulate matter ($PM_{2.5}$) NAAQS, as well as infrastructure SIPs for new or revised NAAQS promulgated in the future.

[14] 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,'' 74 FR 21639 (April 18, 2011).

[15] EPA has used this authority to correct errors in past actions on SIP submissions 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).

[16] *See, e.g.,* EPA's disapproval of a SIP submission 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 (Jan. 26, 2011) (final disapproval of such provisions).

the Agency is addressing such state regulations in a separate action.[17] In the meantime, EPA encourages any state having a deficient SSM provision to take steps to correct it as soon as possible.

Additionally, in this action, EPA is not proposing to approve or disapprove any existing State rules with regard to director's discretion or variance provisions. EPA believes that a number of states have such provisions which are contrary to the CAA and existing EPA guidance (52 FR 45109 (November 24, 1987)), and the Agency plans to take action in the future to address such state regulations. In the meantime, EPA encourages any state having a director's discretion or variance provision which is contrary to the CAA and EPA guidance to take steps to correct the deficiency as soon as possible.

2. 110(a)(2)(B) *Ambient air quality monitoring/data system:* SIPs are required to provide for the establishment and operation of ambient air quality monitors; the compilation and analysis of ambient air quality data; and the submission of these data to EPA upon request. ADEM Administrative Code, 335–3–1–.03 ''Ambient Air Quality Standards,'' and 335–3–1–.04 ''Monitoring Records and Reporting,'' along with the Alabama Network Description and Ambient Air Network Monitoring Plan, provide for an ambient air quality monitoring system in the State. Annually, States develop and submit to EPA for approval statewide ambient monitoring network plans consistent with the requirements of 40 CFR parts 50, 53, and 58. The annual network plan involves an evaluation of any proposed changes to the monitoring network, includes the annual ambient monitoring network design plan and a certified evaluation of the agency's ambient monitors and auxiliary support equipment.[18] The latest monitoring network plan for Alabama was submitted on July 17, 2014, and on March 6, 2015, EPA approved this plan. Alabama's approved monitoring network plan can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2013–0185. EPA has made the preliminary determination that Alabama's SIP and practices are adequate for the ambient air quality monitoring and data system related to the 2008 Lead NAAQS.

3. *110(a)(2)(C) Program for enforcement, PSD, and NSR:* This element consists of three sub-elements; enforcement, state-wide regulation of new and modified minor sources and minor modifications of major sources; and preconstruction permitting of major sources and major modifications in areas designated attainment or unclassifiable for the subject NAAQS as required by CAA title I part C (*i.e.,* the major source PSD program). To meet these obligations, Alabama cited ADEM Administrative Codes 335–3–14–.01 ''General Provisions,'' 335–3–14–.02 ''Permit Procedure,'' 335–3–14–.03 ''Standards for Granting Permits,'' 335–3–14.04 ''Prevention of Significant Deterioration in Permitting,'' and 335–3–14–.05 ''Air Permits Authorizing Construction in or Near Nonattainment Areas'' of Alabama's SIP. ADEM is able to regulate sources of lead through these above cited provisions of Alabama's SIP. In this action, EPA is only proposing to approve the enforcement and the regulation of new minor sources and minor modifications aspects of Alabama's section 110(a)(2)(C) infrastructure SIP submission.

Enforcement: ADEM's above-described, SIP-approved regulations meet the requirements for enforcement of lead emission limits and control measures and construction permitting for new or modified stationary sources.

Preconstruction PSD Permitting for Major Sources: With respect to Alabama's November 4, 2011 infrastructure SIP submission related to the preconstruction PSD permitting requirements for major sources of section 110(a)(2)(C), EPA took final action to approve this provision for the 2008 Lead NAAQS on March 18, 2015. *See* 80 FR 14019.

Regulation of minor sources and modifications: Section 110(a)(2)(C) also requires the SIP to include provisions that govern a minor source pre-construction program that regulates emissions of the 2008 Lead NAAQS. ADEM Administrative Code 335–3–14–.03 ''Standards for Granting Permits'' governs the preconstruction permitting of modifications and construction of minor stationary sources in the State.

EPA has made the preliminary determination that Alabama's SIP and practices are adequate for program enforcement of control measures and regulation of minor sources and modifications related to the 2008 Lead NAAQS.

4. 110(a)(2)(D)(i) *Interstate transport provisions:* Section 110(a)(2)(D)(i) has two components; 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(i)(II). Each of these components have two subparts resulting in four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (''prong 1''), and interfering with maintenance of the NAAQS in another state (''prong 2''). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state interfering with measures required to prevent significant deterioration of air quality in another state (''prong 3''), or to protect visibility in another state (''prong 4''). Section 110(a)(2)(D)(ii) requires SIPs to include provisions insuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement.

110(a)(2)(D)(i)(I)—prongs 1 and 2: Section 110(a)(2)(D)(i) requires infrastructure SIP submissions 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. The physical properties of lead prevent lead emissions from experiencing that same travel or formation phenomena as $PM_{2.5}$ and ozone for interstate transport as outlined in prongs 1 and 2. More specifically, there is a sharp decrease in the lead concentrations, at least in the coarse fraction, as the distance from a lead source increases. EPA believes that the requirements of prongs 1 and 2 can be satisfied through a state's assessment as to whether a lead source located within its State in close proximity to a state border has emissions that contribute significantly to the nonattainment or interfere with maintenance of the NAAQS in the neighboring state. For example, EPA's experience with the initial Lead designations suggest that sources that emit less than 0.5 tpy or are located more than two miles from the state border generally appear unlikely to contribute significantly to the nonattainment in another state. Alabama has one lead source that has emissions of lead over 0.5 tons per year (tpy), but because the source is located well beyond two miles from the State

[17] On May 22, 2015, the EPA Administrator signed a final action entitled, ''State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction.'' The prepublication version of this rule is available at *http://www.epa.gov/airquality/urbanair/sipstatus/emissions.html.*

[18] On occasion, proposed changes to the monitoring network are evaluated outside of the network plan approval process in accordance with 40 CFR part 58.

border,[19] EPA believes it is unlikely to contribute significantly to the nonattainment or interfere with maintenance of the NAAQS in another state. Therefore, EPA has made the preliminary determination that Alabama's SIP meets the requirements of section 110(a)(2)(D)(i)(I).

110(a)(2)(D)(i)(II)—prong 3: With respect to Alabama's infrastructure SIP submission related to the interstate transport requirements for PSD of prong 3 of section 110(a)(2)(D)(i), EPA took final action to approve Alabama's November 4, 2011 infrastructure SIP submission for the 2008 Lead NAAQS on March 18, 2015. *See* 80 FR 14019.

110(a)(2)(D)(i)(II)—prong 4: With regard to section 110(a)(2)(D)(i)(II), the visibility sub-element, referred to as prong 4, significant visibility impacts from stationary source lead emissions are expected to be limited to short distances from the source. Lead stationary sources in Alabama are located distances from Class I areas such that visibility impacts are negligible. The 2011 Lead Infrastructure SIP Guidance notes that the lead constituent of PM would likely not travel far enough to affect Class 1 areas and that the visibility provisions of the CAA do not directly regulate lead. Accordingly, EPA has preliminarily determined that the Alabama SIP meets the relevant visibility requirements of prong 4 of section 110(a)(2)(D)(i).

5. 110(a)(2)(D)(ii) *Interstate and international transport provisions:* Section 110(a)(2)(D)(ii) requires SIPs to include provisions insuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement. ADEM Admin. Code 335–3–14–.04—*Prevention of Significant Deterioration in Permitting* describes how Alabama notifies neighboring states of potential emission impacts from new or modified sources applying for PSD permits. This regulation requires ADEM to provide an opportunity for a public hearing to the public, which includes State or local air pollution control agencies, ''whose lands may be affected by emissions from the source or modification'' in Alabama. Additionally, Alabama does not have any pending obligation under sections 115 and 126 of the CAA. Accordingly, EPA has made the preliminary determination that Alabama's SIP and practices are adequate for insuring compliance with the applicable requirements relating to interstate and international pollution abatement for the 2008 Lead NAAQS.

6. 110(a)(2)(E) *Adequate personnel, funding, and authority:* Section 110(a)(2)(E) requires that each implementation plan provide (i) necessary assurances that the State will have adequate personnel, funding, and authority under state law to carry out its implementation plan, (ii) that the State comply with the requirements respecting State Boards pursuant to section 128 of the Act, and (iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provisions. EPA is proposing to approve Alabama's SIP as meeting the requirements of sections 110(a)(2)(E)(i) and 110(2)(E)(iii) but disapprove for element 110(2)(E)(ii). EPA's rationale for today's proposals respecting each section of 110(a)(2)(E) is described in turn below.

To satisfy the requirements of section 110(a)(2)(E)(i) and (iii), ADEM's infrastructure SIP submission describes Alabama Code section 22–28–11, which authorizes ADEM to adopt emission requirements though regulations that are necessary to prevent, abate, or control air pollution. Also, Alabama Code section 22–28–9 authorizes the Department to employ necessary staff to carry out responsibilities. The funding requirements are met through the 105 grants and the title V fee process. As further evidence of the adequacy of ADEM's resources, EPA submitted a letter to Alabama on April 24, 2014, outlining 105 grant commitments and the current status of these commitments for fiscal year 2014. The letter EPA submitted to Alabama can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2013–0185. Annually, states update these grant commitments based on current SIP requirements, air quality planning, and applicable requirements related to the NAAQS. Alabama satisfactorily met all commitments agreed to in the Air Planning Agreement for fiscal year 2014, therefore Alabama's grants were finalized. EPA has made the preliminary determination that Alabama has adequate resources for implementation of the 2008 Lead NAAQS.

To satisfy the requirements of section 110(a)(2)(E)(ii), states must comply with the requirements respecting State Boards pursuant to section 128 of the Act. Section 110(a)(2)(E)(ii) requires that the state comply with section 128 of the CAA. Section 128 requires that the SIP contain provisions that provide: (1) The majority of members of the state board or body which approves permits or enforcement orders represent the public interest and do not derive any significant portion of their income from persons subject to permitting or enforcement orders under the CAA; and (2) any potential conflicts of interest by such board or body, or the head of an executive agency with similar powers be adequately disclosed. After reviewing Alabama's SIP, EPA has made the preliminary determination that the State's implementation plan does not contain provisions to comply with section 128 of the Act, and thus Alabama's November 4, 2011, infrastructure SIP submission does not meet the requirements of the Act. While Alabama has state statutes that may address, in whole or in part, requirements related to state boards at the state level, these provisions are not included in the SIP as required by the CAA. Based on an evaluation of the federally-approved Alabama SIP, EPA is proposing to disapprove Alabama's infrastructure SIP submission as meeting the requirements of 110(a)(2)(E)(ii) of the CAA for the 2008 Lead NAAQS. The submitted provisions which purport to address 110(a)(2)(E)(ii) are severable from the other portions of ADEM's infrastructure SIP submission, therefore, EPA is proposing to disapprove those provisions which relate only to sub-element 110(a)(2)(E)(ii).

7. 110(a)(2)(F) *Stationary source monitoring system:* ADEM's infrastructure SIP submission describes the establishment of requirements for compliance testing by emissions sampling and analysis, and for emissions and operation monitoring to ensure the quality of data in the State. The Alabama infrastructure SIP submission also describes how the major source and minor source emission inventory programs collect emission data throughout the State and ensure the quality of such data. Alabama meets these requirements through ADEM Admin. Codes 335–3–1–.04 ''Monitoring, Records, and Reporting,'' and 335–3–12 ''Continuous Monitoring Requirements for Existing Sources.'' ADEM Admin. Code 335–3–1–.04, details how sources are required as appropriate to establish and maintain records; make reports; install, use, and maintain such monitoring equipment or methods and provide periodic emission reports as the regulation requires. These reports and records are required to be compiled, and submitted on forms furnished by the State. Additionally, ADEM Admin. Code 335–3–12–.02

[19] There is one facility in Alabama that has Lead emissions greater than 0.5 tpy. The facility is Sanders Lead Co, Inc., which is located at 100 Sanders Rd Troy, AL 36079. This location is about 45 miles from the Georgia border.

requires owners and operators of emissions sources to ''install, calibrate, operate and maintain all monitoring equipment necessary for continuously monitoring the pollutants.'' [20] ADEM Admin. Code 335–3–1–.13 ''Credible Evidence,'' makes allowances for owners and/or operators to utilize ''any credible evidence or information relevant'' to demonstrate compliance with applicable requirements if the appropriate performance or compliance test had been performed, for the purpose of submitting compliance certification and can be used to establish whether or not an owner or operator has violated or is in violation of any rule or standard. Accordingly, EPA is unaware of any provision preventing the use of credible evidence in the Alabama SIP.

Additionally, Alabama is required to submit emissions data to EPA for purposes of the National Emissions Inventory (NEI). The NEI is EPA's central repository for air emissions data. EPA published the Air Emissions Reporting Rule (AERR) on December 5, 2008, which modified the requirements for collecting and reporting air emissions data (73 FR 76539). The AERR shortened the time states had to report emissions data from 17 to 12 months, giving states one calendar year to submit emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through EPA's online Emissions Inventory System. States report emissions data for the six criteria pollutants and their associated precursors—nitrogen oxides, sulfur dioxide, ammonia, Lead, carbon monoxide, particulate matter, and volatile organic compounds. Many states also voluntarily report emissions of hazardous air pollutants. Alabama made its latest update to the 2013 NEI on January 13, 2015. EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site *http://www.epa.gov/ttn/chief/eiinformation.html*. EPA has made the preliminary determination that Alabama's SIP and practices are adequate for the stationary source monitoring systems related to the 2008 Lead NAAQS.

8. 110(a)(2)(G) *Emergency episodes:* This section of the CAA requires that states demonstrate authority comparable with section 303 of the CAA and adequate contingency plans to implement such authority. ADEM Admin. Code 335–3–2 ''Air Pollution Emergency'' provides for the identification of air pollution emergency episodes, episode criteria, and emissions reduction plans. Alabama's compliance with section 303 of the CAA and adequate contingency plans to implement such authority is also met by Ala. Code section 22–28–21 ''Air Pollution Emergencies.'' Ala. Code section 22–28–21 provides ADEM the authority to order the ''person or persons responsible for the operation or operations of one or more air contaminants sources'' causing ''imminent danger to human health or safety in question to reduce or discontinue emissions immediately.'' The order triggers a hearing no later than 24-hours after issuance before the Environmental Management Commission which can affirm, modify or set aside the Director's order. Additionally, the Governor can, by proclamation, declare, as to all or any part of said area, that an air pollution emergency exists and exercise certain powers in whole or in part, by the issuance of an order or orders to protect the public health. EPA has made the preliminary determination that Alabama's SIP, state laws and practices are adequate to satisfy the infrastructure SIP obligations for emergency powers related to the 2008 Lead NAAQS.

9. 110(a)(2)(H) *Future SIP revisions:* As previously discussed, ADEM is responsible for adopting air quality rules and revising SIPs as needed to attain or maintain the NAAQS. Alabama has the ability and authority to respond to calls for SIP revisions, and has provided a number of SIP revisions over the years for implementation of the NAAQS. These requirements are met through ADEM Administrative Codes 335–1–1–.03 ''Organization and Duties of the Commission,'' [21] which provides ADEM with the authority to establish, adopt, promulgate, modify, repeal and suspend rules, regulations, or environmental standards which may be applicable to Alabama or ''any of its geographic parts'' and 335–3–1–.03 ''Ambient Air Quality Standards,'' which provides ADEM the authority to amend, revise, and incorporate the NAAQS into its SIP. Alabama currently has one area designated nonattainment for the 2008 Lead NAAQS located in Troy, Alabama related to the Sanders Lead Company. ADEM submitted an attainment demonstration for this area on November 9, 2012. EPA approved this attainment demonstration on January 28, 2014. *See* 79 FR 4407. Accordingly, EPA has made the preliminary determination that Alabama's SIP and practices adequately demonstrate a commitment to provide future SIP revisions related to the 2008 Lead NAAQS, when necessary.

10. 110(a)(2)(J) Consultation with government officials, public notification, PSD, and visibility protection: EPA is proposing to approve Alabama's infrastructure SIP submission for the 2008 Lead NAAQS with respect to the general requirement in section 110(a)(2)(J) to include a program in the SIP that provides for meeting the applicable consultation requirements of section 121, the public notification requirements of section 127; and visibility protection requirements of part C of the Act. With respect to Alabama's infrastructure SIP submission related to the preconstruction PSD permitting requirements of section 110(a)(2)(J), EPA took final action to approve Alabama's November 4, 2011 2008 Lead NAAQS infrastructure SIP for these requirements on March 18, 2015. *See* 80 FR 14019. EPA's rationale for its proposed action regarding applicable consultation requirements of section 121, the public notification requirements of section 127, and visibility protection requirements is described below.

Consultation with government officials (121 consultation): Section 110(a)(2)(J) of the CAA requires states to provide a process for consultation with local governments, designated organizations and federal land managers (FLMs) carrying out NAAQS implementation requirements pursuant to section 121 relative to consultation. ADEM Admin. Code 335–3–1–.03 ''Ambient Air Quality Standards,'' as well as its Regional Haze Implementation Plan (which allows for continued consultation with appropriate state, local, and tribal air pollution control agencies as well as the corresponding FLMs), provide for consultation with government officials whose jurisdictions might be affected by SIP development activities. Specifically, Alabama adopted state-wide consultation procedures for the implementation of transportation conformity which includes the development of mobile inventories for SIP development. These consultation procedures were developed in

[20] ADEM Admin. Code 335–3–12–.02 establishes that data reporting requirements for sources required to conduct continuous monitoring in the state should comply with data reporting requirements set forth at 40 CFR part 51, Appendix P. Section 40 CFR part 51, Appendix P includes that the averaging period used for data reporting should be established by the state to correspond to the averaging period specified in the emission test method used to determine compliance with an emission standard for the pollutant/source category in question.

[21] This regulation has not been incorporated into the federally-approved SIP.

coordination with the transportation partners in the State and are consistent with the approaches used for development of mobile inventories for SIPs. Required partners covered by Alabama's consultation procedures include federal, state and local transportation and air quality agency officials. EPA has made the preliminary determination that Alabama's SIP and practices adequately demonstrate consultation with government officials related to the 2008 Lead NAAQS when necessary.

Public notification (127 public notification): To meet the public notification requirements of section 110(a)(2)(J), ADEM cites Alabama Code § 22–28–21 ''Air Pollution Emergencies'' and ADEM Administrative Code 335–3–14–.01(7) ''Public Participation,'' which requires that ADEM notify the public of any air pollution alert, warning, or emergency. The ADEM Web site also sites air quality summary data and air quality index reports. Alabama maintains a public Web site on which daily air quality index forecasts and summary data are posted. This Web site can be accessed at: *http://adem.alabama.gov/programs/air/airquality.cnt.* EPA has made the preliminary determination that Alabama's SIP and practices adequately demonstrate the State's ability to provide public notification related to the 2008 Lead NAAQS when necessary. Accordingly, EPA is proposing to approve Alabama's infrastructure SIP submission with respect to section 110(a)(2)(J) public notification.

Visibility Protection: The 2011 Lead Infrastructure SIP Guidance notes that the lead constituent of PM would likely not travel far enough to affect Class I areas and that the visibility provisions of the CAA do not directly regulate lead. EPA recognizes that states are subject to visibility protection and regional haze program requirements under Part C of the Act (which includes sections 169A and 169B). However, in the event of the establishment of a new primary NAAQS, the visibility protection and regional haze program requirements under part C of the CAA do not change. EPA thus does not expect states to address visibility for this element in Lead infrastructure submittals. Thus, EPA concludes there are no new applicable visibility protection obligations under section 110(a)(2)(J) as a result of the 2008 Lead NAAQS. Accordingly, EPA is proposing to approve section 110(a)(2)(J) of ADEM's infrastructure SIP submission with respect to visibility.

EPA has made the preliminary determination that Alabama's SIP and practices adequately demonstrate the State's ability to meet the general requirement in section 110(a)(2)(J) to include a program in the SIP that provides for meeting the applicable consultation requirements of section 121, the public notification requirements of section 127 and visibility protection associated with regional haze. EPA has also preliminarily determined that it is appropriate approve the State's Lead infrastructure SIP submission with respect to the visibility aspects of section 110(a)(2)(J). EPA is making no determinations with respect the PSD requirements of section 110(a)(2)(J), which will be addressed in a different notice.

11. 110(a)(2)(K) *Air quality modeling/data:* Section 110(a)(2)(K) of the CAA requires that SIPs provide for performing air quality modeling so that effects on air quality of emissions from NAAQS pollutants can be predicted and submission of such data to the USEPA can be made. ADEM Administrative Code 335–3–1–.04 ''Monitoring Records and Reporting'' and 335–3–14–.04 ''Prevention of Significant Deterioration Permitting'' which incorporates 40 CFR part 51, Appendix W ''Guideline on Air Quality Models,'' demonstrate that Alabama has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the 2008 Lead NAAQS. Additionally, Alabama supports a regional effort to coordinate the development of emissions inventories and conduct regional modeling for several NAAQS, including the 2008 Lead NAAQS, for the southeastern states. Taken as a whole, Alabama's air quality regulations and practices demonstrate that ADEM has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the Lead NAAQS. EPA has made the preliminary determination that Alabama's SIP and practices adequately demonstrate the State's ability to provide for air quality and modeling, along with analysis of the associated data, related to the 2008 Lead NAAQS when necessary.

12. 110(a)(2)(L) *Permitting fees:* This section requires the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under the CAA, a fee sufficient to cover (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V. To satisfy these requirements, ADEM's infrastructure SIP submission cites ADEM Admin. Code 335–1–6 ''Application Fees,''[22] which are State regulations authorized by legislation. Also, ADEM has an approved Title V program with a fee structure established in ADEM Admin. Code 335–1–7 ''Air Division Operating Permit Fees.''[23] The Title V fees cover the reasonable cost of implementation and enforcement of PSD and NNSR permits after they have been issued. EPA has made the preliminary determination that Alabama's SIP and practices adequately provide for permitting fees related to the Lead NAAQS, when necessary.

12. 110(a)(2)(M) *Consultation/participation by affected local entities:* This element requires states to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP. Alabama Administrative Code 335–3–14–.01(17) ''Public Participation,'' 335–3–14–.04(6) ''Public Participation,'' and 335–3–14–.05(13) ''Public Participation, ''of the Alabama SIP requires that ADEM notify the public of an application, preliminary determination, the activity or activities involved in the permit action, any emissions change associated with any permit modification, and the opportunity for comment prior to making a final permitting decision. ADEM worked closely with local political subdivisions during the development of its Transportation Conformity SIP and Regional Haze Implementation Plan. Required partners covered by Alabama's consultation procedures include federal, state and local transportation and air quality agency officials. The state and local transportation agency officials are most directly impacted by transportation conformity requirements and are required to provide public involvement for their activities including the analysis demonstrating how they meet transportation conformity requirements. Alabama has worked with the FLMs as a requirement of its regional haze rule. EPA has made the preliminary determination that Alabama's SIP and practices adequately demonstrate consultation with affected

[22] This regulation has not been incorporated into the federally-approved SIP.

[23] Title V program regulations are federally approved but not incorporated into the federally-approved SIP.

local entities related to the 2008 Lead NAAQS when necessary.

V. Proposed Action

With the exception of the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of (D)(i) and (J), and the state board requirements of section 110(a)(2)(E)(ii), EPA is proposing to approve that ADEM's infrastructure SIP submission, submitted November 4, 2011, for the 2008 Lead NAAQS meets the above described infrastructure SIP requirements. EPA is proposing to disapprove section 110(a)(2)(E)(ii) of Alabama's infrastructure submission because the State's implementation plan does not contain provisions to comply with section 128 of the Act, and thus Alabama's November 4, 2011, infrastructure SIP submission does not meet the requirements of the Act. This proposed approval in part and disapproval in part, however, does not include the PSD permitting requirements for major sources of section 110(a)(2)(C), prong 3 of (D)(i) and (J) because the Agency has taken final action on these requirements for 2008 Lead NAAQS for Alabama in a separate rulemaking.

Under section 179(a) of the CAA, final disapproval of a submittal that addresses a requirement of a CAA Part D Plan or is required in response to a finding of substantial inadequacy as described in CAA section 110(k)(5) (SIP call) starts a sanctions clock. The portion of section 110(a)(2)(E)(ii) provisions (the provisions being proposed for disapproval in today's notice) were not submitted to meet requirements for Part D or a SIP call, and therefore, if EPA takes final action to disapprove this submittal, no sanctions will be triggered. However, if this disapproval action is finalized, that final action will trigger the requirement under section 110(c) that EPA promulgate a federal implementation plan (FIP) no later than 2 years from the date of the disapproval unless the State corrects the deficiency, and EPA approves the plan or plan revision before EPA promulgates such FIP.

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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, Lead, and Recordkeeping requirements.

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

Dated: July 6, 2015.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2015–17733 Filed 7–17–15; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2013–0163; FRL–9930–75–Region 4]

Approval and Promulgation of Implementation Plans; Mississippi: Miscellaneous Changes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of a State Implementation Plan (SIP) revision submitted by the Mississippi Department of Environmental Quality (MDEQ), to EPA on July 25, 2010. The SIP revision includes multiple changes to Mississippi's SIP to add definitions in accordance with federal regulations and to implement clarifying language. EPA is not proposing to take action on the aspects of the SIP revision related to the Clean Air Interstate Rule (CAIR) or hazardous air pollutants at this time.

DATES: Written comments must be received on or before August 19, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2013–0163, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-ARMS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2013–0163,'' Air Regulatory Management Section (formerly Regulatory Development Section), Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Air Regulatory Management Section (formerly Regulatory Development Section), Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official