remainder of the first implementation period in 2018, EPA is proposing to approve Georgia's finding that the plan elements and strategies in its implementation plan are sufficient to achieve the RPGs for the Class I area in the State and for Class I areas in nearby states potentially impacted by sources in the State.

7. Review of Current Monitoring Strategy

Georgia's Progress Report summarizes the existing monitoring network in the State to monitor visibility in Georgia's Class I areas and concludes that no modifications to the existing visibility monitoring strategy are necessary. The primary monitoring network for regional haze, both nationwide and in Georgia, is the IMPROVE network. There are currently two IMPROVE sites in Georgia. One is located in the Cohutta Wilderness Area. The other monitor is located in the Okefenokee Wilderness area and serves as the monitoring site for both the Okefenokee and Wolf Island Wilderness Areas.

The State also explains the importance of the IMPROVE monitoring network for tracking visibility trends at Class I areas in Georgia, noting that because IMPROVE monitoring data from 2000–2004 serve as the baseline for the regional haze program, the future regional haze monitoring strategy should be based on IMPROVE data (or data directly comparable to IMPROVE data). Georgia also highlights that the IMPROVE measurements provide the only long-term record available for tracking visibility improvement or degradation. The Visibility Information Exchange Web System Web site has been maintained by VISTAS and the other Regional Planning Organizations to provide ready access to the IMPROVE data and data analysis tools.

EPA proposes to find that Georgia has adequately addressed the applicable provisions of 40 CFR 51.308(g) regarding monitoring strategy because the State reviewed its visibility monitoring strategy and determined that no further modifications to the strategy are necessary.

B. Determination of Adequacy of Existing Regional Haze Plan

In its Progress Report, Georgia submitted a declaration to EPA that the existing regional haze plan requires no further substantive revision at this time to achieve the RPGs for Class I areas affected by the State's sources. The basis for the State's declaration is the findings from the Progress Report, including the findings that: The control measures in Georgia's regional haze plan are on track to meet their implementation schedules; reduction of SO_2 emissions continues to be the appropriate strategy for improvement of visibility in Georgia's Class I areas; EGU SO_2 emissions dropped from 2002 to 2011 by 325,795 tons,[28] and the actual change in visibility through 2010 for Georgia's Class I areas is better than the what the State predicted for 2010 and is exceeding the uniform rate of progress.

EPA proposes to find that Georgia has adequately addressed 40 CFR 51.308(h) because the visibility trends at the Class I areas in the State and at Class I areas outside the State potentially impacted by sources within Georgia and the emissions trends of the largest emitters of visibility-impairing pollutants in the State indicate that the relevant RPGs will be met.

III. Proposed Action

EPA is proposing to approve Georgia's Regional Haze Progress Report SIP revision, submitted by the State on January 8, 2014, as meeting the applicable regional haze requirements set forth in 40 CFR 51.308(g) and 51.308(h).

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 proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

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

Dated: August 7, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

[FR Doc. 2017–17229 Filed 8–14–17; 8:45 am]

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[28] See page 39 of Georgia's Progress Report.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0360; FRL–9966–39–Region 4]

Air Plan Approval; Alabama: Prevention of Significant Deterioration Updates

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of revisions to Alabama's State Implementation Plan (SIP), submitted by the State of Alabama, through the Alabama Department of Environmental Management (ADEM), on May 8, 2013, and August 23, 2016. The portions of these SIP revisions that EPA proposes to approve relate to the State's Prevention of Significant Deterioration (PSD) permitting program. This action is being proposed pursuant to the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before September 14, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No EPA–R04–OAR–2017–0360 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Andres Febres of 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. Mr. Febres can be reached by telephone at (404) 562–8966 or via electronic mail at *febres-martinez.andres@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is the agency taking?

On May 8, 2013, and August 23, 2016, ADEM submitted SIP revisions for EPA's approval that include changes to Alabama's PSD permitting regulations, among other changes.[1] In this document, EPA is proposing to approve certain portions of these submittals that make changes to ADEM Administrative Code Rule 335–3–14–.04—''Air Permits Authorizing Construction in Clean Areas (Prevention of Significant Deterioration (PSD),'' which applies to the construction or modification of any major stationary source in areas designated as attainment or unclassifiable as required by part C of title I of the CAA.

Alabama's May 8, 2013 SIP submittal includes changes to Rule 335–3–14–.04 to address the Federal rule entitled ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$):[2] Amendment to the Definition of 'Regulated NSR Pollutant' Concerning Condensable Particulate Matter,'' 77 FR 65107 (October 25, 2012) (hereinafter referred to as the $PM_{2.5}$ Condensables Correction Rule), and plantwide applicability limits (PALs) for greenhouse gases (GHGs) as allowed in the Federal rule entitled ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule Step 3 and GHG Plantwide Applicability Limits,'' 77 FR 41051 (July 12, 2012) (hereinafter referred to as the GHG Step 3 Rule). In addition, the SIP submittal includes changes to the definition of GHGs in Rule 335–3–14–.04 and Rule 335–3–16 (regarding major source operating permits) to address EPA's July 20, 2011 rule deferring PSD requirements for carbon dioxide (CO_2) emissions from bioenergy and other biogenic sources (hereinafter referred to as the ''Biomass Deferral Rule'').[3] Alabama's May 8, 2013 SIP submission also includes the following changes to other Alabama rules: changes to the definition of Volatile Organic Compounds (VOCs) at Rule 335–3–1–.02; changes to the incorporation by reference (IBR) of the Federal New Source Performance Standards (NSPS) in Chapter 335–3–10 and National Emissions Standards for Hazardous Air Pollutants (NESHAPs) in Chapter 335–3–11; and changes regarding transportation conformity provisions at Rule Chapter 335–3–16.

Alabama's August 23, 2016 SIP submittal includes changes to Rule 335–3–14–.04 and Rule Chapter 335–3–16 to remove the treatment of GHGs as an air pollutant for the specific purpose of determining whether a source is a major source (or a modification thereof) in PSD and title V permitting requirements for the reasons discussed in Section II.A, below. The submittal also withdraws the portion of the State's May 8, 2013 SIP submittal that revises Rule 335–3–14–.04 to address the Biomass Deferral Rule and makes changes to the GHG Step 3 language proposed in Alabama's May 8, 2013 submittal.

Currently, EPA is only proposing to approve the portions of the May 8, 2013 submittal that make changes to the GHG

[1] EPA's regulations governing the implementation of New Source Review (NSR) permitting programs are contained in 40 CFR 51.160–51.166; 52.21, 52.24; and part 51, Appendix S. The CAA NSR program is composed of three separate programs: PSD, NNSR, and Minor NSR. PSD is established in part C of title I of the CAA and applies in areas that meet the NAAQS—''attainment areas''—as well as areas where there is insufficient information to determine if the area meets the NAAQS—''unclassifiable areas.'' The NNSR program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS—''nonattainment areas.'' The Minor NSR program addresses construction or modification activities that do not qualify as ''major'' and applies regardless of the designation of the area in which a source is located. Together, these programs are referred to as the NSR programs.

[2] Airborne particulate matter (PM) with a nominal aerodynamic diameter of 2.5 micrometers or less (a micrometer is one-millionth of a meter, and 2.5 micrometers is less than one-seventh the average width of a human hair) are considered to be ''fine particles'' and are also known as $PM_{2.5}$. Fine particles in the atmosphere are made up of a complex mixture of components including sulfate; nitrate; ammonium; elemental carbon; a great variety of organic compounds; and inorganic material (including metals, dust, sea salt, and other trace elements) generally referred to as ''crustal'' material, although it may contain material from other sources. The health effects associated with exposure to $PM_{2.5}$ include potential aggravation of respiratory and cardiovascular disease (*i.e.,* lung disease, decreased lung function, asthma attacks and certain cardiovascular issues). On July 18, 1997, EPA revised the NAAQS for PM to add new standards for fine particles, using $PM_{2.5}$ as the indicator. Previously, EPA used PM_{10} (inhalable particles smaller than or equal to 10 micrometers in diameter) as the indicator for the PM NAAQS. EPA established health-based (primary) annual and 24-hour standards for $PM_{2.5}$, setting an annual standard at a level of 15.0 micrograms per cubic meter ($\mu g/m^3$) and a 24-hour standard at a level of 65 $\mu g/m^3$ (62 FR 38652). At the time the 1997 primary standards were established, EPA also established welfare-based (secondary) standards identical to the primary standards. The secondary standards are designed to protect against major environmental effects of $PM_{2.5}$, such as visibility impairment, soiling, and materials damage. On October 17, 2006, EPA revised the primary and secondary 24-hour NAAQS for $PM_{2.5}$ to 35 $\mu g/m^3$ and retained the existing annual $PM_{2.5}$ NAAQS of 15.0 $\mu g/m^3$ (71 FR 61236). On January 15, 2013, EPA published a final rule revising the annual $PM_{2.5}$ NAAQS to 12 $\mu g/m^3$ (78 FR 3086).

[3] Emissions of CO_2 from a stationary source directly resulting from the combustion or decomposition of biologically-based materials other than fossil fuels and mineral sources of carbon (*e.g.,* calcium carbonate) and biologically-based material (non-fossilized and biodegradable organic material originating from plants, animals or micro-organisms, including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

PAL provisions pursuant to the GHG Step 3 rule and the portions of the August 23, 2016 submittal that discontinue regulation of GHGs as an air pollutant for the specific purpose of determining whether a source is a major source (or a modification thereof) in PSD and title V permitting requirements and that make changes to the GHG Step 3 language proposed in Alabama's May 8, 2013 submittal. EPA is not acting on the remaining portions of these submittals for the following reasons:

- EPA previously acted upon the changes to the definition of VOCs at Rule 335–3–1–.02. *See* 81 FR 63701 (September 16, 2016).
- The revisions that address the Regulated $PM_{2.5}$ Condensables Correction Rule are unnecessary because the errors corrected by the Rule were never incorporated into Alabama's SIP.[4] *See* 77 FR 59100 (September 26, 2012).
- EPA will act on the transportation conformity revisions in a separate action.
- In its August 23, 2016 SIP revision, Alabama withdrew the portion of its May 8, 2013 SIP revision that addressed the Biomass Deferral Rule.
- ADEM Administrative Code Chapter 335–3–10—''Standards of Performance for New Stationary Sources,'' Chapter 335–3–11—''National Emission Standards for Hazardous Air Pollutants,'' and Chapter 335–3–16—''Major Source Operating permits,'' are not part of Alabama's SIP; therefore, EPA cannot make the changes to these regulations.

II. Background

On January 2, 2011, GHG emissions were, for the first time, covered by the PSD and title V operating permit programs.[5] To establish a process for phasing in the permitting requirements for stationary sources of GHGs under the CAA PSD and title V programs, on June 3, 2010, EPA published a final rule entitled ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule'' (hereinafter referred to as the GHG Tailoring Rule). *See* 75 FR 31514. In Step 1 of the GHG Tailoring Rule, which began on January 2, 2011, EPA limited application of PSD and title V requirements to sources and modifications of GHG emissions, but only if they were subject to PSD or title V ''anyway'' due to their emissions of pollutants other than GHGs. These sources are referred to as ''anyway sources.''

In Step 2 of the GHG Tailoring Rule, which applied as of July 1, 2011, the PSD and title V permitting requirements applied to some sources that were classified as major sources based solely on their GHG emissions or potential to emit GHGs. Step 2 also applied PSD permitting requirements to modifications of otherwise major sources that would increase only GHG emissions above the level in EPA regulations. EPA generally described the sources covered by PSD during Step 2 of the Tailoring Rule as ''Step 2 sources'' or ''GHG-only sources.''

Subsequently, EPA published the GHG Step 3 Rule on July 12, 2012. *See* 77 FR 41051. In this rule, EPA decided against further phase-in of the PSD and title V requirements for sources emitting lower levels of GHG emissions. Thus, the thresholds for determining PSD applicability based on emissions of GHGs remained the same as established in Steps 1 and 2 of the Tailoring Rule.

The GHG PALs portion of the July 12, 2012 final rule revised EPA regulations under 40 CFR part 52 for establishing PALs for GHG emissions. A PAL establishes a site-specific plantwide emission level for a pollutant that allows the source to make changes at the facility without triggering the requirements of the PSD program, provided that its actual emissions at the facility do not exceed the PAL level. Prior to the July 12, 2012 rule, PALs were available for non-GHG pollutants and for GHGs on a mass basis. EPA's rule revised the PAL regulations to allow for GHG PALs to be established on a carbon dioxide equivalent (CO_2e)[6] basis, as well as a mass basis. *See* 77 FR 41051 (July 12, 2012). These regulatory changes provided sources with flexibility in implementing PALs for GHGs.

On June 23, 2014, the U.S. Supreme Court addressed the application of stationary source permitting requirements to GHG emissions in *Utility Air Regulatory Group (UARG)* v. *EPA,* 134 S. Ct. 2427 (2014). The Supreme Court upheld EPA's regulation of GHG Step 1—or ''anyway'' sources—but held that EPA may not treat GHGs as air pollutants for the purpose of determining whether a source is a major source (or is undergoing a major modification) and thus require the source to obtain a PSD or title V permit. Therefore, the Court invalidated PSD and title V permitting requirements for GHG Step 2 sources.

In accordance with the Supreme Court decision, on April 10, 2015, the D.C. Circuit issued an Amended Judgment vacating the regulations that implemented Step 2 of the GHG Tailoring Rule, but not the regulations that implement Step 1 of the GHG Tailoring Rule. *Coalition for Responsible Regulation, Inc.* v. *EPA,* 606 Fed. Appx. 6, 7 (D.C. Cir. 2015). The D.C. Circuit's Judgment specifically vacated the EPA regulations under review (including 40 CFR 51.166(b)(48)(v) and 40 CFR 52.21(b)(49)(v)) ''to the extent they require a stationary source to obtain a PSD permit if greenhouse gases are the only pollutant (i) that the source emits or has the potential to emit above the applicable major source thresholds, or (ii) for which there is a significant emissions increase from a modification.'' *Id.* at 7–8.

EPA promulgated a good cause final rule on August 19, 2015, entitled ''Prevention of Significant Deterioration and Title V Permitting for Greenhouse Gases: Removal of Certain Vacated Elements.'' *See* 80 FR 50199 (August 19, 2015) (hereinafter referred to as the Good Cause GHG Rule). The rule removed from the Federal regulations the portions of the PSD permitting provisions for Step 2 sources that were vacated by the D.C. Circuit (*i.e.,* 40 CFR 51.166(b)(48)(v) and 52.21(b)(49)(v)). EPA therefore no longer has the authority to conduct PSD permitting for Step 2 sources, nor can the Agency approve provisions submitted by a state for inclusion in their SIP providing this authority. In addition, on October 3, 2016, EPA proposed to revise provisions in the PSD permitting regulations applicable to GHGs to address the GHG applicability threshold for PSD in order to fully conform with *UARG* and the Amended Judgment, but those revisions have not been finalized. *See* 81 FR 68110.

III. Analysis of the State's Submittals

A. Alabama's May 8, 2013 Submittal

Alabama's May 8, 2013 SIP submittal seeks to add to the Alabama SIP elements of EPA's July 12, 2012 rule implementing Step 3 of the phase-in of PSD permitting requirements for GHGs

[4] In a May 2, 2011 SIP revision, Alabama requested that EPA incorporate the term ''Particulate matter (PM)'' emissions into its SIP-approved definition of ''regulated NSR pollutant'' at Rule 335–3–14–.04(2)(ww)5, among other changes. Following EPA's proposed approval of the $PM_{2.5}$ Condensables Correction Rule, Alabama submitted a supplemental letter on June 18, 2012, requesting that EPA not approve the proposed change at 335–3–14–.04(2)(ww)5 when taking action on the May 2, 2011, SIP revision.

[5] See the rule entitled ''Reconsideration of Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs,'' Final Rule, 75 FR 17004 (April 2, 2010).

[6] CO_2e emissions refers to emissions of six recognized GHGs other than CO_2 which are scaled to equivalent CO_2 emissions by relative global warming potential values, then summed with CO_2 to determine a total equivalent emissions value. *See* 40 CFR 51.166(48)(ii) and 52.21(49)(ii).

described in the GHG Step 3 Rule by modifying a PAL provision at Rule 335–3–14–.04(23)(b)4.[7] As explained in Section II above, a PAL establishes a site-specific plantwide emission level for a pollutant that allows the source to make changes to units at the facility without triggering the requirements of the PSD program, provided that facility-wide emissions do not exceed the PAL.

The Federal PSD regulations currently include PAL provisions that apply to GHG-only, or Step 2, sources. However, some of these provisions may no longer be applicable in light of the Supreme Court's decision in UARG and the D.C. Circuit's Amended Judgment. The Supreme Court determined that sources and modifications may not be defined as ''major'' solely on the basis of GHGs emitted or increased, and consequently PALs for GHGs may no longer be authorized in instances in which a source has triggered PSD based on GHG emissions alone. EPA has proposed action in an October 3, 2016 proposed rule to clarify the GHG PAL rules. *See* 81 FR 68110. However, PALs for GHGs may still have a role to play in determining whether a source that is already subject to PSD for a pollutant other than GHGs should also be subject to PSD for GHGs. The existing GHG PALs regulations do not add new requirements for sources or modifications that only emit or increase GHGs above the major source threshold, or the 75,000 ton per year (tpy) GHG level in 40 CFR 52.21(b)(49)(iv), but rather provide increased flexibility to sources that wish to manage their GHG emissions by way of a PAL.

In its May 8, 2013 SIP submittal, Alabama seeks to modify the definition of ''major emissions unit'' in its SIP-approved PAL regulations by adding the phrase ''any emissions unit that has the potential to emit 100,000 tons per year of GHG as CO2e.'' The State subsequently revised this threshold from 100,000 tpy to 75,000 tpy as part of its August 23, 2016 submittal, as discussed below. Given this subsequent revision, the text that EPA is proposing to add to the SIP-approved definition of ''major emissions unit'' at Rule 335–3–14–.04(23)(b)4. reads as follows: ''any emissions unit that has the potential to emit 75,000 tons per year of GHG as CO2e'' into the SIP-approved definition of ''major emissions unit'' at Rule 335–3–14–.04(23)(b)4.

EPA has preliminarily concluded that approving these changes into the SIP will not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the CAA. EPA discussed the effects of PALs in the Supplemental Analysis of the Environmental Impact of the 2002 Final NSR Improvement Rules (November 21, 2002) (2002 Supplemental Analysis). The Supplemental Analysis explained, ''[t]he EPA expects that the adoption of PAL provisions will result in a net environmental benefit. Our experience to date is that the emissions caps found in PAL-type permits result in real emissions reductions, as well as other benefits.'' Supplemental Analysis at 6; *see also* 76 FR 49313, 49315 (August 10, 2011). EPA further discussed the effects of PALs in the GHG Step 3 Rule, including the benefits of GHG PALs. *See* 77 FR 41059–60. EPA is therefore proposing to approve the changes to the PAL provisions into the Alabama SIP, as amended in the August 23, 2016 submittal discussed below.

B. Alabama's August 23, 2016 Submittal

Alabama's August 23, 2016 SIP submittal makes further changes to the State's PSD permitting regulation at Rule 335–3–14–.04. This submittal revises the GHG PALs threshold in Rule 335–3–14–.04(23)(b)4 proposed in the May 8, 2013, submittal from 100,000 tpy to 75,000 tpy, as mentioned in section III.A above.[8] The SIP submittal also revises the applicability of PSD for GHGs by removing language regulating GHG-only (*i.e.,* Step 2) sources in Rules 335–3–14–.04(1)(k) and 335–3–14–.04(2)(a) to align with current federal requirements, as discussed below.

Alabama modifies its applicability language for GHGs to regulate only ''anyway'' sources. The State revises Rule 335–3–14–.04(1)(k) in its PSD applicability regulations and the definition of ''Major Stationary Source'' at Rule 335–3–14–.04(2)(a) by removing language that would subject a source to PSD requirements through GHG emissions alone. The proposed revision to subparagraph (2)(a) removes the following text from the definition of ''major stationary source'': ''(iii) For GHGs, any stationary source which emits or has the potential to emit: (I) GHGs on a total mass rate in accordance with either subparagraph 2(a)1. or (2)(a)1.(i), and (II) GHGs of 100,000 tons per year or more CO_2e.'' The proposed revision to Rule 335–3–14–.04(1)(k) replaces subparagraph (k) with the following text:

(k) Greenhouse gases (GHGs)

1. GHGs, as defined in Subparagraph (2)(zz) of this Rule,[9] shall not be utilized in determining if a source is a major stationary source, as defined in Subparagraph (2)(a) of this Rule, or in determining if a modification is a major modification, as defined in Subparagraph (2)(b) of this Rule.

2. GHGs shall only be subject to the requirements of this Rule if:

(i) A new major stationary source or major modification causes a significant emissions increase of GHGs, as defined in subparagraph (2)(mm) of this rule,[10] and a significant net emissions increase of GHGs, as defined in subparagraphs (2)(c) and (2)(w) of this rule,[11] and

(ii) The new major stationary source or major modification is required to obtain a permit subject to the requirements of this Rule as a result of emissions of regulated NSR pollutants other than GHGs.

Although these proposed changes to the Alabama SIP are structured differently than EPA's federal rules, the primary practical effect of both is the same: PSD requirements do not apply to GHG emissions from an ''anyway source'' unless the source emits GHGs at or above the 75,000 tpy CO2e threshold.

EPA has preliminarily concluded that proposing approval of these change into the SIP will not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the CAA. Step 2 of the GHG Tailoring Rule was invalidated. As mentioned above, EPA discussed the effects of PALs in the 2002 Supplemental Analysis and the GHG Step 3 Rule.

IV. Incorporation by Reference

In accordance with requirements of 1 CFR 51.5, EPA is proposing the incorporation by reference of ADEM Administrative Code Rules 335–3–14–.04(1)(k), 335–3–14–.04(2)(a)(ii), and 335–3–14–.04(b)4, state effective on November 25, 2014. Therefore, EPA is proposing approval for inclusion of these materials in Alabama's State implementation plan. Once final, and these materials have been incorporated

[7] As discussed in Section I above, EPA is not acting on the remaining portions of this submittal.

[8] As discussed in Section I, above, EPA is not acting on the remaining portions of this submittal. The submittal also withdraws the change proposed to Rule 335–3–14–.04(2)(zz) in the State's May 8, 2013 SIP submittal to address the Biomass Deferral Rule.

[9] Subparagraph (2)(zz) defines ''greenhouse gases'' as ''the aggregate of: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.''

[10] Pursuant to subparagraph (2)(mm), ''significant emissions increase means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in subparagraph (2)(w) of this rule) for that pollutant.''

[11] As it relates to GHGs, subparagraph (2)(w) defines ''significant,'' in reference to a net emissions increase or potential to emit, at a rate of 75,000 tpy of GHGs on a CO2e basis. This definition of ''significant'' was previously approved by EPA on December 29, 2010. *See* 75 FR 81863.

by reference by EPA into that plan, they are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[12] EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 4 Office (please contact the person identified in the ''For Further Information Contact'' section of this preamble for more information).

V. Proposed Action

EPA is proposing to approve the portions of Alabama's May 8, 2013 and August 23, 2016 SIP submittals that revise the PSD permitting program at Rule 335–3–14–.04—''Air Permits Authorizing Construction in Clean Areas (Prevention of Significant Deterioration (PSD))'' by removing language regulating GHG-only (*i.e.,* Step 2) sources and by adding language to the PAL provisions. EPA believes that these changes are consistent with the requirements of the CAA.

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 proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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 (Public Law 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, Nitrogen dioxide, Ozone, Particulate Matter, Volatile organic compounds.

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

Dated: August 7, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

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[12] *See* 62 FR 27968 (May 22, 1997).

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2015–0073; FF09M21200–178–FXMB1231099BPP0]

RIN 1018–BB06

Migratory Bird Hunting; Approval of Corrosion-Inhibited Copper Shot as Nontoxic for Waterfowl Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of draft environmental assessment.

SUMMARY: Having completed our review of the application materials for corrosion-inhibited copper shot, the U.S. Fish and Wildlife Service (hereinafter Service or we) proposes to approve the shot for hunting waterfowl and coots. We have concluded that this type of shot left in terrestrial or aquatic environments is unlikely to adversely affect fish, wildlife, or their habitats. Approving this shot formulation would increase the nontoxic shot options for hunters.

DATES: Electronic comments on this proposal or on the draft environmental assessment via *http://www.regulations.gov* must be submitted by 11:59 p.m. Eastern time on September 14, 2017. Comments submitted by mail must be postmarked no later than September 14, 2017.

ADDRESSES: *Document Availability.* You may view the application and our draft environmental assessment by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search for Docket No. FWS–HQ–MB–2015–0073.
- Request a copy by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written Comments: You may submit comments on the proposed rule or the associated draft environmental assessment by either one of the following two methods:

- *Federal eRulemaking portal: http://www.regulations.gov.* Follow the instructions for submitting comments to Docket No. FWS–HQ–MB–2015–0073.
- *U.S. mail or hand delivery:* Public Comments Processing, Attention: FWS–HQ–MB–2015–0073; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: BPHC, Falls Church, VA 22041–3803.

We will not accept email or faxes. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information that you provide.

FOR FURTHER INFORMATION CONTACT: Ron Kokel, Division of Migratory Bird Management, at 703–358–1967.

SUPPLEMENTARY INFORMATION:

Background

The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703–712 and 16 U.S.C. 742 a–j) implements migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996, as amended), Mexico (1936 and 1972, as amended), Japan (1972 and