between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because this rulemaking is a security zone less than one week in duration. A draft ''Environmental Analysis Check List'' and a draft ''Categorical Exclusion Determination'' (CED) are available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.508 to read as follows:

§ 165.508 Security Zone; Georgetown Channel, Potomac River, Washington, DC.

(a) *Definitions.* (1) The Captain of the Port, Baltimore, Maryland means the Commander, Coast Guard Sector Baltimore, Maryland or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port, Baltimore, Maryland to act on his or her behalf.

(b) *Location.* The following area is a security zone: All waters of the Georgetown Channel of the Potomac River, from the surface to the bottom, 75 yards from the eastern shore measured perpendicularly to the shore, between the Long Railroad Bridge (the most eastern bridge of the 5-span, Fourteenth Street Bridge Complex) to the Theodore Roosevelt Memorial Bridge and all waters in between, totally including the waters of the Georgetown Channel Tidal Basin.

(c) *Regulations.* (1) All persons are required to comply with the general regulations governing security zones found in § 165.33 of this part.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Baltimore, Maryland.

(3) Persons or vessels requiring entry into or passage through the security zone must first request authorization from the Captain of the Port, Baltimore to seek permission to transit the area. The Captain of the Port, Baltimore, Maryland can be contacted at telephone number (410) 576–2693. The Coast Guard vessels enforcing this section can be contacted on VHF Marine Band Radio, VHF channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port, Baltimore, Maryland and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced from 12:01 a.m. to 11:59 p.m. local time annually on July 4.

Dated: November 6, 2006.

Jonathan C. Burton,

Commander, U.S. Coast Guard, Acting Captain of the Port, Baltimore, Maryland.

[FR Doc. E6–19678 Filed 11–30–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2005–AR–0001; FRL–8250–1]

Approval and Promulgation of Air Quality Implementation Plans; Arkansas; Prevention of Significant Deterioration and New Source Review; Economic Development Zone for Crittenden County, Arkansas; and Stage I Vapor Recovery

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Arkansas State Implementation Plan (SIP) that include changes made to Arkansas regulations entitled, ''Regulations of the Arkansas Plan of Implementation for Air Pollution Control'' and ''Nonattainment New Source Review Requirements.'' The proposed revisions amend the State's permitting rules in order to address revisions to the Federal New Source Review (NSR) regulations, which were promulgated by EPA on December 31, 2002 (67 FR 80186) and reconsidered with minor changes on November 7, 2003 (68 FR 63021)

(collectively, these two final actions are called the ''2002 NSR Reform Rules''). Prevention of Significant Deterioration (PSD) and Nonattainment NSR (NNSR) programs, together with the minor preconstruction permit program required by section 110 of the Federal Clean Air Act (''Act''), are commonly referred to as the ''NSR programs.'' The Arkansas revised preconstruction permitting rules proposed for inclusion in the Arkansas SIP, affecting major sources and modifications to include provisions for baseline emissions calculations, an actual-to-projected-actual methodology for calculating emissions changes, options for plantwide applicability limits, and recordkeeping and reporting requirements. The proposed revisions also include non-substantive revisions to previously SIP-approved regulations and regulations for implementing the permitting provisions for the 8-Hour Ozone National Ambient Air Quality Standard-Phase 2, Economic Development Zone in Crittenden County, and Stage I Vapor Recovery Rules. Finally, EPA is taking no action on provisions that relate to designated facilities. We are proposing approval of the revisions because we find the changes consistent with EPA's implementing regulations, guidance and policy and with Section 110(l) of the Act.

DATES: Comments must be received on or before January 2, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2005–AR–0001, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- U.S. EPA Region 6 ''Contact Us'' web site: *http://epa.gov/region6/r6coment.htm.* Please click on ''6PD'' (Multimedia) and select ''Air'' before submitting comments.
- E-mail: Mr. Stanley M. Spruiell at *spruiell.stanley@epa.gov.*
- Fax: Mr. Stanley M. Spruiell, Air Permit Section (6PD–R), at fax number (214) 665–7263.
- Mail: Mr. Stanley M. Spruiell, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- Hand or Courier Delivery: Mr. Stanley M. Spruiell, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2005–AR–0001. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or e-mail if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail 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 and any form of encryption and should be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 am and 4:30 pm weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The state submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Arkansas Department of Environmental Quality, Air Division, 8001 National Drive, P.O. Box 8913, Little Rock, Arkansas 72219–8913.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley M. Spruiell, Air Permits Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7212; fax number (214) 665–7263; e-mail address *spruiell.stanley@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document any reference to ''we,'' ''us,'' or ''our'' shall mean the EPA.

Outline

I. What Action Is EPA Proposing?

On February 3, 2005, and July 3, 2006, the Governor of Arkansas submitted revisions to the Arkansas SIP. The 2005 submittal consists of revisions to ''Regulation No. 19—Regulations of the Arkansas Plan of Implementation for Air Pollution Control.'' The 2006 submittal consists of further revisions to ''Regulation No. 19—Regulations of the Arkansas Plan of Implementation for Air Pollution Control'' and a new ''Regulation No. 31—Nonattainment New Source Review Requirements.'' The revisions were made to update the Arkansas NSR programs to make them consistent with changes to the Federal NSR regulations published on December 31, 2002 (67 FR 80186) and November 7, 2003 (68 FR 63021). These two EPA rulemakings are commonly referred to as the ''2002 NSR Reform Rules.''

These SIP revisions also add provisions for implementing the air

permitting requirements for the 8-hour ozone national ambient air quality standard-phase 2 (promulgated November 29, 2005 (70 FR 71611)), an Economic Development Zone that implement section 173(a)(1)(B) of the Act, and provisions for Stage I Vapor Recovery. In addition, Arkansas revised Regulation No. 19 to make the following non-substantive changes (which do not change the regulatory requirements): redesignated the subdivisions from ''Section'' to ''Reg.''; changed references to ''Arkansas Department of Pollution Control and Ecology'' to ''Arkansas Department of Environmental Quality''; corrected typographical errors and grammar; and improved readability and clarity. Finally, EPA is taking no action on Chapter 8 of Regulation No. 19 ''111(d) Designated Facilities.''

II. What is the Background for Major NSR Reform?

On December 31, 2002, EPA published final rule changes to 40 Code of Federal Regulations (CFR) parts 51 and 52, regarding the Act's PSD and Nonattainment New Source Review (NNSR) programs. See 67 FR 80186. On November 7, 2003, EPA published a notice of final action on the reconsideration of the December 31, 2002 final rule changes. See 68 FR 63021. In that November 7th final action, EPA added the definition of ''replacement unit,'' and clarified an issue regarding plantwide applicability limitations (PALs). The December 31, 2002 and the November 7, 2003, final actions, are collectively referred to as the ''2002 NSR Reform Rules.'' The purpose of today's action is to propose approval of the SIP submittals from the State of Arkansas, which adopts EPA's 2002 NSR Reform Rules.

The 2002 NSR Reform Rules are part of EPA's implementation of Parts C and D of Title I of the Act, 42 U.S.C. 7470–7515 addressing major sources and major modifications. Part C of Title I of the Act, 42 U.S.C. 7470–7492, is the PSD program, which applies in areas that meet the National Ambient Air Quality Standards (NAAQS)–''attainment'' areas—as well as in areas for which there is insufficient information to determine whether the area meets the NAAQS ''unclassifiable'' areas. Part D of Title I of the Act, 42 U.S.C. 7501–7515, is the NNSR program, which applies in areas that are not in attainment of one or more of the NAAQS—''nonattainment areas.'' Collectively, the PSD and NNSR programs are referred to as the ''New Source Review'' or NSR programs. EPA regulations implementing these programs are contained in 40 CFR 51.165, 51.166, 52.21, 52.24, and appendix S of part 51.

The Act's NSR programs are preconstruction review and permitting programs applicable to new and modified stationary sources of air pollutants regulated under the Act. These programs include a combination of air quality planning and air pollution control technology program requirements. Briefly, section 109 of the Act, 42 U.S.C. 7409, requires EPA to promulgate primary NAAQS to protect public health and secondary NAAQS to protect public welfare. Once EPA sets those standards, states must develop, adopt, and submit to EPA for approval, a SIP that contains emissions limitations and other control measures to attain and maintain the NAAQS. Each SIP is required to contain a preconstruction review program for the construction and modification of any stationary source of air pollution to assure that the NAAQS are achieved and maintained; to protect areas of clean air; to protect air quality related values (such as visibility) in national parks and other areas; to assure that appropriate emissions controls are applied; to maximize opportunities for economic development consistent with the preservation of clean air resources; and to ensure that any decision to increase air pollution is made only after full public consideration of the consequences of the decision.

The 2002 NSR Reform Rules made changes to five areas of the NSR programs. In summary, these rules: (1) Provide a new method for determining baseline actual emissions in the NNSR and PSD programs; (2) adopt for the NNSR and PSD programs an actual-to-projected-actual methodology for determining whether a major modification has occurred; (3) allow major stationary sources to comply with plant-wide applicability limits to avoid having a significant emissions increase that triggers the requirements of the major NSR program; (4) provide a new applicability provision for emissions units that are designated clean units; and (5) exclude pollution control projects (PCPs) from the NNSR and PSD program definitions of ''physical change or change in the method of operation.'' On November 7, 2003, EPA published a notice of final action on its reconsideration of the 2002 NSR Reform Rules (68 FR 63021), which added a definition for ''replacement unit'' and clarified an issue regarding PALs. For additional information on the 2002 NSR Reform Rules, see 67 FR 80186 (December 31, 2002), and *http://www.epa.gov/nsr.*

After the 2002 NSR Reform Rules were finalized and effective (March 3, 2003), various petitioners challenged numerous aspects of the 2002 NSR Reform Rules, along with portions of EPA's 1980 NSR Rules (45 FR 5276, August 7, 1980). On June 24, 2005, the D.C. Circuit Court of Appeals issued a decision on the challenges to the 2002 NSR Reform Rules. See *New York* v. *United States,* 413 F.3d 3 (D.C. Cir. June 24, 2005), rehearing en banc denied (Dec 09, 2005). In summary, the Court vacated portions of the rules pertaining to clean units and PCPs, remanded a portion of the rules regarding recordkeeping, e.g., 40 CFR 51.165(a)(6) and 40 CFR 51.166(r)(6), and either upheld or did not comment on the other provisions included as part of the 2002 NSR Reform Rules. The EPA has not yet responded to the Court's remand regarding the recordkeeping provisions. Today's action is consistent with the decision of the D.C. Circuit Court of Appeals because Arkansas' submittal does not include any portions of the 2002 NSR Reform Rules that were vacated as part of the June 2005, decision.

The 2002 NSR Reform Rules require that state agencies adopt and submit revisions to their SIP permitting programs implementing the minimum program elements of the 2002 NSR Reform Rules no later than January 2, 2006. See 40 CFR 51.166(a)(6)(i) (requiring state agencies to adopt and submit PSD SIP revisions within three years after new amendments are published in the **Federal Register**). State agencies may meet the requirements of 40 CFR part 51 and the 2002 NSR Reform Rules, with regulations that are different than, but equivalent to, Federal regulations. If, however, a state decides not to implement any of the new applicability provisions, that state must demonstrate that its existing program is at least as stringent as the Federal program. In adopting changes to Federal law, a state may write the Federal requirements into the state SIP or the state may incorporate the Federal rule into the SIP by referencing the citation of the Federal rule. As discussed in further detail below, EPA believes the revisions contained in the Arkansas submittal are approvable for inclusion into the Arkansas SIP.

III. What Is EPA's Analysis of Arkansas' SIP Revisions?

Arkansas currently has an approved PSD program for new and modified sources. Today, EPA is proposing to approve revisions to Arkansas' existing NSR program in the SIP. These proposed revisions were submitted to EPA on February 3, 2005, and July 3, 2006. Copies of the revised rules, as

well as the Technical Support Document (TSD), can be obtained from the Docket, as discussed in the ''Docket'' section above. A discussion of the specific changes to Arkansas' rule, proposed for inclusion in the SIP, follows.

Arkansas' ''Regulation No. 19—Regulations of the Arkansas Plan of Implementation for Air Pollution Control'' contains the preconstruction review program as required under part C of Title I of the Act. The program applies to major stationary sources or modifications constructing in areas that are designated as attainment or unclassifiable with respect to the NAAQS. Arkansas' current PSD program was approved into the SIP by EPA on October 16, 2000 (65 FR 61108). The revisions submitted February 3, 2005, revise the PSD provisions to incorporate by reference the requirements of 40 CFR 52.21(a)(2) through (bb), as in effect on July 23, 2004, with the exception of 40 CFR 52.21(b)(55) through (58), (i)(9), and (cc). The February 3, 2005, submittal also revises Regulation No. 19, to add a new ''Chapter 12—Nonattainment Areas,'' and a new ''Chapter 13—Stage I Vapor Recovery.'' Arkansas also made several non-substantive changes to Regulation No. 19. On July 3, 2006, Arkansas submitted revisions to Regulation No. 19 that removed ''Chapter 12—Nonattainment Areas'' and revised the PSD provisions to withdraw its submittal of the provisions of 40 CFR 52.21 that the D.C. Circuit vacated and remanded.

EPA designated the Memphis, Tennessee area, which includes Crittenden County in Arkansas, as nonattainment for the eight-hour national ambient air quality standard for ozone in April 2004 (69 FR 23858). EPA subsequently reclassified the area from moderate to marginal in September 2004 (69 FR 56697). The Arkansas SIP does not currently include a NNSR program because there were no nonattainment areas in the State of Arkansas at the time of the April 2004 designation. Arkansas' permitting requirements for major sources in or impacting upon non-attainment areas are set forth in ''Regulation No. 31—Nonattainment New Source Review Requirements.'' On July 3, 2006, Arkansas submitted Regulation No. 31 to address the nonattainment permitting requirements in Crittenden County. This regulation applies to the construction and modification of any major stationary source of air pollution in a nonattainment area, as required by part D of Title I of the Act. To receive approval to construct, a source that is subject to this regulation must show that it will not cause a net increase in pollution, will not create a delay in meeting the NAAQS, and that the source will install and use control technology that achieves the lowest achievable emissions rate. Regulation No. 31 also includes provisions that implement EPA's designation of Crittenden County as an Economic Development Zone subject to the requirements of Section 173(a)(1)(B) of the Act. Finally, Regulation No. 31 includes the NSR provisions promulgated by EPA on November 29, 2005 (70 FR 71611).

A. Major NSR Reform Requirements

On February 3, 2005, Arkansas submitted revisions that update the existing provisions of Chapter 9 of Regulation No. 19—''Prevention of Significant Deterioration'' to be consistent with the current Federal PSD rules, including the 2002 NSR Reform Rules. These revisions address baseline actual emissions, actual-to-projected-actual applicability tests, and PALs. Arkansas incorporated by reference the requirements of 40 CFR 52.21(a)(2) through (bb), as in effect on July 3, 2004, which include the major NSR Reform provisions. Arkansas did not include the requirements of 40 CFR 52.21(b)(55) through (58), and (cc) which include the Equipment Replacement Provision (ERP) promulgated October 27, 2003 (68 FR 61248).[1] Arkansas also did not incorporate 40 CFR 52.21(i)(9), a provision that is excluded in the current PSD SIP. In the July 3, 2006 submittal, Arkansas withdrew its submittal of provisions of 40 CFR 52.21 that the D.C. Circuit Court of Appeals vacated and remanded. Specifically, Arkansas withdrew the following requirements of 40 CFR 52.21:

- Everything in paragraphs (x) ''Clean Unit Test for emissions units that are subject to BACT or LAER,'' (y) ''Clean Unit provisions for emissions units that achieve an emission limitation comparable to BACT,'' and (z) ''PCP exclusion procedural requirements.''
- Paragraph (a)(2)(iv)(e): clean unit applicability.
- Paragraph (a)(2)(iv)(f): second sentence (''for example * * *'').
- Paragraph (a)(2)(vi): comply with PCP requirements.
- Paragraph (b)(2)(iii)(h): Refers to PCPs.
- Paragraph (b)(3)(iii)(b): emissions increase/decrease at clean unit.
- Paragraph (b)(3)(vi)(d): decrease in actual emissions did not rely on clean unit or PCP.
- Paragraph (b)(32): PCP definition.
- Paragraph (b)(42): clean unit definition.
- Paragraph (r)(6): The first sentence ''Clean Units or at a'' and ''there is a reasonable possibility that * * * .''

The revisions included in Arkansas' PSD program submittal are substantively the same as the 2002 major NSR Reform Rules. The PSD rules do not incorporate the portions of the Federal rules that were recently vacated by the D.C. Circuit Court of Appeals, including the clean unit provisions, the pollution control projects exclusion, and the equipment replacement provision, which was promulgated shortly after the applicable 2002 NSR Reform Rules.

Arkansas included provisions for nonattainment NSR in Chapter 12 of Regulation No. 19 submitted February 3, 2005. On July 3, 2006, Arkansas submitted revisions to Regulation No. 19, which removed the nonattainment NSR provisions in Chapter 12 and included the nonattainment NSR requirements in a new Regulation No. 31. The New Regulation No. 31 includes provisions consistent with the current Federal nonattainment NSR rule, including the 2002 NSR Reform Rules. These revisions address baseline actual emissions, actual-to-projected-actual applicability tests, and PALs. The revisions included in Arkansas' NNSR program are substantively the same as the 2002 NSR Reform Rules. As part of our review of Arkansas' submittals, we performed a line-by-line review of the proposed revisions and have determined that they are consistent with the program requirements for the preparation, adoption and submittal of implementation plans for New Source Review, set forth at 40 CFR 51.165. We also determined that these rules do not incorporate the portions of the Federal rules that were recently vacated by the D.C. Circuit Court of Appeals, including the clean unit provisions, the PCP exclusion, and the equipment replacement provision, which was promulgated shortly after the 2002 NSR Reform Rules.

Regulation No. 31 as submitted July 3, 2006, also incorporates the nonattainment NSR changes that EPA promulgated November 29, 2005 (70 FR 71611) which is the final rule to implement the 8-hour ozone national ambient air quality standard. As part of our review of Arkansas' submittal, we performed a line-by-line review of the

[1] EPA promulgated the ERP on October 27, 2003 (68 FR 61248). The ERP was challenged after promulgation and the D.C. Circuit Court of Appeals stayed the ERP on December 24, 2003. On March 17, 2006, the Court vacated the ERP. See *New York* v. *EPA*, 443 F.3d 880 (D.C. Cir March 17, 2006), rehearing en banc denied (June 30, 2006).

proposed revisions and have determined that they are consistent with the program requirements for the preparation, adoption and submittal of implementation plans for New Source Review, set forth at 40 CFR 51.165.

Regulation No. 31 includes provisions for determining applicability for nonattainment NSR. Reg. 31.401 contains the applicability test requirements for projects involving existing emissions units. Reg. 31.402 contains the applicability test requirements for projects involving new emissions units. Reg. 31.401 and Reg. 31.402 respectively meet the requirements in 40 CFR 51.165(a)(2)(ii)(C) and (D). To address the applicability test requirements for projects that involve both existing and new emissions units, the ADEQ forwarded a letter dated June 22, 2006, from Marcus C. Devine, Director, Arkansas Department or Environmental Quality to Richard E. Greene, Region Administrator, Environmental Protection Agency, Region 6. The letter stated that for projects that involve both new and existing units, ADEQ would use Reg. 31.401 for the existing units and Reg. 31.402 for the new units. This statement assures that projects that involve both existing and new emissions units will satisfy the requirement of 40 CFR 51.165(a)(2)(ii)(F)—Hybrid test for projects that involve multiple types of emissions units. The June 22, 2006, letter is included in the docket for this action.

The Act provides in section 110(l) that:

> Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revisions would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act.

We are proposing approval of the Arkansas NSR Reform revisions because we have determined that they are consistent with EPA's implementing regulations, guidance and policy and with Section 110(l) of the Act. Arkansas has adopted rules that are essentially the same as the applicable Federal NSR Reform requirements at 40 CFR 51.165 and 51.166. The NSR Reform revisions will not interfere with attainment, reasonable further progress, or any other applicable requirement of the Act.

We have prepared a Technical Support Document which is included in the docket for this action. The Technical Support Document includes a detailed evaluation of the NSR revisions to Regulation No. 19 and Regulation No. 31 and documents how these regulations meet the applicable Federal requirements in 40 CFR 51.165 and 51.166.

B. Permits Provisions for the 8-Hour Ozone NAAQS—Phase 2

On November 29, 2005 (70 FR 71612), EPA promulgated provisions for the 8-Hour Ozone NAAQS—Phase 2. These included major source thresholds for sources in certain classes of nonattainment areas, offset ratios for marginal, moderate, serious, severe, and extreme ozone nonattainment areas, provisions addressing offset requirements for facilities that shut down or curtail operation, and a requirement that emissions of nitrogen oxide (NO_X) emissions are ozone precursors. Arkansas incorporated the 8-hour ozone NAAQS phase 2 permitting requirements in Regulation No. 31 as follows.

The definition of ''major stationary source'' in Chapter 2 of Regulation No. 31 defines a major stationary source be a source that emits or has the potential to emit 100 tons per year (tpy) of any regulated NSR pollutant; and provides that lower major source thresholds apply as follows:

- 50 tpy of volatile organic compounds (VOC) in any serious ozone nonattainment area;
- 50 tpy of VOC in an area within an ozone transport region, except for any severe or extreme ozone nonattainment area;
- 25 tpy of VOC in any severe ozone nonattainment area;
- 10 tpy of VOC in any extreme ozone nonattainment area;
- 50 tpy of carbon monoxide (CO) in any serious nonattainment area for CO, where stationary sources contribute significantly to CO levels in the area (as determined under rules issued by the EPA Administrator); and
- 70 tpy of PM–10 in any serious nonattainment area for PM–10.

These major source thresholds meet the requirements of 40 CFR 51.165(a)(1)(iv)(A)(1)(i) through (vi).

The definition of ''major stationary source'' in Chapter 2 of Regulation No. 31 further provides that ''major stationary sources'' include the following sources in ozone nonattainment area that emit or have the potential to emit NO_X as follows:

- 100 tpy of more of NO_X in any ozone nonattainment area classified as marginal or moderate;
- 100 tpy of more of NO_X in any ozone nonattainment area that is classified as transitional, submarginal, or incomplete or no data area, when such area is located in an ozone transport region;
- 100 tpy of more of NO_X in any area designated under Section 107(d) of the Act as attainment or unclassifiable for ozone the is located in an ozone transport region;
- 50 tpy of more of NO_X in any serious nonattainment area for ozone;
- 25 tpy of more of NO_X in any severe nonattainment area for ozone; and
- 10 tpy of more of NO_X in any extreme nonattainment area for ozone.

These major source thresholds meet the requirements of 40 CFR 51.165(a)(1)(iv)(A)(2)(i) through (vi).

Arkansas' Reg. 31.409 provides that the provisions of Regulation No. 31 that are applicable to major stationary sources and major modification of VOC apply to NO_X emissions from major stationary sources and major modifications of NO_X in ozone transport regions and any ozone nonattainment area, except where the EPA Administrator has granted a NO_X waiver under Section 182(f) of the Act and waiver continues to apply. This provision meets the requirements of 40 CFR 51.165(a)(8).

Reg. 31.410(A) provides that for meeting the offset requirements for major NSR for nonattainment areas that are subject to Subpart 2, Part D, Title I of the Act, the ratio of total actual emissions of VOC to the emissions increase of VOC are as follows:

- At least 1.1 to 1 in any marginal nonattainment area for ozone;
- At least 1.15 to 1 in any moderate nonattainment area for ozone;
- At least 1.2 to 1 in any serious nonattainment area for ozone;
- At least 1.3 to 1 in any severe nonattainment area for ozone (except that the ratio may be at least 1.2 to 1 if the approved plan also requires all existing major sources in such nonattainment area to use best available control technology (BACT) for the control of VOC); and
- At least 1.5 to 1 in any extreme nonattainment area for ozone (except that the ratio may be at least 1.2 to 1 if the approved plan also requires all existing major sources in such nonattainment area to use best available control technology (BACT) for the control of VOC).

These offset ratios meet the requirements of 40 CFR 51.165(a)(9)(i)(A) through (E).

Reg. 31.410(B) provides that the offset ratio shall be at least 1.15 to 1 for all areas within an ozone transport region that is subject to Subpart 2, Part D, Title I of the Act, except for serious, severe, and extreme ozone nonattainment areas

that are subject to Subpart 2, Part D, Title I of the Act. These offset ratios meet the requirements of 40 CFR 51.165(a)(9)(ii).

Reg. 31.410(C) provides that the offset ratio shall be at least 1 to 1 for all areas within an ozone transport region that is subject to subpart 1, Part D, Title I of the Act (but are not subject to subpart 2, Part D, Title I of the Act), including 8-hour ozone nonattainment subject to 40 CFR 51.902(b). These offset ratios meet the requirements of 40 CFR 51.165(a)(9)(iii).

Reg. 31.410(C) provides that the requirements of Regulation No. 31 that are applicable to major stationary sources and major modifications of PM–10 shall also apply to major stationary sources and major modifications of PM–10 precursors, except where the EPA Administrator determines that such sources do not contribute significantly to PM–10 levels that exceed the PM–10 ambient standards in the area. This provision meets the requirements of 40 CFR 51.165(a)(10).

Reg. 31.405(D) provides that emission reductions achieved by shutting down an existing source or curtailing production or operating hours may generally be credited for offsets if: such reductions are surplus, permanent, quantifiable, and Federally enforceable; and either (1) the shutdown or curtailment occurred after the last day of the base year for SIP planning purposes; or (2) the shutdown or curtailment occurred on or after the date the construction permit application is filed or the applicant establishes that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit. These provisions meet the requirements of 40 CFR 51.165(a)(3)(ii)(C)(2).

We are proposing approval of the Arkansas revisions to implement permits requirements for the 8-Hour Ozone NAAQS because we have determined that they are consistent with EPA's implementing regulations, guidance and policy and with Section 110(l) of the Act. The revisions will not interfere with attainment, reasonable further progress, or any other applicable requirement of the Act.

C. Zones Targeted for Economic Development

Arkansas also requested that EPA approve its rules at Reg. 31.305 for implementing a zone targeted for economic development in Crittenden County, AR, located in the Memphis 8-Hour Ozone Nonattainment Area. In a separate action, EPA previously announced that it had approved identifying Crittenden County as a zone targeted for economic development (EDZ) on February 21, 2006 under section 173(a)(1)(B) of the Act. (71 FR 8857).[2] The notice also stated that Arkansas would be responsible for developing NSR regulations for the zone, and that EPA would review and consider the regulations for approval as a revision of Arkansas' SIP. We also stated that the state rulemaking and EPA's SIP review process would provide the public opportunities to participate in the process to consider the implementing regulations for the zone. In this action, we are requesting comments on Arkansas' NSR regulations to begin implementation of the EDZ. The requirement to obtain offsets for new and modified sources subject to NNSR permitting requirements remains in effect until EPA takes final action to approve the EDZ implementation rules into the Arkansas SIP.

The regulations developed by Arkansas provide for management of a zone identified by EPA as an EDZ pursuant to section 173(a)(1)(B) of the Act. Arkansas' final NSR permitting regulations for an EDZ contain an emissions allowance (''growth allowance'') based on air quality modeling that limits emissions in Crittenden County from new and modified major stationary sources. Arkansas has specifically established Targeted Economic Development Zone (TEDZ) Emissions in Crittenden County in the amount of 1,900 tons per year of VOC and 300 tons per year of nitrogen oxides beginning January 1, 2007, and 3,700 tons per year of VOC and 800 tons per year of nitrogen oxides beginning January 1, 2009. In lieu of obtaining offsets as required in Reg. 31.303(B) and Reg. 31.304, a source locating in Crittenden County may petition the ADEQ Director to allocate TEDZ emissions. A source must either obtain offsets as required in Reg. 31.303(B) and Reg. 31.304, or obtain growth allowances for the applicable TEDZ pursuant to Reg. 31.305.

Arkansas has established specific and replicable petition requirements for an allocation of the TEDZ emissions, i.e., the growth allowance, including: (1) Be made on such forms and contain such information as the ADEQ Director may reasonably require, (2) Contain detailed information about the projected socio-economic impact of the proposed project including, but not limited to: impact of the project on low to moderate income individuals, number of jobs to be created, median salary of employees, (3) Contain a project schedule, (4) Be separate and distinct from the permit application required under Reg. 31.302, and 3–3, and (5) Be submitted concurrently with the application required under Reg. 31.302.

Before taking final action on a petition for an allocation of TEDZ emissions from a permit applicant for a NNSR source the ADEQ Director will solicit input from the appropriate local governing body. The ADEQ Director will not allocate any TEDZ emissions unless he has determined that: (1) The project will achieve the economic impact described in the petition, (2) The projected economic impact justifies the allocation of TEDZ emissions, and (3) No other projects which do more to further the region's economic development goals will be pre-empted. See Reg. 31.305(F).

If, while processing a petition, the ADEQ Director determines that additional information is necessary to evaluate or take final action on that petition, the ADEQ may request such information in writing and set a reasonable deadline for a response. Any petitioner who fails to submit any relevant facts or who has submitted incorrect information in a petition shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.

If the ADEQ Director determines the requirements of Reg. 31.305(F) are met, the ADEQ will prepare a document announcing the intent to grant the allocation of TEDZ emissions. This document may contain such conditions as are necessary to ensure compliance with regulation and that the project is completed as described in the petition. No petition may be granted unless the public has first had an opportunity to comment. The opportunity to comment shall include: (1) The publication of a notice of the ADEQ Director's decision in a newspaper of general circulation in the county in which the proposed facility will be located. In the event the local newspaper is unable or unwilling

[2] Section 173(a)(1)(B) of the Act allows the Administrator to identify, in consultation with the Secretary of Housing and Urban Development, zones within non-attainment areas that should be targeted for economic development. Under Section 173(a)(1)(B), new or modified major stationary sources that locate in such a zone are relieved of the NSR requirement to obtain emission offsets if (1) the relevant SIP includes an NSR nonattainment program that has established emission levels for new and modified major sources in the zone (''growth allowance''), and (2) the emissions from new or modified stationary sources in the zone will not cause or contribute to emission levels that exceed such growth allowance. Section 172(c)(4) of the Act requires that the growth allowance be consistent with the achievement of reasonable further progress, and will not interfere with attainment of the applicable National Ambient Air Quality Standard (NAAQS) by the applicable attainment date for the nonattainment area.

to publish notice, notice may be published in a newspaper of statewide circulation, and (2) A 30-day period for submittal of public comment, beginning on the date of the newspaper notice, ending on the date 30 days later.

The ADEQ Director will take final action on a petition after review of public comment. The Director shall notify in writing the owner/operator and any person that submitted a written comment of the Director's final action and the ADEQ Director's reasons for final action. A final decision on a petition by the ADEQ Director constitutes a final permitting decision under Arkansas Pollution Control and Ecology Commission Regulation 8, Administrative 3–4 Procedures for appeal purposes.

Any petition issued under this section is subject to revocation, suspension, or modification in whole or in part, for cause, including without limitation:

(1) Violation of any condition established by the ADEQ Director;

(2) Obtaining the allocations by misrepresentation or failure to disclose fully all relevant facts;

(3) Failure to complete the project within the time periods specified by the project schedule; or

(4) Failure to achieve the projected socio-economic impacts.

Petitions for allocations may be granted in whole, in part, or denied by the ADEQ. If a petition for allocation is granted in part or denied, the applicant must obtain offsets in the required ratios under the Act pursuant to Reg. 31.303(B) and Reg. 31.304. If a petition is granted, either in part or in whole, the applicant will be notified of the decision, and the allocations granted will be subtracted from the overall TEDZ allocation pool. A 10% reserve of allocations will be maintained in the pool, unless the ADEQ Director approves the disbursement of these ''safety factor'' allocations. Except as provided in ADEQ's rules, TEDZ emissions allocations shall be good for the life of the project.

In Arkansas' request to EPA that Crittenden County be identified as a zone Targeted for economic development, Arkansas provided ozone air quality modeling for the entire Memphis 8-Hour Ozone Nonattainment Area. The air quality modeling, using the variable-grid Urban Airshed Model, Version 1.5 (UAM–V5), a regional- and urban-scale, nested-grid photochemical air quality model, was used to demonstrate compliance with the 8-hour ozone National Ambient Air Quality Standards (NAAQS) in future years. The EDZ air quality modeling was developed using previous Early Action Compact modeling developed for the Memphis area that was consistent with the EPA draft modeling guidance that was available when the modeling was conducted.

The modeling simulated and assessed future-year (2007 and 2009) ozone air quality for the Memphis Nonattainment area and surrounding counties. Attainment of the 8-hour ozone NAAQS is demonstrated at each monitor in the Memphis nonattainment area and in unmonitored areas of the local monitoring domain. Attainment of the 8-hour ozone NAAQS is predicted by the modeling to be achieved in 2007. Additionally, Arkansas analyzed the impacts from hypothetical new industrial source emissions in the Crittenden County EDZ. When additional emissions from hypothetical EDZ sources are added into the modeling for the 2007 and 2009 periods, the future year design values indicate that the Memphis Nonattainment Area and surrounding counties will continue to attain the ozone NAAQS. The emission estimates used in the modeling exceeded the EDZ allowances adopted by ADEQ's implementing rules for EDZ. This assures protection of the NAAQS by planning for greater emissions than will occur.

Arkansas also included a 2009 modeling scenario with ancillary growth emissions associated with the hypothetical new industrial sources to estimate the effects of additional emissions growth. The ancillary growth estimate was to simulate the effects of growth in other sectors (e.g., population, minor sources, and transportation) that may result from the development of the hypothetical industrial facilities. This modeling scenario also indicated the area would continue to attain the NAAQS in 2009.

Arkansas also included some analyses estimating the greatest increase in simulated maximum 8-hour ozone concentration (for each county or the multi-county area) resulting due to the increase in emissions at the Port Site in 2007 and both the Supersite and the Port Site emission increase in 2009. At this time EPA has not revised its modeling regulations or issued policy or guidance concerning permit requirements for single source ozone modeling impacts for a significant impact level analysis. Several issues need to be addressed with this type of permit modeling, which include but are not limited to, ozone impacts and what level of impact by a single source is significant or insignificant. EPA has conducted this review based on whether the Future Design Values and the out-of-network test for the remaining nonattainment area and immediately surrounding counties indicate attainment or nonattainment.

In summary, the Arkansas modeling indicates that the emissions quantified as growth allowances in 2007 and 2009 (including ancillary growth in 2009) for the EDZ will be consistent with the achievement of reasonable further progress and will not interfere with attainment of the applicable NAAQS. A more detailed discussion of the Crittenden County EDZ modeling was included in the ADEQ's application to identify Crittenden County as an EDZ. See also our Technical Support Document (TSD).

The Act provides in section 110(l) that ''The Administrator shall not approve a revision of a plan if the revisions would interfere with any applicable requirement concerning attainment and reasonable further progress * * *, or any other applicable requirement of the Act.'' The regulations that Arkansas has developed demonstrate that the emissions quantified for the EDZ are consistent with the achievement of reasonable further progress and do not interfere with attainment of the NAAQS within the Memphis 8-Hour Ozone Nonattainment Area. If the Memphis nonattainment area does not attain the 8-hour ozone NAAQS by June 15, 2007, emissions from the growth allowance established for the EDZ must be included in any subsequent SIP revision and modeling demonstration. If the Memphis nonattainment area does attain the ozone NAAQS and is re-designated to attainment, the NNSR requirements, including the EDZ designation, will no longer apply in Crittenden County. In that event, the NAAQS are protected by PSD in Regulation No. 19.

ADEQ will provide EPA an annual report that lists and describes local and state actions taken in accordance with the Crittenden County EDZ strategic plan submitted to EPA. The report will include both quantitative and qualitative analysis regarding the economic and air quality accomplishments in Crittenden County. See the Arkansas EDZ Petition for further details.

D. Stage I Vapor Recovery

Stage I Vapor Recovery is used during the filling of gasoline storage tanks to reduce hydrocarbon emissions and has been incorporated into numerous SIPs as an effective VOC emission control technology.

As a strategy to assist in the attainment of the 8-hour ozone standard, the ADEQ, on September 23,

2004, proposed regulations to establish a Stage I Vapor Recovery program for areas classified as nonattainment in the State. The requirements of this program are contained within Regulation No. 19, Chapter 13, entitled ''Stage I Vapor Recovery.'' The State of Arkansas adopted these Stage I Vapor Recovery rules on December 3, 2004, and submitted them to EPA for approval into the Arkansas Ozone SIP on February 3, 2005. The Stage I Vapor Recovery program requires the installation and use of Stage I Vapor Recovery in all nonattainment areas of the State.

As discussed in Section III, Crittenden County, Arkansas, is currently the only designated nonattainment area within Arkansas and is also part of the Memphis Ozone Nonattainment Area (MONA), which was designated moderate for 8-hour ozone nonattainment by EPA on April 30, 2004. However, the States of Arkansas and Tennessee submitted to EPA a successful petition for downward reclassification of the MONA, pursuant to section 181(a)(4) of the Act, and EPA reclassified the MONA as a marginal 8-hour ozone nonattainment area on June 15, 2004. See 69 FR 56697. As part of the request for ''bump down'' reclassification, Arkansas proposed the implementation of VOC emission reduction measures, such as Stage I Vapor Recovery, in Crittenden County to aid the MONA in reaching ozone attainment by June 2007, the deadline for marginal ozone nonattainment areas to reach attainment. Therefore, with adoption of these Stage I Vapor Recovery rules, Arkansas is going forward with the implementation of VOC emission reduction measures in Crittenden County and, in fact, has gone further by requiring Stage I Vapor Recovery in all nonattainment areas in Arkansas (should any other area in Arkansas be designated ozone nonattainment).

Arkansas Regulation No. 19, Chapter 13, establishes a Stage I Vapor Recovery program where one did not previously exist and EPA anticipates that the establishment of this program will result in substantial reductions of VOC emissions from the filling of gasoline storage tanks. For example, Arkansas has estimated the implementation of Stage I Vapor Recovery in Crittenden County (currently the only area in Arkansas classified as nonattainment for the 8-hour ozone standard) to result in VOC emission reductions of 179 tons per year. Further, by requiring Stage I Vapor Recovery in all nonattainment areas, ADEQ is both controlling VOC emissions in Crittenden County, as well as establishing a control strategy should other areas be designated/redesignated ozone nonattainment.

Because the Stage I Vapor Recovery rules that we are proposing to approve today do not implement a mandatory requirement of the Act or other Federal requirement, but rather were submitted as an emission reduction strategy to aid Crittenden County (and any future areas in Arkansas designated as ozone nonattainment) in reaching ozone attainment, we are reviewing these rules as a voluntarily adopted VOC emission reduction strategy and as a strengthening of the SIP. Based on our evaluation, ADEQ has submitted Stage I Vapor Recovery rules that are consistent with both the OAQPS Model VOC Rules [3] and with EPA enforceability criteria.

Before EPA may approve SIP revisions, section 110(l) of the Act requires a demonstration of noninterference with any applicable requirement concerning nonattainment, reasonable further progress toward attainment of NAAQS, or any other applicable requirement of the Act. Arkansas' Stage I Vapor Recovery rules supplement and strengthen the existing Ozone SIP by requiring the installation of Stage I Vapor Recovery in all nonattainment areas in the State, thereby facilitating attainment of the ozone NAAQS in ozone nonattainment areas. These revisions to the Arkansas SIP—specifically, the addition of Regulation No. 19, Chapter 13—include a voluntarily adopted VOC emission reduction strategy and, therefore, are more stringent than CAA requirements for ozone nonattainment areas classified as marginal, such as Crittenden County. Because Arkansas' implementation of a Stage I Vapor Recovery program is a VOC emission reduction measure that would improve the existing SIP, these revisions to the Arkansas SIP would not interfere with Arkansas' compliance with the requirements of the Act relating to nonattainment, reasonable further progress, or any other applicable requirements under the Act or EPA regulations.

EPA is proposing to approve Arkansas' Stage I Vapor Recovery program into the Ozone SIP because the regulations are consistent with EPA guidance and would strengthen the SIP.

[3] United States Environmental Protection Agency, Office of Air Quality Planning and Standards, Model Volatile Organic Compound Rules for Reasonably Available Control Technology, Planning for Ozone Nonattainment Pursuant to Title I of the Clean Air Act (June 1992), sections 3024 and 3025 (Stage I Vapor Recovery).

E. Editorial Revisions to the Regulations for the Control of VOCs in Pulaski County

Revisions to Regulation No. 19, Chapter 10, were also included in the February 3, 2005, Arkansas SIP revision submittal. These revisions are administrative non-substantive/editorial changes to that chapter, which consists of regulations for the control of VOC emissions in Pulaski County and of provisions for determination of Reasonably Available Control Technology (RACT) applicable statewide (Reg. 19.1004(D)(1)). Regulation No. 19, Chapter 10, was originally adopted by the APCE on January 22, 1999, and became effective February 15, 1999. Federal approval was given by EPA on October 16, 2000 (65 FR 61103), effective November 15, 2000. EPA is proposing approval of these changes as administrative non-substantive/editorial revisions to the Arkansas SIP.

F. Revisions to Chapter 8—111(d) Designated Facilities

Under section 111(d) of the Act, emission standards are to be developed by the States and submitted to the EPA for approval. These standards limit the emissions of designated pollutants from existing facilities which, if new, would be subject to the New Source Performance Standard promulgated under section 111 of the Act. The procedures under which States submit these plans to control existing sources are defined in 40 CFR part 60, subpart B. The submittal and review process of these state plans is carried out separately from other SIP activities. We are thus taking no action on Chapter 8 of Regulation No. 19 (which includes Arkansas' standards for designated facilities) in today's proposal. We will review process Chapter 8 of Regulation No. 19 in a separate action.

IV. What Action Is EPA Taking Today?

EPA is proposing to approve revisions to the Arkansas SIP (revisions to Regulation No. 19 and new Regulation No. 31) submitted by the State of Arkansas on February 3, 2005 and July 3, 2006.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply,

Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: November 17, 2006.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. E6–20295 Filed 11–30–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, 173, 174, and 178

[Docket No. PHMSA–06–25736 (HM–231)]

RIN 2137–AD89

Hazardous Materials: Miscellaneous Packaging Amendments; Correction

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); correction.

SUMMARY: This document corrects the preamble to a notice of proposed rulemaking published in the **Federal Register** of September 1, 2006, regarding miscellaneous packaging amendments to the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). This document corrects mathematical calculations of the total annual respondents (from 5,000 to 5,010), and the total annual responses (from 15,000 to 15,500) for OMB Control No. 2137–0572, indicated under the ''Paperwork Reduction Act'' section of this rulemaking.

FOR FURTHER INFORMATION CONTACT: Arthur M. Pollack, 202–366–8553.

Correction

In proposed rule FR Doc. 06–7360, beginning on page 52017 in the issue of September 1, 2006, make the following correction in the Paperwork Reduction Act section. On page 52025 in the second column, remove the numerical term ''5,000'' and add the numerical term ''5,010'' in its place; and remove the numerical term ''15,000'' and add the numerical term ''15,500'' in its place.

Issued in Washington, DC on November 24, 2006.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. E6–20358 Filed 11–30–06; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[I.D. 112006J]

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting and public hearing.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its 136th meeting to consider and take action on pending recommendations regarding a request to longline fish within the Main Hawaiian Islands longline exclusion zone, addition of Heterocarpus shrimps to the appropriate Western Pacific Council fishery management plan and several issues concerning the harvest of precious corals in the Main Hawaiian Islands. The Council will also hold a public hearing during this 136th Council meeting.

DATES: The 136th Council meeting and public hearing will be held at 2 PM (Hawaii Standard Time) on Thursday, December 21, 2006 (Friday December 22 in Guam and the Northern Mariana Islands). For specific dates, times and locations of the public hearing, and the agenda for the 136th Council meeting, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The 136th Council meeting and public hearing will be held at the Council's office, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813. For participants residing in American Samoa, the Northern Mariana Islands, Hawaii and the continental United States, the 136th Council meeting telephone conference call-in-number is: 1–888–482–3560; Access Code: 5228220. For Guam and international