whether these regulations can be repealed, in light of the repeal of section 112(c)(2) of the African Growth and Opportunity Act (AGOA), which required the Commission to make determinations with respect to the commercial availability and use of regional textile fabric or yarn in lesser developed beneficiary sub-Saharan African countries in the production of apparel articles receiving U.S. preferential treatment under AGOA (see section 3(a)(2)(B) of Pub. L. 110–436, October 16, 2008, 122 Stat. 4980).

This list is non-exhaustive and the Commission will consider whether other parts of its regulations should also be subject to review within the next two years.

Public Participation

Instructions: Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary (U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436) by noon the next day pursuant to section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Submissions should refer to the investigation number (MISC–038) in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000). All comments received will be posted without change to *http://www.edis.usitc.gov,* including any personal information provided.

Docket: For access to the docket to read comments received, go to *http://www.edis.usitc.gov* or U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436.

By Order of the Commission.

Issued: August 2, 2012.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2012–19296 Filed 8–8–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 40 and 46

[REG–136008–11]

RIN 1545–BK59

Fees on Health Insurance Policies and Self-Insured Plans for the Patient-Centered Outcomes Research Trust Fund; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed regulations under sections 4375 through 4377 of the Internal Revenue Code. The proposed regulations provide guidance on the fees imposed by the Patient Protection and Affordable Care Act on issuers of certain health insurance policies and plan sponsors of certain self-insured health plans to fund the Patient-Centered Outcomes Research Trust Fund.

DATES: The public hearing, originally scheduled for August 8, 2012 at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Oluwafunmilayo Taylor of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration) at (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and a notice of public hearing that appeared in the **Federal Register** on Tuesday, April 17, 2012 (77 FR 22691) announced that a public hearing was scheduled for August 8, 2012, at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The subject of the public hearing was under the sections 4375 through 4377 of the Internal Revenue Code.

The public comment period for these regulations expired on July 16, 2012. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. The public hearing scheduled for August 8, 2012, is cancelled.

LaNita VanDyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, Procedure and Administration.

[FR Doc. 2012–19585 Filed 8–6–12; 4:15 pm]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0402; FRL–9714–8]

Approval and Promulgation of Implementation Plans; Mississippi; 110(a)(2)(E)(ii) Infrastructure Requirements for the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve in part, and disapprove in part, a draft revision to the Mississippi State Implementation Plan (SIP), submitted by the Mississippi Department of Environmental Quality (MDEQ), on July 13, 2012, for parallel processing. This proposal pertains to certain Clean Air Act (CAA) section 128 and section 110(a)(2)(E)(ii) requirements for the 1997 annual and 2006 24-hour fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) infrastructure SIP. Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. The requirements of section 128 of the CAA are incorporated into the State's infrastructure SIP pursuant to section 110(a)(2)(E)(ii). EPA is proposing to approve the section 110(a)(2)(E)(ii) submission as it relates to the public interest requirements of section 128(a)(1) and the conflict of interest disclosure provisions of section 128(a)(2). EPA is proposing to disapprove Mississippi's section 110(a)(2)(E)(ii) submission as it pertains to compliance with the significant portion of income requirements of section 128(a)(1). The subject of this notice is limited to the July 13, 2012, infrastructure section 110(a)(2)(E)(ii) and substantive section 128 SIP revisions submitted by Mississippi. All other applicable Mississippi infrastructure elements are being addressed in a separate rulemaking.

DATES: Written comments must be received on or before September 10, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2012–0402, by one of the following methods:

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

2. *Email: R4–RDS@epa.gov.*

3. *Fax:* (404) 562–9019.

4. *Mail:* ''EPA–R04–OAR–2012–0402,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2012–0402. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov.*

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I. What is parallel processing?

Consistent with EPA regulations found at 40 CFR Part 51, appendix V, section 2.3.1, for purposes of expediting review of a SIP submittal, parallel processing allows a state to submit a plan to EPA prior to actual adoption by the state. Generally, the state submits a copy of the proposed regulation or other revisions to EPA before conducting its public hearing. EPA reviews this proposed state action and prepares a notice of proposed rulemaking. EPA's notice of proposed rulemaking is published in the **Federal Register** during the same time frame that the state is holding its public process. The state and EPA then provide for concurrent public comment periods on both the state action and federal action.

If the revision that is finally adopted and submitted by the state is changed in aspects other than those identified in the proposed rulemaking on the parallel process submission, EPA will evaluate those changes and if necessary and appropriate, issue another notice of proposed rulemaking. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by the state and submitted formally to EPA for incorporation into the SIP.

On July 13, 2012, the State of Mississippi, through MDEQ, submitted a request for parallel processing of a draft SIP revision that the State is taking through public comment. MDEQ requested parallel processing so that EPA could begin to take action on its draft SIP revision in advance of the State's submission of the final SIP revision.

II. Background

On July 18, 1997 (62 FR 38652), EPA established an annual $PM_{2.5}$ NAAQS at 15.0 micrograms per cubic meter (μg/m^3) based on a 3-year average of annual mean $PM_{2.5}$ concentrations. At that time, EPA also established a 24-hour NAAQS of 65 μg/m^3. *See* 40 CFR 50.7. On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual $PM_{2.5}$ NAAQS at 15.0 μg/m^3 based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and promulgated a new 24-hour NAAQS of 35 μg/m^3 based on a 3-year average of the 98th percentile of 24-hour concentrations. By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised NAAQS. Sections 110(a)(1) and (2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs to EPA no later than July 2000 for the 1997 annual $PM_{2.5}$ NAAQS and no later than October 2009 for the 2006 24-hour $PM_{2.5}$ NAAQS.

On March 4, 2004, Earthjustice submitted a notice of intent to sue related to EPA's failure to issue findings of failure to submit related to the ''infrastructure'' requirements for the

1997 annual $PM_{2.5}$ NAAQS. On March 10, 2005, EPA entered into a consent decree with Earthjustice which required EPA, among other things, to complete a **Federal Register** notice announcing EPA's determinations pursuant to section 110(k)(1)(B) as to whether each state had made complete submissions to meet the requirements of section 110(a)(2) for the 1997 $PM_{2.5}$ NAAQS by October 5, 2008. In accordance with the consent decree, EPA made completeness findings for each state based upon what the Agency received from each state for the 1997 $PM_{2.5}$ NAAQS as of October 3, 2008.

On October 22, 2008, EPA published a final rulemaking entitled ''Completeness Findings for Section 110(a) State Implementation Plans Pertaining to the Fine Particulate Matter ($PM_{2.5}$) NAAQS'' making a finding that each state had submitted or failed to submit a complete SIP that provided the basic program elements of section 110(a)(2) necessary to implement the 1997 $PM_{2.5}$ NAAQS. *See* 73 FR 62902. For those states that did receive findings, the findings of failure to submit for all or a portion of a state's implementation plan established a 24-month deadline for EPA to promulgate a Federal Implementation Plan (FIP) to address the outstanding SIP elements unless, prior to that time, the affected states submitted, and EPA approved, the required SIPs.

The findings that all or portions of a state's submission are complete established a 12-month deadline for EPA to take action upon the complete SIP elements in accordance with section 110(k). Mississippi's infrastructure submissions were received by EPA on December 7, 2007, for the 1997 annual $PM_{2.5}$ NAAQS and on October 6, 2009, for the 2006 24-hour $PM_{2.5}$ NAAQS. The submissions were determined to be complete on June 7, 2008, and April 6, 2010, respectively. Mississippi was among other states that did not receive findings of failure to submit because it had provided a complete submission to EPA to address the infrastructure elements for the 1997 $PM_{2.5}$ NAAQS by October 3, 2008.

On July 6, 2011, WildEarth Guardians and Sierra Club filed an amended complaint related to EPA's failure to take action on the SIP submittal related to the ''infrastructure'' requirements for the 2006 24-hour $PM_{2.5}$ NAAQS. On October 20, 2011, EPA entered into a consent decree with WildEarth Guardians and Sierra Club which required EPA, among other things, to complete a **Federal Register** notice of the Agency's final action either approving, disapproving, or approving in part and disapproving in part the Mississippi 2006 24-hour $PM_{2.5}$ NAAQS Infrastructure SIP submittal addressing the applicable requirements of sections 110(a)(2)(A)–(H), (J)–(M), except for section 110(a)(2)(C) the nonattainment area requirements and section 110(a)(2)(D)(i) interstate transport requirements, by September 30, 2012.

Today's action is proposing to approve in part and disapprove in part Mississippi's July 13, 2012, infrastructure submission for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS addressing CAA section 110(a)(2)(E)(ii) requirements. EPA is taking action on Mississippi's infrastructure submissions for the 1997 and 2006 $PM_{2.5}$ NAAQS for sections 110(a)(2)(A)–(D), E(i) and E(iii), (F)–(H), (J)–(M), except for section 110(a)(2)(C) the nonattainment area requirements and section 110(a)(2)(D)(i) interstate transport requirements in a separate actions.

As part of today's proposed approval actions, EPA is proposing to approve the substantive SIP revisions related to section 128 of the CAA submitted for parallel processing by Mississippi on July 13, 2012.

III. What elements are required under Sections 110(a)(1) and (2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 1997 and 2006 $PM_{2.5}$ NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous PM NAAQS.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of the infrastructure rulemaking process are listed below [1] and in EPA's October 2, 2007, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards,'' and EPA's September 25, 2009, memorandum entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) .''

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.[2]
- 110(a)(2)(D): Interstate transport.[3]
- 110(a)(2)(E): Adequate resources.
- 110(a)(2)(F): Stationary source monitoring system.
- 110(a)(2)(G): Emergency power.
- 110(a)(2)(H): Future SIP revisions.

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

[2] This element is only addressed in the $PM_{2.5}$ context as it relates to attainment areas.

[3] Today's proposed rule does not address element 110(a)(2)(D)(i) (Interstate Transport) for the 1997 and 2006 $PM_{2.5}$ NAAQS. Interstate transport requirements were formerly addressed by Mississippi consistent with the Clean Air Interstate Rule (CAIR). On December 23, 2008, CAIR was remanded by the DC Circuit Court of Appeals, without vacatur, back to EPA. *See North Carolina* v. *EPA,* 531 F.3d 896 (DC Cir. 2008). Prior to this remand, EPA took final action to approve Mississippi SIP revision, which was submitted to comply with CAIR. *See* 72 FR 56268 (October 3, 2007). In so doing, Mississippi CAIR SIP revision addressed the interstate transport provisions in section 110(a)(2)(D)(i) for the 1997 and 2006 $PM_{2.5}$ NAAQS. In response to the remand of CAIR, EPA has recently finalized a new rule to address the interstate transport of nitrogen oxides and sulfur oxides in the eastern United States. *See* 76 FR 48208 (August 8, 2011) (Transport Rule). That rule was recently stayed by the DC Circuit Court of Appeals. EPA's action on element 110(a)(2)(D)(i) will be addressed in a separate action.

- 110(a)(2)(I): Areas designated nonattainment and meet the applicable requirements of part D.[4]
- 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

In today's action, EPA is only addressing section 110(a)(2) requirements related to element 110(a)(2)(E)(ii) for both the 1997 and 2006 $PM_{2.5}$ NAAQS. EPA is addressing the other 1997 and 2006 $PM_{2.5}$ NAAQS infrastructure requirements in a separate rulemaking.

IV. Scope of Infrastructure SIPs

EPA is currently acting upon SIPs that address the infrastructure requirements of CAA section 110(a)(1) and (2) for ozone and $PM_{2.5}$ NAAQS for various states across the country. Commenters on EPA's recent proposals for some states raised concerns about EPA statements that it was not addressing certain substantive issues in the context of acting on those infrastructure SIP submissions.[5] Those Commenters specifically raised concerns involving provisions in existing SIPs and with EPA's statements in other proposals that it would address two issues separately and not as part of actions on the infrastructure SIP submissions: (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction (SSM) at sources, that may be contrary to the CAA and EPA's policies addressing such excess emission; and (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that purport to permit revisions to SIP approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA (director's discretion). EPA notes that there are two other substantive issues for which EPA likewise stated in other proposals that it would address separately: (i) Existing provisions for minor source New Source Review (NSR) programs that may be inconsistent with the requirements of the CAA and EPA's regulations that pertain to such programs (minor source NSR); and (ii) existing provisions for Prevention of Significant Deterioration (PSD) programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (NSR Reform). In light of the comments, EPA believes that its statements in various proposed actions on infrastructure SIPs with respect to these four individual issues should be explained in greater depth. It is important to emphasize that EPA is taking the same position with respect to these four substantive issues in this action on the infrastructure SIPs for the 1997 and 2006 $PM_{2.5}$ NAAQS from Mississippi.

EPA intended the statements in the other proposals concerning these four issues merely to be informational and to provide general notice of the potential existence of provisions within the existing SIPs of some states that might require future corrective action. EPA did not want states, regulated entities, or members of the public to be under the misconception that the Agency's approval of the infrastructure SIP submission of a given state should be interpreted as a re-approval of certain types of provisions that might exist buried in the larger existing SIP for such state. Thus, for example, EPA explicitly noted that the Agency believes that some states may have existing SIP approved SSM provisions that are contrary to the CAA and EPA policy, but that ''in this rulemaking, EPA is not proposing to approve or disapprove any existing state provisions with regard to excess emissions during SSM of operations at facilities.'' EPA further explained, for informational purposes, that ''EPA plans to address such State regulations in the future.'' EPA made similar statements, for similar reasons, with respect to the director's discretion, minor source NSR, and NSR Reform issues. EPA's objective was to make clear that approval of an infrastructure SIP for these ozone and $PM_{2.5}$ NAAQS should not be construed as explicit or implicit re-approval of any existing provisions that relate to these four substantive issues. EPA is reiterating that position in this action on the infrastructure SIP for Mississippi.

Unfortunately, the Commenters and others evidently interpreted these statements to mean that EPA considered action upon the SSM provisions and the other three substantive issues to be integral parts of acting on an infrastructure SIP submission, and therefore that EPA was merely postponing taking final action on the issues in the context of the infrastructure SIPs. This was not EPA's intention. To the contrary, EPA only meant to convey its awareness of the potential for certain types of deficiencies in existing SIPs and to prevent any misunderstanding that it was reapproving any such existing provisions. EPA's intention was to convey its position that the statute does not require that infrastructure SIPs address these specific substantive issues in existing SIPs and that these issues may be dealt with separately, outside the context of acting on the infrastructure SIP submission of a state. To be clear, EPA did not mean to imply that it was not taking a full final agency action on the infrastructure SIP submission with respect to any substantive issue that EPA considers to be a required part of acting on such submissions under section 110(k) or under section 110(c). Given the confusion evidently resulting from EPA's statements in those other proposals, however, we want to explain more fully the Agency's reasons for concluding that these four potential substantive issues in existing SIPs may be addressed separately from actions on infrastructure SIP submissions.

The requirement for the SIP submissions at issue arises out of CAA section 110(a)(1). That provision requires that states must make a SIP submission ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof)'' and that these SIPs are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must meet. EPA has historically referred to these particular submissions that states must make after the promulgation of a new or revised NAAQS as ''infrastructure SIPs.'' This specific term does not appear in the statute, but EPA uses the term to distinguish this particular type of SIP submission designed to address basic structural requirements of a SIP from other types of SIP submissions designed to address other different requirements, such as ''nonattainment SIP'' submissions required to address the nonattainment planning requirements of part D, ''regional haze SIP'' submissions required to address the visibility protection requirements of CAA section

[4] This requirement was inadvertently omitted from EPA's October 2, 2007, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards,'' but as mentioned above is not relevant to today's proposed rulemaking.

[5] *See* Comments of Midwest Environmental Defense Center, dated May 31, 2011. Docket No. EPA–R05–OAR–2007–1179 (adverse comments on proposals for three states in Region 5). EPA notes that these public comments on another proposal are not relevant to this rulemaking and do not have to be directly addressed in this rulemaking. EPA will respond to these comments in the appropriate rulemaking action to which they apply.

169A, NSR permitting program submissions required to address the requirements of part D, and a host of other specific types of SIP submissions that address other specific matters.

Although section 110(a)(1) addresses the timing and general requirements for these infrastructure SIPs, and section 110(a)(2) provides more details concerning the required contents of these infrastructure SIPs, EPA believes that many of the specific statutory provisions are facially ambiguous. In particular, the list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive provisions, and some of which pertain to requirements for both authority and substantive provisions.[6] Some of the elements of section 110(a)(2) are relatively straightforward, but others clearly require interpretation by EPA through rulemaking, or recommendations through guidance, in order to give specific meaning for a particular NAAQS.[7]

Notwithstanding that section 110(a)(2) provides that ''each'' SIP submission must meet the list of requirements therein, EPA has long noted that this literal reading of the statute is internally inconsistent, insofar as section 110(a)(2)(I) pertains to nonattainment SIP requirements that could not be met on the schedule provided for these SIP submissions in section 110(a)(1).[8] This illustrates that EPA must determine which provisions of section 110(a)(2) may be applicable for a given infrastructure SIP submission. Similarly, EPA has previously decided that it could take action on different parts of the larger, general ''infrastructure SIP'' for a given NAAQS without concurrent action on all subsections, such as section 110(a)(2)(D)(i), because the Agency bifurcated the action on these latter ''interstate transport'' provisions within section 110(a)(2) and worked with states to address each of the four prongs of section 110(a)(2)(D)(i) with substantive administrative actions proceeding on different tracks with different schedules.[9] This illustrates that EPA may conclude that subdividing the applicable requirements of section 110(a)(2) into separate SIP actions may sometimes be appropriate for a given NAAQS where a specific substantive action is necessitated, beyond a mere submission addressing basic structural aspects of the state's implementation plans. Finally, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS and the attendant infrastructure SIP submission for that NAAQS. For example, the monitoring requirements that might be necessary for purposes of section 110(a)(2)(B) for one NAAQS could be very different than what might be necessary for a different pollutant. Thus, the content of an infrastructure SIP submission to meet this element from a state might be very different for an entirely new NAAQS, versus a minor revision to an existing NAAQS.[10]

Similarly, EPA notes that other types of SIP submissions required under the statute also must meet the requirements of section 110(a)(2), and this also demonstrates the need to identify the applicable elements for other SIP submissions. For example, nonattainment SIPs required by part D likewise have to meet the relevant subsections of section 110(a)(2) such as section 110(a)(2)(A) or (E). By contrast, it is clear that nonattainment SIPs would not need to meet the portion of section 110(a)(2)(C) that pertains to part C, *i.e.,* the PSD requirements applicable in attainment areas. Nonattainment SIPs required by part D also would not need to address the requirements of section 110(a)(2)(G) with respect to emergency episodes, as such requirements would not be limited to nonattainment areas. As this example illustrates, each type of SIP submission may implicate some subsections of section 110(a)(2) and not others.

Given the potential for ambiguity of the statutory language of section 110(a)(1) and (2), EPA believes that it is appropriate for EPA to interpret that language in the context of acting on the infrastructure SIPs for a given NAAQS. Because of the inherent ambiguity of the list of requirements in section 110(a)(2), EPA has adopted an approach in which it reviews infrastructure SIPs against this list of elements ''as applicable.'' In other words, EPA assumes that Congress could not have intended that each and every SIP submission, regardless of the purpose of the submission or the NAAQS in question, would meet each of the requirements, or meet each of them in the same way. EPA elected to use guidance to make recommendations for infrastructure SIPs for these ozone and $PM_{2.5}$ NAAQS.

On October 2, 2007, EPA issued guidance making recommendations for the infrastructure SIP submissions for both the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS.[11] Within this guidance document, EPA described the duty of states to make these submissions to meet what the Agency characterized as the ''infrastructure'' elements for SIPs, which it further described as the ''basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the standards.'' [12] As further identification of these basic structural SIP requirements, ''attachment A'' to the guidance document included a short description of the various elements of section 110(a)(2) and additional information about the types of issues that EPA considered germane in the context of such infrastructure SIPs. EPA emphasized that the description of the basic requirements listed on attachment A was not intended ''to constitute an interpretation of'' the requirements, and was merely a ''brief description of the required elements.'' [13] EPA also stated its belief that with one exception, these requirements were ''relatively self explanatory, and past experience with

[6] For example, section 110(a)(2)(E) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a substantive program to address certain sources as required by part C of the CAA; section 110(a)(2)(G) provides that states must have both legal authority to address emergencies and substantive contingency plans in the event of such an emergency.

[7] For example, section 110(a)(2)(D)(i) requires EPA to be sure that each state's SIP contains adequate provisions to prevent significant contribution to nonattainment of the NAAQS in other states. This provision contains numerous terms that require substantial rulemaking by EPA in order to determine such basic points as what constitutes significant contribution. *See* ''Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NOx SIP Call; Final Rule,'' 70 FR 25162 (May 12, 2005) (defining, among other things, the phrase ''contribute significantly to nonattainment'').

[8] *See Id.,* 70 FR 25162, at 63–65 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[9] EPA issued separate guidance to states with respect to SIP submissions to meet section 110(a)(2)(D)(i) for the 1997 ozone and 1997 $PM_{2.5}$ NAAQS. *See* ''Guidance for State Implementation Plan (SIP) Submissions To Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards,'' from William T. Harnett, Director, Air Quality Policy Division OAQPS, to Regional Air Division Director, Regions I–X, dated August 15, 2006.

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

[11] *See* ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards,'' from William T. Harnett, Director, Air Quality Policy Division, to Air Division Directors, Regions I—X, dated October 2, 2007 (the ''2007 Guidance'').

[12] *Id.,* at page 2.

[13] *Id.,* at attachment A, page 1.

SIPs for other NAAQS should enable States to meet these requirements with assistance from EPA Regions.'' [14] However, for the one exception to that general assumption (*i.e.,* how states should proceed with respect to the requirements of section 110(a)(2)(G) for the 1997 $PM_{2.5}$ NAAQS), EPA gave much more specific recommendations. But for other infrastructure SIP submittals, and for certain elements of the submittals for the 1997 $PM_{2.5}$ NAAQS, EPA assumed that each State would work with its corresponding EPA regional office to refine the scope of a State's submittal based on an assessment of how the requirements of section 110(a)(2) should reasonably apply to the basic structure of the State's implementation plans for the NAAQS in question.

On September 25, 2009, EPA issued guidance to make recommendations to states with respect to the infrastructure SIPs for the 2006 $PM_{2.5}$ NAAQS.[15] In the 2009 Guidance, EPA addressed a number of additional issues that were not germane to the infrastructure SIPs for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS, but were germane to these SIP submissions for the 2006 $PM_{2.5}$ NAAQS (e.g., the requirements of section 110(a)(2)(D)(i) that EPA had bifurcated from the other infrastructure elements for those specific 1997 ozone and $PM_{2.5}$ NAAQS). Significantly, neither the 2007 Guidance nor the 2009 Guidance explicitly referred to the SSM, director's discretion, minor source NSR, or NSR Reform issues as among specific substantive issues EPA expected states to address in the context of the infrastructure SIPs, nor did EPA give any more specific recommendations with respect to how states might address such issues even if they elected to do so. The SSM and director's discretion issues implicate section 110(a)(2)(A), and the minor source NSR and NSR Reform issues implicate section 110(a)(2)(C). In the 2007 Guidance and the 2009 Guidance, however, EPA did not indicate to states that it intended to interpret these provisions as requiring a substantive submission to address these specific issues in existing SIP provisions in the context of the infrastructure SIPs for these NAAQS. Instead, EPA's 2007 Guidance merely indicated its belief that the states should make submissions in which they established that they have the basic SIP structure necessary to implement, maintain, and enforce the NAAQS. EPA believes that states can establish that they have the basic SIP structure, notwithstanding that there may be potential deficiencies within the existing SIP. Thus, EPA's proposals for other states mentioned these issues not because the Agency considers them issues that must be addressed in the context of an infrastructure SIP as required by section 110(a)(1) and (2), but rather because EPA wanted to be clear that it considers these potential existing SIP problems as separate from the pending infrastructure SIP actions. The same holds true for this action on the infrastructure SIPs for Mississippi.

EPA believes that this approach to the infrastructure SIP requirement is reasonable because it would not be feasible to read section 110(a)(1) and (2) to require a top to bottom, stem to stern, review of each and every provision of an existing SIP merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts that, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when EPA considers the overall effectiveness of the SIP. To the contrary, EPA believes that a better approach is for EPA to determine which specific SIP elements from section 110(a)(2) are applicable to an infrastructure SIP for a given NAAQS, and to focus attention on those elements that are most likely to need a specific SIP revision in light of the new or revised NAAQS. Thus, for example, EPA's 2007 Guidance specifically directed states to focus on the requirements of section 110(a)(2)(G) for the 1997 $PM_{2.5}$ NAAQS because of the absence of underlying EPA regulations for emergency episodes for this NAAQS and an anticipated absence of relevant provisions in existing SIPs.

Finally, EPA believes that its approach is a reasonable reading of section 110(a)(1) and (2) because the statute provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow the Agency to take appropriate tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or otherwise to comply with the CAA.[16] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[17] Significantly, EPA's determination that an action on the infrastructure SIP is not the appropriate time and place to address all potential existing SIP problems does not preclude the Agency's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on the infrastructure SIP, EPA believes that section 110(a)(2)(A) may be among the statutory bases that the Agency cites in the course of addressing the issue in a subsequent action.[18]

V. What are the requirements of Section 128?

Section 128 of the CAA requires that states include provisions in their SIP to address conflicts of interest for state boards or bodies that oversee CAA permits and enforcement orders and disclosure of conflict of interest requirements. Specifically, CAA section 128(a)(1) necessitates that each SIP shall require that at least a majority of any

[14] *Id.,* at page 4. In retrospect, the concerns raised by commenters with respect to EPA's approach to some substantive issues indicates that the statute is not so ''self explanatory,'' and indeed is sufficiently ambiguous that EPA needs to interpret it in order to explain why these substantive issues do not need to be addressed in the context of infrastructure SIPs and may be addressed at other times and by other means.

[15] *See* ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS),'' from William T, Harnett, Director, Air Quality Policy Division, to Regional Air Division Directors, Regions I–X, dated September 25, 2009 (the ''2009 Guidance'').

[16] EPA has recently issued a SIP call to rectify a specific SIP deficiency related to the SSM issue. See, ''Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revision,'' 76 FR 21639 (April 18, 2011).

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

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

board or body which approves permits or enforcement orders shall be subject to the described public interest service and income restrictions therein. Subsection 128(a)(2) requires that the members of any board or body, or the head of an executive agency with similar power to approve permits or enforcement orders under the CAA, shall also be subject to conflict of interest disclosure requirements.

Furthermore, section 128 affords the Administrator of EPA the authority to incorporate conflict of interest provisions that go beyond those required by the CAA into the SIP when such provisions are submitted by a state as part of its implementation plan.

VI. What is EPA's analysis of the Mississippi draft Section 128 revision?

As described above, Section 128 of the CAA requires that states include provisions in their SIP to address conflicts of interest and provide for adequate disclosure of such conflicts. In connection with these requirements, on July 13, 2012, Mississippi submitted a draft SIP revision for parallel processing (available for review in the Docket for today's action). This draft revision proposes to incorporate certain provisions of the Mississippi State Constitution and sections of the Mississippi Code into the SIP. These provisions are described below.

First, Mississippi seeks to incorporate Article 4, Section 109 of Mississippi Constitution into the SIP. Article 4, Section 109 provides that ''[n]o public officer or member of the legislature shall be interested, directly or indirectly, in any contract with the state, or any district, county, city or town thereof, authorized by any law passed or order made by any board of which he may be or may have been a member, during the term for which her shall have been chosen, or within one year after the expiration of such term.''

Second, Mississippi intends to incorporate provisions from the State's ethical charter as set forth in the Mississippi Code. Specifically, the State seeks to incorporate portions of Mississippi Code sections 25–4–25, –27, –29, –103, –105, and –109. For more information about the portions of the Sections Mississippi has sought to include in the SIP, please see the State's July 13, 2012, SIP Revision available in the docket for today's proposed action.

EPA is today proposing to incorporate these revisions, which have been submitted by Mississippi for parallel processing, into the SIP consistent with the authority provided by section 128 of the CAA.

VII. What is the Section 110(a)(2)(E)(ii) Infrastructure requirement?

Section 110(a)(2)(E)(ii) requires that each implementation plan provide that the state comply with the CAA section 128 requirements respecting state boards. In today's action, EPA is proposing to approve in part and disapprove in part Mississippi's SIP as meeting the requirements of section 110(a)(2)(E)(ii) (which is one of the three elements required pursuant to section 110(a)(2)(E)).[19]

VIII. What is EPA's analysis of how Mississippi addressed the Section 110(a)(2)(E)(ii) Infrastructure requirement?

Mississippi's July 13, 2012, draft SIP revision, proposes to include in the SIP the sections of the Mississippi Code and portions of the Mississippi Constitution described above to meet the requirements of section 128. The State asserts that these state laws and Constitutional provisions satisfy the requirements of CAA section 128 for the Mississippi Commission on Environmental Quality and the Mississippi Department of Environmental Quality Permit Board, which are the ''board[s] or bod[ies] which approve[] permits and enforcement orders'' under the CAA in Mississippi (hereafter, these two bodies will be collectively referred to as the ''MS Boards'').

With respect to meeting the section 128(a)(1) majority composition requirements regarding the public interest and significant portion of income tests, Mississippi asserts that the cited state laws and constitution comply with section 128(a)(1) by satisfying the requirement that any board or body which approves permits or enforcement orders shall be subject to the described public interest and income restrictions therein. Mississippi's draft SIP revision would incorporate laws into the SIP that preclude certain types of financial relationships between members of the MS Boards and persons subject the MS Boards' permitting decisions or enforcement orders. For example, Article 4, Section 9 of the Mississippi Constitution prohibits public officers from any interest in any contract with state or political subdivision thereof. Mississippi Code section 25–4–105 precludes public servants form using their position to obtain or attempt to obtain pecuniary benefit for him or herself and prevents such individuals from performing any service for compensation during his or her term or employment by which he or she attempts to influence a decision of the governmental entity of which he or she is a member. Mississippi Code section 25–4–105 also precludes persons from disclosing information gained by reason of his official position as a public servant in any way that could result in pecuniary benefit for himself, any relative or any other person, if that information is not publically available.

Based upon a review of these laws and provisions, EPA is today proposing to approve the section 110(a)(2)(E)(ii) submission as it relates to the public interest requirement of section 128(a)(1) and proposing to disapprove Mississippi's section 110(a)(2)(E)(ii) submission as it pertains to compliance with the significant portion of income requirement of section 128(a)(1). With respect to the public interest requirement, the provisions included in the draft submission apply to all members of the MS Boards, and according to the state, serve to ensure that all members of the board are precluded from serving in their self interest. EPA is today proposing to approve the State's section 110(a)(2)(E)(ii) submission, once the SIP revisions submitted to EPA for parallel processing on July 13, 2012, have been approved, as meeting the requirement to ensure that the SIP requires at least a majority of the members of the MS Boards to serve in the public interest as required by section 128(a)(1) of the CAA,

With respect to the significant portion of income requirement, the provisions included in the draft submission do not preclude at least a majority of the members of the MS Board from receiving a significant portion of their income from persons subject to permits or enforcement orders issued by the MS Boards. While the submitted laws and provisions preclude members of the MS Boards from certain types of income (e.g., contracts with State or political subdivisions thereof, or income obtained through the use of his or her public office or obtained to influence a decision of the MS Boards), they do not appear to preclude a majority of members of the MS Boards from deriving any significant portion of their income from persons subject to permits or enforcement orders so long as that income is not derived from one of the proscribed methods described in the laws and provisions submitted by the State. Because a majority of board members may still derive a significant

[19] EPA is taking action on 110(a)(2)(E)(i) and 110(a)(2)(E)(iii) as it relates to Mississippi in certification submissions dated December 7, 2007, for the 1997 $PM_{2.5}$ NAAQS, and October 6, 2009, for the 2006 $PM_{2.5}$ NAAQS, in a separate rulemaking.

portion of income from persons subject to permits or enforcement orders issued by the MS Boards, the Mississippi SIP on revised, will still not meet the section 128(a)(1) majority requirements respecting significant portion of income, and as such, EPA is today proposing to disapprove the State's 110(a)(2)(E)(ii) submission as it relates only to this portion of section 128(a)(1). As described herein, EPA is proposing approval of all other elements of 110(a)(2)(E)(ii).

Regarding the section 128(a)(2) requirement for the adequate disclosure of conflicts of interest, EPA is proposing to approve Mississippi's 110(a)(2)(E)(ii) submission as it relates to this requirement based upon the laws submitted by the State for parallel processing into the SIP. Specifically, Mississippi intends to incorporate Mississippi Code Section 25–4–25 into the SIP which requires that members of the MS Boards file annual statements of economic interest with the Mississippi Ethics Commission which are then made available for public inspection. The State is also seeking to incorporate Mississippi Code section 25–4–27 into the SIP. This section provides for the content of the annual statements of economic interest. EPA is today proposing to approve Mississippi's 110(a)(2)(E)(ii) submission as it relates to the conflict of interest disclosure requirements of section 128(a)(2), once the SIP revisions submitted to EPA for parallel processing on July 13, 2012, have been incorporated into the SIP.

IX. Proposed Action

As described above, EPA is proposing to approve in part and disapprove in part, Mississippi's July 13, 2012, infrastructure submission for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS addressing CAA section 110(a)(2)(E)(ii) requirements. Today's proposed approval of the above-described portions of the State's section 110(a)(E)(ii) submission is contingent upon the Agency taking final action to approve the substantive revisions to pertaining to section 128 also submitted by Mississippi for parallel processing on July 13, 2012. Specifically, EPA is today proposing to approve Mississippi's 110(a)(2)(E)(ii) submission as it relates to the public interest requirements described at section 110(a)(1) of the CAA and the conflict of interest disclosure provisions described at section 110(a)(2) of the CAA. EPA is also proposing to disapprove Mississippi's 110(a)(2)(E)(ii) submission as it relates to the significant portion of income requirements described at section 110(a)(1) of the CAA.

The Section 110(a)(2)(E)(ii) provision (specifically the significant portion of income provision described at section 128(a)(1) being proposed for disapproval in today's notice) was not submitted to meet requirements for Part D or a SIP call, and therefore, if EPA takes final action to disapprove this submittal, no sanctions will be triggered. However, if this disapproval action is finalized, that final action will trigger the requirement under section 110(c) that EPA promulgate a FIP no later than 2 years from the date of the disapproval unless the State corrects the deficiency, and EPA approves the plan or plan revision before EPA promulgates such FIP.

EPA notes that the Agency is addressing the other section 110(a)(2) requirements for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS for Mississippi's SIP in a rulemaking separate from today's proposed rulemaking.

In addition, to the above proposed actions respecting 110(a)(2)(E)(ii) infrastructure requirements, EPA is today also proposing to approve the SIP revisions related to section 128 submitted by Mississippi for parallel processing on July 13, 2012, into the SIP. EPA is proposing to approve Mississippi's Article 4, Section 109 of Mississippi Constitution and portions of Mississippi Code sections 25–4–25, –27, –29, –103, –105, and –109 into the Mississippi SIP. The specific provisions been proposed for inclusion in the Mississippi SIP are described more fully in the State's July 13, 2012, draft SIP revision which is available in the docket for today's action. As described above, Mississippi's July 13, 2012, submission was submitted for parallel processing. As such, the final rulemaking for this action by EPA will occur consistent with the elements of parallel processing previously described above in Section I.

X. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves 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 Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Particulate Matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 1, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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