change on the public is that applicants will have the option to request prioritized examination by paying appropriate fees, filing a complete application via the Office's electronic filing system (EFS–Web) with any filing and excess claims fees due paid on filing, and limiting their applications to four independent claims and thirty total claims.

An applicant who wishes to participate in the program must submit a certification and request to participate in the prioritized examination program, preferably by using Form PTO/SB/424. The Office of Management and Budget (OMB) has determined that, under 5 CFR 1320.3(h), Form PTO/SB/424 does not collect "information" within the meaning of the Paperwork Reduction Act of 1995. Therefore, this rule making does not impose additional collection requirements under the Paperwork Reduction Act which are subject to further review by OMB.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, 37 CFR part 1 is proposed to be amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

2. Section 1.17 is amended by adding paragraph (c) to read as follows:

§ 1.17 Patent application and reexamination processing fees.

* * * * *

(c) For filing a request for prioritized examination under § 1.102(e)—$4,000.

* * * * *

3. Section 1.102 is amended by revising paragraph (a) and adding paragraph (e) to read as follows:

§ 1.102 Advancement of examination.

(a) Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Director to expedite the business of the Office, or upon filing of a request under paragraph (b) or (e) of this section or upon filing a petition or request under paragraph (c) or (d) of this section with a showing which, in the opinion of the Director, will justify so advancing it.

* * * * *

(e) A request for prioritized examination under this paragraph may be filed only with an original utility or plant nonprovisional application under 35 U.S.C. 111(a) filed via the Office's electronic filing system (EFS-Web), that is complete as defined by § 1.51(b), with any fees due under § 1.16 paid on filing. A request for prioritized examination under this paragraph must be present upon filing and must be accompanied by the prioritized examination fee set forth in § 1.17(c), the processing fee set forth in § 1.17(i), and the publication fee set forth in § 1.18(d). Prioritized examination under this paragraph will not be accorded to a design application or reissue application, and will not be accorded to any application that contains or is amended to contain more than four independent claims, more than thirty total claims, or any multiple dependent claim.

* * * * *

Dated: February 1, 2011.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2011–2585 Filed 2–3–11; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0805; FRL–9261–8]

Approval of Air Quality Implementation Plans; Indiana and Ohio; Disapproval of Interstate Transport State Implementation Plan Revision for the 2006 24-Hour $PM_{2.5}$ NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to its authority under the Clean Air Act (CAA), EPA is proposing to disapprove the portions of submittals by the Indiana Department of Environmental Management (IDEM) and the Ohio Environmental Protection Agency (Ohio EPA) that pertain to requirements of the CAA to address interstate transport for the 2006 24-hour fine particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). EPA is not, however, currently taking action on the remainder of the State Implementation Plan (SIP) submittals from IDEM and Ohio EPA concerning other basic or "Infrastructure" elements required under the CAA.

DATES: Comments must be received on or before March 7, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2009–0805, by one of the following methods:

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

2. *E-mail: mooney.john@epa.gov.*

3. *Fax:* (312) 692–2551.

4. *Mail:* John M. Mooney, Acting Chief, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* John M. Mooney, Acting Chief, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2009–0805. 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 whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://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 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, any form of encryption, and 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 whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Andy Chang, Environmental Engineer, at (312) 886–0258 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Andy Chang, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–0258, *chang.andy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What should I consider as I prepare my comments for EPA?
II. What is the background for this action?
III. What is EPA's evaluation of the States' submittals?
IV. What action is EPA taking?
V. Statutory and Executive Order Reviews

I. What should I consider as I prepare my comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

II. What is the background for this action?

Section 110(a)(1) of the CAA requires States to submit basic or "Infrastructure" SIPs to address a new or revised NAAQS within three years after promulgation of such standards, or within such shorter period as EPA may prescribe. As provided by section 110(k)(2) of the CAA, within twelve months of a determination that a submitted SIP is complete under 110(k)(1) of the CAA, the Administrator shall act on the plan. As authorized in section 110(k)(3) of the CAA, where portions of the State submittals are severable, within that twelve-month period EPA may approve the portions of the submittals that meet the requirements of the CAA, take no action on certain portions of the submittals, and disapprove the portions of the submittals that do not meet the requirements of the CAA. When the deficient provisions are not severable from all of the submitted provisions, EPA must propose disapproval of the submittals, consistent with section 110(k)(3) of the CAA.

Section 110(a)(2) of the CAA lists the elements that such new Infrastructure SIPs must address, as applicable, including section 110(a)(2)(D)(i), which pertains to interstate transport of certain emissions, also known as the CAA "good neighbor" provisions.

On December 18, 2006, EPA revised the 24-hour average $PM_{2.5}$ primary and secondary NAAQS from 65 micrograms per cubic meter ($\mu g/m^3$) to 35 $\mu g/m^3$ (see, 71 FR 61144).[1] On September 25, 2009, EPA issued its "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)" (2009 Guidance). EPA developed the 2009 Guidance for States making submissions to meet the requirements of section 110, including 110(a)(2)(D)(i) for the revised 2006 24-hour $PM_{2.5}$ NAAQS.

As identified in the 2009 Guidance, the "good neighbor" provisions in section 110(a)(2)(D)(i) require each State to submit a SIP that prohibits emissions that adversely affect another State in the ways contemplated in the statute. Section 110(a)(2)(D)(i) contains four distinct requirements related to the impacts of interstate transport. The SIP must prevent sources in the State from emitting pollutants in amounts which will: (1) Contribute significantly to nonattainment of the NAAQS in other States; (2) interfere with maintenance of the NAAQS in other States; (3) interfere with provisions to prevent significant deterioration of air quality in other States; or (4) interfere with efforts to protect visibility in other States.

In the 2009 Guidance, EPA indicated that SIP submissions from States pertaining to the "significant contribution" and "interfere with maintenance" requirements of section 110(a)(2)(D)(i) should contain adequate provisions to prohibit air pollutant emissions from within the State that contribute significantly to nonattainment or interfere with maintenance of the NAAQS in any other State. EPA further indicated that the State's submission should explain whether or not emissions from the State have this impact and, if so, address the impact. EPA stated that the State's conclusion should be supported by an adequate technical analysis. EPA recommended the various types of information that could be relevant to support the State SIP submission, such as information concerning emissions in the State, meteorological conditions in the State and the potentially impacted States, monitored ambient concentrations in the State, and air quality modeling. Furthermore, EPA indicated that States should address the "interfere with maintenance" requirement independently, which requires an evaluation of impacts on areas of other States that are meeting the 2006 24-hour $PM_{2.5}$ NAAQS, not merely areas designated nonattainment. Lastly, in the 2009 Guidance, EPA stated that States could not rely on the Clean Air Interstate Rule (CAIR) to comply with the section 110(a)(2)(D)(i) requirements for the 2006 24-hour $PM_{2.5}$ NAAQS because CAIR does not address this NAAQS.

EPA promulgated CAIR on May 12, 2005 (see, 70 FR 25162). CAIR required

[1] The rule for the revised $PM_{2.5}$ NAAQS was signed by the Administrator and publically disseminated on September 21, 2006. Because EPA did not prescribe a shorter period for 110(a) SIP submittals, these submittals for the 2006 24-hour $PM_{2.5}$ NAAQS were due on September 21, 2009, three years from the September 21, 2006 signature date.

States to reduce emissions of sulfur dioxide and nitrogen oxides that significantly contribute to, and interfere with maintenance of the 1997 NAAQS for $PM_{2.5}$ and/or ozone in any downwind State. CAIR was intended to provide States covered by the rule with a mechanism to satisfy their section 110(a)(2)(D)(i)(I) obligations to address significant contribution to downwind nonattainment and interference with maintenance in another State with respect to the 1997 ozone and $PM_{2.5}$ NAAQS. Many States adopted the CAIR provisions and submitted SIPs to EPA to demonstrate compliance with the CAIR requirements in satisfaction of their 110(a)(2)(D)(i)(I) obligations for those two pollutants.

EPA was sued by a number of parties on various aspects of CAIR, and on July 11, 2008, the U.S. Court of Appeals for the District of Columbia Circuit issued its decision to vacate and remand both CAIR and the associated CAIR FIPs in their entirety. *North Carolina* v. *EPA,* 531 F.3d 836 (DC Cir. 2008). However, in response to EPA's petition for rehearing, the Court issued an order remanding CAIR to EPA without vacating either CAIR or the CAIR FIPs. *North Carolina* v. *EPA,* 550 F.3d 1176 (DC Cir. 2008). The Court thereby left CAIR in place in order to "temporarily preserve the environmental values covered by CAIR" until EPA replaces it with a rule consistent with the Court's opinion. *Id.* at 1178. The Court directed EPA to "remedy CAIR's flaws" consistent with its July 11, 2008 opinion, but declined to impose a schedule on EPA for completing that action. *Id.*

In order to address the judicial remand of CAIR, EPA has proposed a new rule to address interstate transport pursuant to section 110(a)(2)(D)(i)(I), the "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone" (Transport Rule).[2] As part of the proposed Transport Rule, EPA specifically examined the section 110(a)(2)(D)(i)(I) requirement that emissions from sources in a State must not "significantly contribute to nonattainment" and "interfere with maintenance" of the 2006 24-hour $PM_{2.5}$ NAAQS by other States. The modeling performed for the proposed Transport Rule shows that both Indiana and Ohio significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in downwind areas.

IDEM and Ohio EPA made submittals on October 20, 2009, and September 4, 2009, respectively, that were intended to demonstrate satisfaction of all Infrastructure SIP elements for the 2006 24-hour $PM_{2.5}$ NAAQS. Both States relied predominantly on their respective EPA-approved CAIR regulations to meet the interstate transport requirements of section 110(a)(2)(D)(i)(I). Indiana further committed to amend its rule once the Federal CAIR is amended or replaced.

III. What is EPA's evaluation of the States' submittals?

Indiana and Ohio each asserted in their submissions that they have met their section 110(a)(2)(D)(i)(I) obligations with respect to the 2006 24-hour $PM_{2.5}$ NAAQS by a series of regulations, including their approved CAIR rules.[3] However, CAIR was promulgated before the 24-hour $PM_{2.5}$ NAAQS were revised in 2006 and does not address interstate transport with respect to the 2006 24-hour $PM_{2.5}$ NAAQS.[4] Thus, as EPA's 2009 Guidance explicitly notes, States cannot rely on CAIR to comply with section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS. Furthermore, Indiana and Ohio provided no analyses to assess the quantity of emissions which can be permitted within the State consistent with the requirement to prohibit emissions which interfere with attainment and maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in other States. Because the submittals from Indiana and Ohio relied predominantly on CAIR to address the requirements of section 110(a)(2)(D)(i)(I) with respect to the 2006 24-hour $PM_{2.5}$ NAAQS while CAIR does not address that NAAQS, and because Indiana and Ohio provided no analysis or supplemental rules expressly addressing the requirement to prohibit emissions that interfere with attainment and maintenance of this standard, the submissions are deficient. Furthermore, Indiana and Ohio will not be able to permanently rely upon the emissions reductions predicted by CAIR, because EPA needs to address the concerns of the Court as outlined in its decision remanding CAIR.

For these reasons, EPA cannot approve Indiana's and Ohio's SIP submissions pertaining to the requirement of section 110(a)(2)(D)(i)(I) of the CAA with respect to the 2006 24-hour $PM_{2.5}$ NAAQS. EPA also concludes that the elements of the Infrastructure SIP submittals from Indiana and Ohio addressing the 2006 24-hour $PM_{2.5}$ NAAQS are severable; therefore, EPA is proposing to disapprove those provisions which relate to the section 110(a)(2)(D)(i)(I) demonstration, while taking no action on the remainder of the Infrastructure SIP submittals from each respective State.

In addition to relying on the State's CAIR regulations, Indiana's October 20, 2009 submittal cited various programs that IDEM has adopted and implemented related to interstate transport. These measures include stack height requirements, acid deposition control regulations, and the Nitrogen Oxides Budget Trading Program (NO_X SIP Call). Although EPA's 2009 Guidance directed that a State's submittal must be supported by an adequate technical analysis, no such analysis was provided by IDEM justifying that these measures are sufficient to meet the requirements of section 110(a)(2)(D)(i)(I). Furthermore, programs such as the Nitrogen Oxides Budget Trading Program have limited relevance to the 2006 24-hour $PM_{2.5}$ NAAQS.[5] EPA finds that these measures are not sufficient to meet the requirements of section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS. As previously mentioned, EPA is proposing to disapprove the provisions which relate to the section 110(a)(2)(D)(i)(I) demonstration, while taking no action on the remainder of the Infrastructure SIP submittal from Indiana.

Similarly, Ohio also asserted in its September 4, 2009, submittal that other regulations in the State have been adopted and implemented in order to meet the requirements of section 110(a)(2)(D)(i)(I). Specifically, the State referenced rules pertaining to stack height requirements, acid rain permits and compliance, the Nitrogen Oxides Budget Trading Program (NO_X SIP Call), and the Clean Air Mercury Rule. Additionally, Ohio EPA cited instances where the existing SIP was revised to alleviate modeled violations in two neighboring States. Although EPA's 2009 Guidance directed that a State's

[2] *See* "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone; Proposed Rule," 75 FR 45210 (August 2, 2010).

[3] Indiana's CAIR regulations were fully approved by EPA on November 29, 2010 (*see,* 75 FR 72956). Ohio's CAIR regulations were fully approved by EPA on September 29, 2009 (*see,* 74 FR 48857).

[4] Further, as explained above and in the Transport Rule proposal, 75 FR 45210 (August 2, 2010), the DC Circuit in *North Carolina* v. *EPA* found that EPA's quantification of States' significant contribution and interference with maintenance in CAIR was improper and remanded the rule to EPA. CAIR remains in effect only temporarily.

[5] The Nitrogen Oxides Budget Trading Program was effectively replaced by CAIR's NO_X ozone season trading program, and only addresses summertime NO_X. $PM_{2.5}$ and SO_2 (a precursor to $PM_{2.5}$) are not addressed.

submittal must be supported by an adequate technical analysis, no such analysis was provided by Ohio EPA justifying that these measures are sufficient to meet the requirements of section 110(a)(2)(D)(i)(I). Furthermore, programs such as the Nitrogen Oxides Budget Trading Program and the Clean Air Mercury Rule have limited relevance to the 2006 24-hour $PM_{2.5}$ NAAQS.[6] EPA finds that these measures are not sufficient to meet the requirements of section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS. As previously mentioned, EPA is proposing to disapprove the provisions which relate to the section 110(a)(2)(D)(i)(I) demonstration, while taking no action on the remainder of the Infrastructure SIP submittal from Ohio.

Under section 179(a) of the CAA, final disapproval of a submittal that addresses a requirement of a Part D Plan (section 171—section 193 of the CAA), or is required in response to a finding of substantial inadequacy as described in section 110(k)(5) starts a sanction clock. The provisions in the submittals we are disapproving were not submitted by Indiana or Ohio to meet either of those requirements. Therefore, if EPA takes final action to disapprove these submittals, no sanctions under section 179 will be triggered.

The full or partial disapproval of a SIP revision triggers the requirement under section 110(c) that EPA promulgate a Federal Implementation Plan (FIP) no later than two years from the date of the disapproval unless the State corrects the deficiency, and the Administrator approves the plan or plan revision before the Administrator promulgates such FIP. The proposed Transport Rule, when final, is the FIP that EPA intends to implement for the States of Indiana and Ohio.

IV. What action is EPA taking?

For the reasons discussed above, EPA is proposing to disapprove submittals from Indiana and Ohio intended to demonstrate that each respective State has adequately addressed the elements of section 110(a)(2)(D)(i)(I) of the CAA with regard to the 2006 24-hour $PM_{2.5}$ NAAQS. This action pertains only to section 110(a)(2)(D)(i)(I); the States' submittals for the remainder of the 2006 24-hour $PM_{2.5}$ NAAQS Infrastructure SIPs will be addressed in separate rulemakings.

[6] The Nitrogen Oxides Budget Trading Program was effectively replaced by CAIR's NO_X ozone season trading program, and only addresses summertime NO_X. $PM_{2.5}$ and SO_2 (a precursor to $PM_{2.5}$) are not addressed. The Clean Air Mercury Rule was vacated in 2008.

V. Statutory and Executive Order Reviews

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

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and, therefore, is not subject to review under the Executive Order.

Paperwork Reduction Act

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

Regulatory Flexibility Act

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

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. This rule does not impose any requirements or create impacts on small entities. This proposed SIP disapproval under section 110 and subchapter I, part D of the CAA will not in-and-of itself create any new requirements but simply disapproves certain State requirements for inclusion into the SIP. Accordingly, it affords no opportunity for EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. The fact that the CAA prescribes that various consequences *(e.g.,* higher offset requirements) may or will flow from this disapproval does not mean that EPA either can or must conduct a regulatory flexibility analysis for this action. Therefore, this action will not have a significant economic impact on a substantial number of small entities.

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

Unfunded Mandates Reform Act

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

Executive Order 13132: Federalism

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

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national

government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely disapproves certain State requirements for inclusion into the SIP and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, Executive Order 13132 does not apply to this action.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP EPA is proposing to disapprove would not apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

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

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

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

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

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

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

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

EPA lacks the discretionary authority to address environmental justice in this proposed action. In reviewing SIP submissions, EPA’s role is to approve or disapprove State choices, based on the criteria of the CAA. Accordingly, this action merely proposes to disapproves certain State requirements for inclusion into the SIP under section 110 and subchapter I, part D of the CAA and will not in-and-of itself create any new requirements. Accordingly, it 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.

Statutory Authority

The statutory authority for this action is provided by sections 110 of the CAA, as amended (42 U.S.C. 7410).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter.

Dated: January 28, 2011.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2011–2497 Filed 2–3–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2010–0003; Internal Agency Docket No. FEMA–B–1167]

Proposed Flood Elevation Determinations

Correction

In proposed rule document 2010–31151 beginning on page 77598 in the issue of Monday, December 13, 2010, make the following correction:

§ 67.4 [Corrected]

On page 77599, in § 67.4, in the table St. Charles County, Missouri, and Incorporated Areas, the 12th and 13th entries are corrected to read as set forth below: