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

■ 2. Add § 165.T01–0536 to read as follows:

§ 165.T01–0536 Regulated Navigation Area; Chelsea Street Bridge Construction, Chelsea, MA.

(a) *Location.* The following area is a regulated navigation area: All navigable waters of the Chelsea River in Chelsea, MA, from surface to bottom, within the following points (NAD 83): from 42°23.10′ N, 071°01.26′ W; thence to 42°23.15′ N, 071°01.20′ W; thence to 42°23.10′ N, 071°01.17′ W; thence to 42°23.07′ N, 071°01.24′ W; thence back to the first point.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.10, 165.11, and 165.13 apply.

(2) In accordance with the general regulations, entering into, transiting through, mooring or anchoring within this regulated area is prohibited unless authorized by the Captain of the Port (COTP) Boston.

(3) All persons and vessels must comply with the Coast Guard Captain of the Port or the designated on-scene patrol personnel.

(4) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel must proceed as directed.

(5) Vessels may request permission to enter the zone during periods of enforcement on VHF–16 or via phone at 617–223–5757.

(6) All other relevant regulations, including but not limited to the Rules of the Road (33 CFR part 84—Subchapter E, Inland Navigational Rules) remain in effect within the regulated area and should be strictly followed at all times.

(c) *Effective Period.* This rule is effective from July 8, 2011 to 11:59 p.m. on May 31, 2012.

(d) *Enforcement Period.* (1) This regulated navigation area is enforceable 24 hours a day from July 8, 2011 until May 31, 2012.

(2) *Notice of suspension of enforcement.* If enforcement is suspended, the COTP will cause a notice of the suspension of enforcement by all appropriate means to affect the widest publicity among the affected segments of the public. Such means of notification may also include, but are not limited to, Broadcast Notice to Mariners and Local Notice to Mariners. Such notification will include the date and time that enforcement is suspended as well as the date and time that enforcement will resume.

(3) *Notice of waterway closure.* In the event of a complete waterway closure, the COTP will make advance notice of the closure by all means available to affect the widest public distribution including, but not limited to, Broadcast Notice to Mariners and Local Notice to Mariners. Such notification will include the date and time of the closure as well as the date and time that normal vessel traffic can resume.

(4) Violations of this regulated navigation area may be reported to the COTP Sector Boston, at 617–223–5757 or on VHF–Channel 16.

Dated: July 7, 2011.

J.B. McPherson,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 2011–18044 Filed 7–18–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0595]

Columbia Unlimited Hydroplane Races; Kennewick, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Special Local Regulation for the Columbia Unlimited Hydroplane Races. This regulation which restricts navigation and anchorage on the Columbia River for six days at the end of July. This action is necessary to ensure the safety of the vessels involved in the Annual Kennewick, Washington, Columbia Unlimited Hydroplane Races (Water Follies). During the enforcement period, no person or vessel may operate their vessels in this area without permission from the on scene Patrol Commander.

DATES: The regulations in 33 CFR 100.1303 will be enforced from Tuesday, July 26, through Sunday, July 31, 2011 from 8:30 a.m. until the last race is completed each day at approximately 7:30 p.m., unless sooner terminated by the Patrol Commander.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail BM1 Silvestre Suga III, Coast Guard Marine Safety Unit Portland; telephone 503–240–9327, e-mail *Silvestre.G.Suga@USCG.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the regulations found in 33 CFR 100.1303 restricting regular navigation and anchoring activities on the Columbia River during the periods specified in the **DATES** section.

Under the provisions of 33 CFR 100.1303, no person or vessel may enter or remain in the area without permission of the Captain of the Port, Columbia River or his designated on-scene Patrol Commander. Persons or vessels wishing to enter the area may request permission to do so from the on-scene Captain of the Port representative via VHF Channel 16 or 13. The Coast Guard may be assisted by other Federal, State, or local enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 165.1318 and 5 U.S.C. 552 (a). In addition to this notice in the **Federal Register** , the Coast Guard will provide the maritime community with notification of these enforcement periods via the Local Notice to Mariners.

Dated: July 5, 2011.

L.R. Tumabarello,

Captain, U.S. Coast Guard, Acting Captain of the Port, Sector Columbia River.

[FR Doc. 2011–18045 Filed 7–18–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2008–0635; FRL–9437–8]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Section 110(a)(2) Infrastructure Requirements for 1997 8-Hour Ozone and Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA)

ACTION: Final rule.

SUMMARY: EPA is approving submittals from the state of Louisiana pursuant to the Clean Air Act (CAA or Act) that address the infrastructure elements specified in the CAA section 110(a)(2), necessary to implement, maintain, and enforce the 1997 8-hour ozone and 1997 fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS or standards). We are determining that the current Louisiana State Implementation Plan (SIP) meets the following infrastructure elements which were subject to EPA's completeness findings pursuant to CAA section 110(k)(1) for the 1997 8-hour ozone

NAAQS dated March 27, 2008, and the 1997 $PM_{2.5}$ NAAQS dated October 22, 2008: 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). EPA is also approving SIP revisions that modify Louisiana's Prevention of Significant Deterioration (PSD) SIP for the 1997 8-hour ozone NAAQS to include nitrogen oxides (NO_X) as an ozone precursor. This action is being taken under section 110 and part C of the Act.

DATES: This rule is effective on August 18, 2011.

ADDRESSES: EPA established a docket for this action under Docket ID No. EPA–R06–OAR–2008–0635. All documents in the docket are listed at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., Confidential Business Information 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 through *http://www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 Freedom of Information Act (FOIA) Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253 to make an appointment. Please make the appointment at least two working days in advance of your visit. There is a fee of 15 cents per page for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Paige, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone 214–665–6521; fax number 214–665–6762; e-mail address *paige.carrie@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' means EPA.

Table of Contents

I. Background

The background for today's actions is discussed in detail in our April 18, 2011 proposal to approve revisions to the Louisiana SIP (76 FR 21682). In that action, we proposed to find the current Louisiana SIP meets the provisions of the CAA sections 110(a)(1) and 110(a)(2) (i.e., 110(a)(2)(A)–(C), (D)(ii), (E)–(H), and (J)–(M)) for the 1997 ozone and 1997 $PM_{2.5}$ NAAQS. We also proposed to approve four revisions to the Louisiana PSD SIP that address NO_X as a precursor to ozone.

Our April 18, 2011 proposal provides a detailed description of the revisions and the rationale for EPA's proposed actions, together with a discussion of the opportunity to comment. The public comment period for these actions closed on May 18, 2011. See the Technical Support Document (TSD) and our proposed rulemaking at 76 FR 21682 for more information.

II. Additional Background Information

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 the infrastructure SIP submissions.[1] The commenters specifically raised concerns involving provisions in existing SIPs and with EPA's statements 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 at sources, that may be contrary to the CAA and EPA's policies addressing such excess emissions (''SSM''); 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 that it would address the issues separately: (i) Existing provisions for minor source new source review 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 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 now believes that its statements in various proposed actions on infrastructure SIPs with respect to these four individual issues should be explained in greater depth with respect to these issues. EPA notes that we did not receive comments on these issues in response to our Louisiana proposal (76 FR 21682), but because of the concern raised in the context of action on other state infrastructure SIP submissions, EPA feels it important to further clarify our proposal.

EPA intended the statements in the 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 reapproval 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 reapproval of any existing provisions that relate to these four substantive issues.

Unfortunately, the commenters and others evidently interpreted these

[1] See, Comments of Midwest Environmental Defense Center, dated May 31, 2011. Docket # 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.

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 issue 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, 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.

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 169A, new source review 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.[2] 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.[3]

Notwithstanding that section 110(a)(2) states 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).[4] 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.[5] 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 SIP. 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.[6]

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 requirement applicable in attainment areas. Nonattainment SIPs required by part D also would not need

[2] 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.

[3] 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, e.g., ''Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_X SIP Call; Final Rule,'' 70 FR 25162 (May 12, 2005) (defining, among other things, the phrase ''contribute significantly to nonattainment'').

[4] See, e.g., 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)).

[5] 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.

[6] 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.

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 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.[7] 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.'' [8] 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.'' [9] EPA also stated its belief that with one exception, these requirements were ''relatively self explanatory, and past experience with SIPs for other NAAQS should enable States to meet these requirements with assistance from EPA Regions.'' [10] For the one exception to that general assumption, however, *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 SIP for the NAAQS in question.

Significantly, the 2007 Guidance did not explicitly refer 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, 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 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 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.

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.[11] Section 110(k)(6) authorizes EPA to correct

[7] 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''). EPA issued comparable guidance for the 2006 $PM_{2.5}$ NAAQS 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),'' from William T. Harnett, Director Air Quality Policy Division, to Regional Air Division Directors, Regions I–X, dated September 25, 2009 (the ''2009 Guidance'').

[8] Id., at page 2.

[9] Id., at attachment A, page 1.

[10] 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.

[11] 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,'' 74 FR 21639 (April 18, 2011).

errors in past actions, such as past approvals of SIP submissions.[12] 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.[13]

III. What action is EPA taking?

The EPA is approving the Louisiana SIP submittals that identify where and how the 14 basic infrastructure elements are in the EPA-approved SIP as specified in section 110(a)(2) of the Act. We are determining that the following section 110(a)(2) elements are contained in the current Louisiana SIP: emission limits and other control measures (section 110(a)(2)(A)); ambient air quality monitoring/data system (section 110(a)(2)(B)); program for enforcement of control measures (section 110(a)(2)(C)); international and interstate pollution abatement (section 110(a)(2)(D)(ii); adequate resources (section 110(a)(2)(E)); stationary source monitoring system (section 110(a)(2)(F)); emergency power (section 110(a)(2)(G)); future SIP revisions (section 110(a)(2)(H)); consultation with government officials (section 110(a)(2)(J)); public notification (section 110(a)(2)(J)); PSD and visibility protection (section 110(a)(2)(J)); air quality modeling/data (section 110(a)(2)(K)); permitting fees (section 110(a)(2)(L)); and consultation/participation by affected local entities (section 110(a)(2)(M)).

In conjunction with our determination that the Louisiana SIP meets the section 110(a)(1) and (2) infrastructure SIP elements listed above, we are also approving four severable portions of two SIP revisions submitted by the LDEQ to EPA on December 20, 2005 and November 9, 2007. These portions contain rule revisions by LDEQ to (1) regulate NO_X emissions in its PSD permit program as a precursor to ozone; (2) add NO_X to the PSD definitions for *Major Modification* and *Major Stationary Source;* 3) under the PSD definition for *Significant,* add the emission rate for NO_X, as a precursor to ozone, as 40 tons per year (tpy); and 4) under the PSD requirements, allow for an exemption with respect to ambient air quality monitoring data for a source with a net emissions increase less than 100 tpy of NO_X. At this time, EPA is not taking action on other portions of the December 20, 2005 and November 9, 2007 SIP revisions submitted by LDEQ; EPA intends to act on the other revisions at a later time.

IV. Comments

We received one comment letter on the proposed rulemaking. The comment letter is available for review in the docket for this rulemaking. The comment letter came from the Tulane Environmental Law Clinic, on behalf of the Louisiana Environmental Action Network (LEAN, hereinafter referred to as ''the commenter'').

Generally, the commenter's concerns relate to whether EPA's approval of Louisiana's infrastructure SIP submissions are in compliance with section 110(a)(2)(E) and 110(a)(2)(L) of the CAA, and whether EPA's approval is arbitrary and capricious in finding the State has provided necessary assurances in compliance with the CAA's adequate funding and personnel requirements. To the extent comments 1 through 4 address adequate funding for Louisiana's Title V program with respect to elements 110(a)(2)(C), D(ii), (E), and (L), the commenter addresses issues that are subject to statutory and regulatory evaluation beyond the statutory scope of this rulemaking. Section 110(a)(2) falls under Title I of the CAA and governs the implementation, maintenance, and enforcement of the NAAQS, in this instance 1997 ozone and 1997 $PM_{2.5}$, through the federally approved SIP. Section 110 and 40 CFR part 51 also provide mechanisms for programmatic remedies with respect to the SIP. Furthermore, Title I addresses Minor and Major New Source Review SIP preconstruction permits. The Title V program, by contrast, governs operating permits and is addressed by CAA sections 502 through 507. Any evaluation of the Title V program and any consequent programmatic remedies must be done pursuant to CAA section 502 and 40 CFR part 70. The scope of this action is limited to determining whether the Louisiana SIP meets certain infrastructure requirements of CAA 110(a)(2) with respect to the 1997 ozone and 1997 $PM_{2.5}$ NAAQS.[14] A summary of the comments and EPA's responses are provided below.

Comment 1: The commenter states that because the record contains no evidence of adequate funding, EPA cannot approve Louisiana's infrastructure SIP. The commenter also states that EPA's approval of various Title I and Title V revisions to Louisiana's permit fee system is more than 15 years out of date and therefore cannot support a finding that Louisiana has adequate personnel and funding to carry out its program today. The commenter also states that Louisiana's fee average is less than the presumptive minimum set out by Title V of the CAA under section 502(b)(3)(B)(i) and (v). The commenter further states that it would be unlawful for EPA to approve Louisiana's infrastructure SIP submissions without specifically considering LDEQ's annual reviews of their Fee Schedule as required by the Louisiana Administrative Code. The commenter also states that EPA cannot lawfully conclude Louisiana can adequately implement its program for less than half of EPA's presumptive fee based on the record which does not include Louisiana's annual reviews of their fees.

Response: We disagree with the commenter's statement that the record contains no evidence of adequate funding. Our TSD was posted in the docket for this rulemaking on April 18, 2011, which is the date the rulemaking was published in the **Federal Register**. The TSD evaluates where and how the Louisiana SIP addresses each of the section 110(a)(2) infrastructure elements, including 110(a)(2)(E), which begins on page 12 of the TSD. Within the TSD section evaluating 110(a)(2)(E), we include the various funds the state

[12] 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 (Dec. 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, e.g., 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

[13] 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, e.g., 75 FR 42342 at 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (January 26, 2011) (final disapproval of such provisions).

[14] Region 6 intends to evaluate Louisiana's Title V program in fiscal year 2012, pursuant to the statutory and regulatory procedure in CAA section 502 and 40 CFR part 70 that are separate from the procedures in CAA section 110 and 40 CFR part 51. This evaluation would be outside the programmatic scope of section 110 and 40 CFR part 51 evaluated here.

receives to support the 1997 ozone and 1997 $PM_{2.5}$ NAAQS.

Section 110(a)(2)(E) requires that the state provide necessary assurances that it will have adequate funding under state law to carry out the SIP. As cited in our TSD, to address adequate funding, Louisiana statute charges the LDEQ with preparing and developing the SIP, and provides the secretary of the LDEQ with the powers and duties to '' * * * receive and budget duly appropriated monies and to accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, to carry out the provisions and purposes of this Subtitle'' (LA RS 30:2011.D.10). As cited in our TSD, these state statute-assured funds are supplemented by federal funds, including CAA section 103 and section 105 grants. Consequently, there are additional monetary sources, including Louisiana's Environmental Trust Fund monies provided for under LA RS 30:2015, which contribute to Louisiana's ability to provide adequate personnel and funding to implement the SIP for the 1997 ozone and 1997 $PM_{2.5}$ NAAQS.

Funding necessary to implement the SIP, as discussed prior in this Response and in the TSD, is provided for pursuant to section 110(a)(2)(E) by Louisiana state statute and various sources of funding. While Louisiana's various permitting fee system and revisions were approved into the SIP over a decade ago, the rules approved into the Louisiana SIP continue today to mandate Major and Minor NSR SIP preconstruction permitting application and annual maintenance fees pursuant to section 110(a)(2)(E) and (L). EPA's previous SIP approvals, as contained within the record and cited to by the commenter, include required fees as described by 110(a)(2)(E) and (L).

The presumptive $25.00 fee minimum under CAA section 502(b)(3) the commenter refers to is part of Title V, which as previously stated in Section IV, second paragraph, is subject to evaluation under different statutory and regulatory mechanisms provided for outside the SIP parameters for evaluation and remedies under CAA section 110 and 40 CFR part 51.

Section 110(a)(2) does not require a specific quantitative metric or methodology for determining adequate resources. The commenter also did not point to specific program deficiencies or implementation issues due to the perceived lack of resources. As described in our proposal, TSD, and previously in this response, EPA's evaluation and approval of Louisiana's fee system and resources is based, in part, upon various sources of funding, state statutes and rules pursuant to section 110(a)(2), and LDEQ's fulfillment of grant obligations. As explained in the TSD, section 105 grants provide monies to help support the foundation of the State's air quality program, including air monitoring, enforcement and SIP development. States are required to provide matching monies to receive their grant and EPA evaluates the performance of the State each year. In fiscal year 2010, Louisiana successfully completed all of their air program obligations as called for under the section 105 grant with some minor exceptions.[15] EPA noted no significant deficiencies thus indicating that LDEQ has sufficient resources to implement its SIP. For example, as described in our proposal and TSD, apart from the grant review, Louisiana's statewide air quality surveillance network as required by section 110(a)(2)(B) undergoes annual review and EPA's most recent approval of this monitoring network dates January 12, 2011. Therefore, we disagree that the record does not support a finding of adequate resources. The fact that the fee requirement that provides the basis for some of these resources was approved by EPA some time ago does not change this conclusion.

Furthermore, we disagree with the commenter's statement that the record does not support a finding of adequate resources solely because the annual fee review is absent from the record. In response to the commenter's concerns, LDEQ explained their fee review process and stated that the fee review is conducted as part of the budget process and essentially insures that sufficient fees are collected to pay for the staff associated with new source review permitting.[16] Though evaluation of the annual fee review was not part of the proposal for this action, EPA's evaluation and approval of Louisiana's fee system and resources under sections 110(a)(2)(L) and 110(a)(2)(E) is based, in part, upon various sources of funding, state statutes and rules pursuant to section 110(a)(2), and LDEQ's fulfillment of grant obligations as described in the proposal, TSD, the supplemental TSD, and this response. In addition, on September 9, 2010, the EPA determined that the Baton Rouge moderate 8-hour ozone nonattainment area (BRNA) had attained the 1997 8-hour ozone NAAQS (75 FR 54778). On August 31, 2010, the state submitted a request to EPA to redesignate the BRNA to attainment and EPA is reviewing that submission in a separate action. This submission was not statutorily required under the Act and was resource intensive for the LDEQ. This exercise provides additional support that the state has adequate resources to comply with the enforceable emission limitations and other control measures requirement of 110(a)(2)(A).

In sum, the record does support a finding of adequate resources. As discussed in the record for this action, the State has the statutory authority to receive monies. The State does, in fact, collect various fees, revenues and federal grants. Section 110 does not provide a specific methodology for determining the adequacy of resources. The commenter does not specify deficiencies or implementation problems. Our reasons for finding that the Louisiana SIP meets section 110(a)(2)(E) for adequate resources for the 1997 ozone and 1997 $PM_{2.5}$ NAAQS are reiterated in our response above, and described in the proposed rulemaking (76 FR 21682) and the TSD. The fact that the fee requirement that provides for some of these resources was approved some time ago does not change this conclusion.[17] Insofar as the commenter states EPA cannot lawfully conclude LDEQ can adequately implement its program for less than half of EPA's presumptive fee, the presumptive fee the commenter is referring to is the Title V presumptive fee. Evaluation of this presumptive fee minimum must be conducted under different statutory and regulatory mechanisms provided for outside the SIP parameters for evaluation and remedies under CAA section 110 and 40 CFR part 51.

Comment 2: Inflation alone shows that EPA cannot rely on its 1995 approval.

Response: The 1995 approval the commenter refers to is found at 60 FR 47296, and was approved pursuant to section 502(b)(3) of the Act and 40 CFR 70.9, the regulations implementing Title V. Title V is not part of the federally approved SIP, and as previously explained in this rulemaking, the mechanism for evaluating the Title V program is legally outside the scope of this rulemaking. The scope of this action is limited to determining whether the existing Louisiana SIP meets certain

[15] See Supplemental TSD for the LDEQ 2010 Air Program End-of-Year Report, in the docket for this rulemaking.

[16] Per communication with Bryan Johnston, LDEQ, dated June 27, 2011; see the Supplemental TSD.

[17] See Supplemental TSD for revisions to the Fee System of the Louisiana Air Quality Control Programs submitted by Bryan Johnston, LDEQ. These revisions were not submitted to EPA for approval into the SIP.

infrastructure requirements of CAA 110(a)(2) with respect to the 1997 ozone and 1997 $PM_{2.5}$ NAAQS.

Comment 3: Louisiana's program will need increased resources to achieve attainment in expanded sulfur dioxide (SO_2) and NO_X non-attainment areas.

Response: The scope of this action is limited to determining whether the Louisiana SIP meets the requirements of CAA 110(a)(2) with respect to the 1997 ozone and 1997 $PM_{2.5}$ NAAQS in attainment areas. We will evaluate whether or not the Louisiana SIP meets the requirements of section 110(a)(2) with respect to the SO_2 and NO_2 standards in one or more separate rulemaking actions.[18]

Comment 4: EPA's proposed approval ignores a 2002 audit report by the EPA's Inspector General, which concluded that Louisiana's average fee of $19.00 per ton is well below the EPA-determined presumptive minimum amount of $35.00 to adequately run a state Title V program.

Response: The audit report referred to by the commenter wholly addresses the Louisiana Title V program and thus is outside the legal parameters of evaluating the Louisiana SIP in meeting the requirements of section 110(a)(2) of the Act with respect to the 1997 ozone and 1997 $PM_{2.5}$ NAAQS. Any evaluation of the Title V program must be done pursuant to the procedural mechanisms in CAA section 502 and 40 CFR part 70.

Comment 5: The commenter states Louisiana's March 24, 2011 (supplemental) certification letter does not list permitting fees as an area of compliance. EPA must evaluate the adequacy of LDEQ's plan, and there is nothing in the record to support a finding that LDEQ's resources are sufficient to run its program.

Response: The March 24, 2011 letter from LDEQ was not intended to replace the December 11, 2007 and January 7, 2008 certification letters, and the March 2011 letter states that it clarifies and amends the prior two certifications. In its January 7, 2008 certification submitted to EPA, Louisiana listed permitting fees as an area of compliance. We therefore disagree with the commenter that the State did not certify Major and Minor NSR SIP preconstruction permitting fees as an area of compliance. EPA evaluated the Louisiana SIP in the April 18, 2011 proposal and TSD, and this evaluation is based on the two certification letters submitted by the state, dated December 11, 2007 and January 7, 2008, and the supplemental certification letter dated March 24, 2011.

Major and Minor NSR SIP preconstruction permitting application and annual maintenance fees and adequate resources sufficient to implement the Louisiana SIP pursuant to sections 110(a)(2)(E) and 110(a)(2)(L) are provided for under the EPA-approved SIP, state statute, and augmented by other sources of funding as described in EPA's Response to Comment 1 of this final action and in the TSD.

The commenter does not specify where Louisiana might be failing to implement any portions of the 1997 ozone and 1997 $PM_{2.5}$ NAAQS SIP, thus we have no specific basis of evaluation or point of reference to evince support of the commenter's allegations of inadequate resources with regards to Louisiana's SIP. Our reasons for finding that the Louisiana SIP meets section 110(a)(2)(E) for adequate resources for the 1997 ozone and 1997 $PM_{2.5}$ NAAQS are reiterated in our response above,[19] and described in the proposed rulemaking (76 FR 21682) and the TSD.

V. Final Action

We are approving the submittals provided by the State of Louisiana to demonstrate that the Louisiana SIP meets the following requirements of Section 110(a)(1) and (2) of the Act:

Emission limits and other control measures (110(a)(2)(A) of the Act);

Ambient air quality monitoring/data system (110(a)(2)(B) of the Act);

Program for enforcement of control measures (110(a)(2)(C) of the Act);

Interstate Transport (110(a)(2)(D)(ii) of the Act);

Adequate resources (110(a)(2)(E) of the Act);

Stationary source monitoring system (110(a)(2)(F) of the Act);

Emergency power (110(a)(2)(G) of the Act);

Future SIP revisions (110(a)(2)(H) of the Act);

Consultation with government officials (110(a)(2)(J) of the Act);

Public notification (110(a)(2)(J) of the Act);

Prevention of significant deterioration and visibility protection (110(a)(2)(J) of the Act);

Air quality modeling data (110(a)(2)(K) of the Act);

Permitting fees (110(a)(2)(L) of the Act); and

Consultation/participation by affected local entities (110(a)(2)(M) of the Act).

EPA is also approving the following revisions to 33 LAC 5–509, submitted by LDEQ on December 20, 2005 and November 9, 2007:

1. The 2005 non-substantive recodification of the definition for *Major Modification* subsection 2 to subsection *b,* and the 2007 substantive change adding NO_X to the definition of *Major Modification.*

2. The 2005 non-substantive recodification at of the definition for *Major Stationary Source* at subsection 4 to subsection *d,* and the 2007 substantive change adding NO_X to the definition of *Major Stationary Source.*

3. The 2005 non-substantive recodification of the first paragraph of the definition for *Significant* at subsection 1 to subsection *a,* and the 2007 substantive change adding NO_X as a precursor to the table's criteria and other pollutants listing for ozone.

4. The 2005 non-substantive recodification of the first paragraph of subsection I.8 to subsection *I.5,* and the 2007 substantive change allowing for an exemption with respect to ozone monitoring for a source with a net emissions increase less than 100 tpy of NO_X.

EPA is approving these actions in accordance with section 110 of the Act and EPA's regulations and consistent with EPA guidance.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this 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 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);

[18] The commenter incorrectly refers to a ''NO_X standard.'' EPA assumes the commenter is referring to the NO_2 standard announced on February 9, 2010 (75 FR 6474).

[19] Response to Comment 1.

• 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 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.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 19, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 30, 2011.

Al Armendariz,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart T—Louisiana

■ 2. Section 52.970 is amended:

■ a. In paragraph (c) by revising the entry for Section 509 under ''Chapter 5 Permit Procedures''.

■ b. In paragraph (e) by adding a new entry for ''Infrastructure for the 1997 Ozone and 1997 $PM_{2.5}$ NAAQS'' at the end of the second table in paragraph (e) entitled ''EPA Approved Louisiana Nonregulatory Provisions and Quasi-Regulatory Measures''.

The amendments read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP

State citation	Title/subject	State approval date	EPA approval date	Comments
*	*	*	*	* * *
Section 509	Prevention of Significant Deterioration.	2/20/1995	10/15/1996, 61 FR 53639	The following revisions approved by the State on 12/20/2005 and 9/20/2006 are EPA approved on 7/19/2011, [Insert FR page number where document begins]: (a) Section 509(B)—Only the revisions to recodify and add NO_X to the definitions of *Major Modification* and *Major Stationary Source;* and only the revisions to recodify and add NO_X as a precursor to the definition of *Significant;* (b) Section 509(I)—Only the revisions to the table under I.5(a).
*	*	*	*	* * *

* * * * *

(e) * * *

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EPA APPROVED LOUISIANA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
*	* *	*	*	* *
Infrastructure for the 1997 Ozone and 1997 $PM_{2.5}$ NAAQS.	Statewide	12/11/2007 1/7/2008 3/24/2011	7/19/2011, [Insert FR page number where document begins].	Approval for CAA sections 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

[FR Doc. 2011–18061 Filed 7–18–11; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2011–0289; FRL–9440–1]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Regional Haze State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving the Delaware Regional Haze Plan, a revision to the Delaware State Implementation Plan (SIP) addressing Clean Air Act (CAA) requirements and EPA's rules for states to prevent and remedy future and existing anthropogenic impairment of visibility in mandatory Class I areas through a regional haze program. EPA is also approving this revision since it meets the requirements of 110(a)(2)(D)(i)(II) and 110(a)(2)(J), relating to visibility protection for the 1997 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) and the 1997 and 2006 fine particulate matter ($PM_{2.5}$) NAAQS.

DATES: *Effective Date:* This final rule is effective on August 18, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2011–0289. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (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 through *http://www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Jacqueline Lewis, (215) 814–2037, or by e-mail at *lewis.jacqueline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. On May 13, 2011, (76 FR 27973) EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of Delaware's regional haze plan for the first implementation period, through 2018. EPA proposed to approve this revision since it assures reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas for the first implementation period. This revision also meets the requirements of 110(a)(2)(D)(i)(II) and 110(a)(2)(J), relating to visibility protection for the 1997 8-Hour Ozone NAAQS and the 1997 and $PM_{2.5}$ NAAQS. An explanation of the CAA's visibility requirements and EPA regional haze rule as they apply to Delaware and EPA's rationale for approving this SIP revision was provided in the NPR and will not be restated here.

II. Summary of SIP Revision

The revision includes a long term strategy with enforceable measures ensuring reasonable progress towards meeting the reasonable progress goals for the first planning period, through 2018. Delaware's Regional Haze Plan contains the emission reductions needed to achieve Delaware's share of emission reductions agreed upon through the regional planning process. Other specific requirements of the CAA and EPA's Regional Haze Rule and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving a revision to the Delaware State Implementation Plan submitted by the State of Delaware, through the Delaware Department of Natural Resources and Environmental Control, on September 25, 2008, that addresses regional haze for the first implementation period. EPA is making a determination that the Delaware Regional Haze SIP contains the emission reductions needed to achieve Delaware's share of emission reductions agreed upon through the regional planning process. Furthermore, Delaware's Regional Haze Plan ensures that emissions from the State will not interfere with the reasonable progress goals for neighboring states' Class I areas. In addition, EPA is approving this revision because it meets the applicable visibility related requirements of the CAA section 110(a)(2) including, but not limited to 110(a)(2)(D)(i)(II) and 110(a)(2)(J), relating to visibility protection for the 1997 8-Hour Ozone NAAQS and the 1997 and 2006 $PM_{2.5}$ NAAQS.

IV. Statutory and Executive Order Reviews

A. General Requirements

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. For that reason, this 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);