from the public on this proposal until March 9, 2016. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the CDPR rules as described in Table 1 of this notice. The EPA has made, and will continue to make, these documents available electronically through *www.regulations.gov* and in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, 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, the EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: January 14, 2016.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2016–02314 Filed 2–5–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2012–0953; FRL–9941–96–Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Infrastructure or Requirements for the 2008 Ozone and 2010 Nitrogen Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of State Implementation Plan (SIP) submissions from the State of Texas for Ozone (O_3) and Nitrogen Dioxide (NO_2) National Ambient Air Quality Standards (NAAQS). These submittals address how the existing SIP provides for implementation, maintenance, and enforcement of the 2008 O_3 and 2010 NO_2 NAAQS (infrastructure SIPs or i-SIPs). These i-SIPs ensure that the State's SIP is adequate to meet the state's responsibilities under the Federal Clean Air Act (CAA).

DATES: Written comments must be received on or before March 9, 2016.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2012–0953 at *http://www.regulations.gov* or via email to *fuerst.sherry@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Sherry Fuerst, (214) 665–6454, *fuerst.sherry@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Sherry Fuerst, telephone (214) 665–6454, *fuerst.sherry@epa.gov.* To inspect the hard copy materials, please schedule an appointment with her or Bill Deese at (214) 665–7253.

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

I. Background

On March 12, 2008, we revised the primary and secondary O_3 NAAQS (hereafter the 2008 O_3 NAAQS) [1] to 0.075 parts per million (ppm), expressed to three decimal places, based on a 3-year average of the fourth-highest maximum 8-hour average concentration. (73 FR 16436, March 27, 2008).[2] Primary NAAQS protect public health and secondary NAAQS protect the public welfare (CAA section 109).

Likewise, on January 22, 2010, we revised the primary national ambient air quality standard (hereafter the 2010 NO_2 NAAQS) [3] for oxides of nitrogen as measured by nitrogen dioxide (NO_2), for 1-hour standard at a level of 100 ppb, based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations, to supplement the existing annual standard. We also established requirements for a NO_2 monitoring network that includes monitors at locations where maximum NO_2 concentrations are expected to occur, including within 50 meters of major roadways, as well as monitors sited to measure the area-wide NO_2 concentrations that occur more broadly across communities. (75 FR 6474, February 9. 2010).[4]

Each state must submit an i-SIP within three years after the promulgation of a new or revised NAAQS. Section 110(a)(2) of the CAA includes a list of specific elements the i-SIP must meet. We issued guidance addressing the i-SIP elements for NAAQS.[5] The Chairman of the Texas Commission on Environmental Quality (TCEQ) submitted i-SIP revisions to address these revised NAAQS.

We are proposing to approve the Texas i-SIP submittals for the 2008 Ozone and 2010 NO_2 NAAQS.[6] Copies of these SIP submissions are included in the docket for this proposed rulemaking.

II. EPA's Evaluation of Texas' 2008 O_3 and 2010 NO_2 NAAQS Infrastructure Submissions

Below is a summary of our evaluation of the Texas i-SIP for the relevant elements of 110(a)(2) we are proposing to approve. Texas provided demonstrations of how the existing Texas SIP meets the requirements of the 2010 NO_2 NAAQS on December 7, 2012, and for the 2008 O_3 NAAQS on December 13, 2012. A detailed discussion of our evaluation can be found in the Technical Support Document (TSD) for this action. The TSD can be accessed through *www.regulations.gov* (e-docket EPA–R06–OAR–2012–0953).

(A) Emission limits and other control measures: The SIP must include enforceable emission limits and other control measures, means or techniques, schedules for compliance and other related matters as needed to implement, maintain and enforce each of the NAAQS.[7]

The Texas Clean Air Act (TCAA) provides the TCEQ, its Chairman, and its Executive Director with broad legal authority. They can adopt emission standards and compliance schedules applicable to regulated entities; emission standards and limitations and any other measures necessary for attainment and maintenance of national standards; and, enforce applicable laws, regulations, standards and compliance schedules, and seek injunctive relief. This authority has been employed in the past to adopt and submit multiple revisions to the Texas SIP. The approved SIP for Texas is documented at 40 CFR part 52.2270. TCEQ's air quality rules and standards are codified at Title 30, Part 1 of the Texas Administrative Code (TAC). Numerous parts of the regulations codified into 30 TAC necessary for implementing and enforcing the NAAQS have been adopted into the SIP.

(B) Ambient air quality monitoring/data system: The SIP must provide for establishment and implementation of ambient air quality monitors, collection and analysis of ambient air quality data, and providing the data to EPA upon request.

The TCAA provides the authority allowing the TCEQ to collect air monitoring data, quality-assure the results, and report the data. TCEQ maintains and operates a monitoring network to measure levels of Ozone and NO_2, as well as other pollutants, in accordance with EPA regulations specifying siting and monitoring requirements. All monitoring data is measured using EPA approved methods and subject to the EPA quality assurance requirements. TCEQ submits all required data to us, following the EPA regulations. The Texas statewide monitoring network was approved into the SIP on May 31, 1972 (37 FR 10842, 10895), was revised on March 7, 1978 (43 FR 9275) and it undergoes recurrent annual review by us.[8] In addition, TCEQ conducts a recurrent assessment of its monitoring network every five years, as required by EPA rules. The most recent of these 5-year monitoring network assessments was conducted by TCEQ and approved by us in December of 2010.[9] The TCEQ Web site provides the monitor locations and posts past and current concentrations of criteria pollutants measured in the State's network of monitors.[10]

(C) Program for enforcement of control measures: The SIP must include the following three elements: (1) A program providing for enforcement of emission limits and other control measures; (2) a program for the regulation of the modification and

[1] The previous O_3 NAAQS were issued in 1997. The 1997 primary and secondary NAAQS were established as 0.08 ppm not to be exceeded as determined by the 3-year average of the annual fourth-highest daily maximum 8-hour concentrations (62 FR 38856, July 18, 1997).

[2] Although the effective date of the **Federal Register** notice for the final rule was May 27, 2008, the rule was signed by the Administrator and publicly disseminated on March 12, 2008. Therefore, the deadline for submittal of infrastructure SIPs for the 2008 O_3 NAAQS was March 12, 2011.

[3] The previous NO_2 NAAQS was issued in 1996. It established a primary and secondary standards of for nitrogen dioxide (NO_2) as 0.053 parts per million (ppm) (100 micrograms per meter cubed (g/m^3)) annual arithmetic average. (61 FR 52852, October 8, 1996).

[4] Although the effective date of the **Federal Register** notice for the final rule was April 12, 2010, the rule was signed by the Administrator and publicly disseminated on January 22, 2010. Therefore, the deadline for submittal of infrastructure SIPs for the 2008 NO_2 NAAQS was January 22, 2013.

[5] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' Memorandum from Stephen D. Page, September 13, 2013.

[6] Additional information on: The history of the O_3 and NO_2 NAAQS, its levels, forms and, determination of compliance; EPA's approach for reviewing i-SIPs; the details of the SIP submittal and EPA's evaluation; the effect of recent court decisions on i-SIPs; the statute and regulatory citations in the Texas SIP specific to this review; the specific i-SIP applicable CAA and our regulatory citations; **Federal Register** Notice citations for Texas SIP approvals; Texas' minor New Source Review program and our approval activities; and, Texas' Prevention of Significant Deterioration (PSD) program can be found in the Technical Support Document (TSD).

[7] The specific nonattainment area plan requirements of section 110(a)(2)(I) are subject to the timing requirements of section 172, not the timing requirement of section 110(a)(1). Thus, section 110(a)(2)(A) does not require that states submit regulations or emissions limits specifically for attaining the 2008 O_3 or NO_2 NAAQS. Those SIP provisions are due as part of each state's attainment plan, and will be addressed separately from the requirements of section 110(a)(2)(A). In the context of an infrastructure SIP, we are not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

[8] A copy of the 2015 Annual Air Monitoring Network Plan and our approval letter are included in the docket for this proposed rulemaking.

[9] A copy of TCEQ's 2010 5-year ambient monitoring network assessment and our approval letter are included in the docket for this proposed rulemaking.

[10] See *http://www.tceq.texas.gov/airquality/monops/sites/mon_sites.html* and *http://www17.tceq.texas.gov/tamis/index.cfm?fuseaction=home.welcome.*

construction of stationary sources as necessary to protect the applicable NAAQS (*i.e.,* state-wide permitting of minor sources); and (3) a permit program to meet the major source permitting requirements of the CAA (for areas designated as attainment or unclassifiable for the NAAQS in question).

(1) Enforcement of SIP Measures. As noted earlier, the State statutes provide authority for the TCEQ, its Chairman, and its Executive Director to enforce the requirements of the TCAA, and any regulations, permits, or final compliance orders. These statutes also provide the TCEQ, its Chairman, and its Executive Director with general enforcement powers. Among other things, they can file lawsuits to compel compliance with the statutes and regulations; commence civil actions; issue field citations; conduct investigations of regulated entities; collect criminal and civil penalties; develop and enforce rules and standards related to protection of air quality; issue compliance orders; pursue criminal prosecutions; investigate, enter into remediation agreements; and issue emergency cease and desist orders. The TCAA also provides additional enforcement authorities and funding mechanisms.

(2) Minor New Source Review. The SIP is required to include measures to regulate construction and modification of stationary sources to protect the NAAQS. The Texas minor NSR permitting requirements are approved as part of the SIP.[11]

(3) Prevention of Significant Deterioration (PSD) permit program. The Texas PSD portion of the SIP covers all NSR regulated pollutants as well as the requirements for the 2008 O_3 and 2010 NO_2 NAAQS and has been approved by EPA.

(D) Interstate and international transport: The requirements for interstate transport of O_3 and NO_2 emissions are that the SIP contain adequate provisions prohibiting O_3 and NO_2 emission transport to other states which will (1) contribute significantly to nonattainment of the NAAQS, (2) interfere with maintenance of the NAAQS, (3) interfere with measures required to prevent significant deterioration or (4) interfere with measures to protect visibility (CAA 110(a)(2)(D)(i)). In addition, states must comply with requirements to prevent transport of international air pollution (CAA section 110(a)(2)(D)(ii)).

The Texas i-SIP submittal discussed the requirements of the CAA section 110(a)(2)(D). We plan to evaluate and take action on the portion of the i-SIP pertaining to emissions which will contribute significantly to nonattainment or interfere with maintenance of the O_3 NAAQS at a later time (110(a)(2)(D)(i)(I)). With regard to emissions which will contribute significantly to nonattainment or interfere with maintenance of the NO_2 NAAQS, TCEQ included an interstate transport technical analysis in its submittal. In summary, the analysis found that there are some days where air is transported from Texas to areas in neighboring states that have monitors. However, the reactivity of NO_2, coupled with the distance from major Texas areas of NO_2 emissions make it highly unlikely that Texas NO_2 emissions significantly impact other states. States surrounding Texas are measuring attainment of the NO_2 NAAQS; therefore, Texas NO_2 sources are not contributing to an exceedance or interfering with maintenance of the NAAQS in neighboring states. We agree with the technical analysis regarding emissions which will contribute significantly to nonattainment or interfere with maintenance of the NO_2 NAAQS.

Because Texas has a fully approved Prevention of Significant Deterioration (PSD) SIP addressing all regulated new source review pollutants, we propose to approve the transport portion of both submittals. Revisions to the PSD SIP were approved on October 22, 2014 (79 FR 66626, November 10, 2014).

We proposed to disapprove the portion of the SIPs addressing visibility protection for both O_3 and NO_2 in an earlier action (80 FR 74818, December 16, 2014). We will take action on the CAA section 110(a)(2)(D)(i)(II) portion of the Texas O_3 and NO_2 i-SIP in future rulemaking.

CAA section 110(a)(2)(D)(ii) requires that the SIP contain adequate provisions insuring compliance with the applicable requirements of section 126 (relating to interstate pollution abatement) and 115 (relating to international pollution abatement). Texas meets the section 126 requirements as it has a fully approved PSD SIP and no source or sources have been identified by us as having any interstate impacts under section 126 in any pending action related to any air pollutant. Texas meets the section 115 requirements as there are no final findings by us that Texas air emissions affect other countries. Therefore, we propose to approve the portion of the Texas O_3 and NO_2 i-SIP submittals pertaining to CAA section 110(a)(2)(D)(ii).

(E) Adequate authority, resources, implementation, and oversight: The SIP must provide for the following: (1) Necessary assurances that the state (and other entities within the state responsible for implementing the SIP) will have adequate personnel, funding, and authority under state or local law to implement the SIP, and that there are no legal impediments to such implementation; (2) requirements relating to state boards; and (3) necessary assurances that the state has responsibility for ensuring adequate implementation of any plan provision for which it relies on local governments or other entities to carry out that portion of the plan. Both elements (A) and (E) address the requirement that there is adequate authority to implement and enforce the SIP and that there are no legal impediments.

These i-SIP submissions for the 2008 O_3 NAAQS and 2010 NO_2 NAAQS describe the SIP regulations governing the various functions of personnel within the TCEQ, including the administrative, technical support, planning, enforcement, and permitting functions of the program.

With respect to funding, the TCAA requires TCEQ to establish an emissions fee schedule for sources in order to fund the reasonable costs of administering various air pollution control programs and authorizes TCEQ to collect additional fees necessary to cover reasonable costs associated with processing of air permit applications. We conduct periodic program reviews to ensure that the state has adequate resources and funding to, among other things, implement and enforce the SIP.

As required by the CAA, the Texas statutes and the SIP stipulate that any board or body, which approves permits or enforcement orders, must have at least a majority of members who represent the public interest and do not derive any ''significant portion'' of their income from persons subject to permits and enforcement orders or who appear before the board on issues related to the CAA or the TCAA. The members of the board or body, or the head of an agency with similar powers, are required to adequately disclose any potential conflicts of interest.

With respect to assurances that the State has responsibility to implement

[11] We are not proposing to approve or disapprove the existing Texas minor NSR program to the extent that it may be inconsistent with the regulations governing this program. We have maintained that the CAA does not require that new infrastructure SIP submissions correct any defects in existing EPA-approved provisions of minor NSR programs in order for us to approve the infrastructure SIP for element C (*e.g.,* 76 FR 41076–41079). We believe that a number of states may have minor NSR provisions that are contrary to the existing regulations for this program. The statutory requirements of section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs.

the SIP adequately when it authorizes local or other agencies to carry out portions of the plan, the Texas statutes and the SIP designate the TCEQ as the primary air pollution control agency.

(F) Stationary source monitoring system: The SIP must provide for the establishment of a system to monitor emissions from stationary sources and to submit periodic emission reports. It must require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources, to monitor emissions from such sources. The SIP shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and require that the state correlate the source reports with emission limitations or standards established under the CAA. These reports must be made available for public inspection at reasonable times.

The TCAA authorizes the TCEQ to require persons engaged in operations which result in air pollution to monitor or test emissions and to file reports containing information relating to the nature and amount of emissions. There are also SIP-approved state regulations pertaining to sampling and testing and requirements for reporting of emissions inventories In addition, SIP-approved rules establish general requirements for maintaining records and reporting emissions.

The TCEQ uses this information, in addition to information obtained from other sources, to track progress towards maintaining the NAAQS, developing control and maintenance strategies, identifying sources and general emission levels, and determining compliance with SIP-approved regulations and additional EPA requirements. The SIP requires this information be made available to the public. Provisions concerning the handling of confidential data and proprietary business information are included in the SIP-approved regulations. These rules specifically exclude from confidential treatment any records concerning the nature and amount of emissions reported by sources.

(G) Emergency authority: The SIP must provide for authority to address activities causing imminent and substantial endangerment to public health or welfare or the environment and to include contingency plans to implement such authorities as necessary.

The TCAA provides TCEQ with authority to address environmental emergencies, and TCEQ has contingency plans to implement emergency episode provisions. Upon a finding that any owner/operator is unreasonably affecting the public health, safety or welfare, or the health of animal or plant life or property, the TCAA and 30 TAC chapters 35 and 118 authorize TCEQ to, after a reasonable attempt to give notice, declare a state of emergency and issue without hearing an emergency special order directing the owner/operator to cease such pollution immediately.

The ''Texas Air Quality Control Contingency Plan for Prevention of Air Pollution Episodes'' is part of the Texas SIP. However, because of the low levels of NO_2 and O_3 emissions emitted and monitored statewide, Texas is not required to have contingency plans for the 2008 O_3 or 2010 NO_2 NAAQS. However, to provide additional protection, the State has general emergency powers to address any possible dangerous air pollution episode if necessary to protect the environment and public health.

(H) Future SIP revisions: States must have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate to attain the NAAQS.

The TCAA authorizes the TCEQ to revise the Texas SIP, as necessary, to account for revisions of an existing NAAQS, establishment of a new NAAQS, to attain and maintain a NAAQS, to abate air pollution, to adopt more effective methods of attaining a NAAQS, and to respond to EPA SIP calls concerning NAAQS adoption or implementation.

(I) Nonattainment areas: The CAA section 110(a)(2)(I) requires that in the case of a plan or plan revision for areas designated as nonattainment areas, states must meet applicable requirements of part D of the CAA, relating to SIP requirements for designated nonattainment areas.

In 2012, we designated all areas in the United States as ''unclassifiable/attainment'' for the one-hour NO_2 NAAQS (77 FR 9532). All NO_2 monitors in Texas and neighboring states have design values below the 2010 annual NO_2 NAAQS, which is 0.053 ppm or 53 ppb and below the one-hour NO_2 NAAQS of 100 ppb. Texas currently has two nonattainment areas for the 2008 eight-hour ozone NAAQS; the Houston-Galveston-Brazoria (HGB) marginal nonattainment area and the Dallas-Ft. Worth (DFW) moderate nonattainment area. The rest of the counties in Texas are designated unclassifiable/attainment for the 2008 eight hour O_3 NAAQS. For additional information on the Texas ozone nonattainment areas (past and present) please refer to the TSD.

However, as noted earlier, we do not expect infrastructure SIP submissions to address subsection (I). The specific SIP submissions for designated nonattainment areas, as required under CAA title I, part D, are subject to different submission schedules than those for section 110 infrastructure elements. Instead, we will take action on part D attainment plan SIP submissions through a separate rulemaking process governed by the requirements for nonattainment areas, as described in part D.

(J) Consultation with government officials, public notification, PSD and visibility protection: The SIP must meet the following three CAA requirements: (1) Section 121, relating to interagency consultation regarding certain CAA requirements; (2) section 127, relating to public notification of NAAQS exceedances and related issues; and (3) prevention of significant deterioration of air quality and visibility protection.

(1) Interagency consultation: As required by the TCAA, there must be a public hearing before the adoption of any regulations or emission control requirements, and all interested persons are given a reasonable opportunity to review the action that is being proposed and to submit data or arguments, either orally or in writing, and to examine the testimony of witnesses from the hearing. In addition, the TCAA provides the TCEQ the power and duty to establish cooperative agreements with local authorities, and consult with other states, the federal government and other interested persons or groups in regard to matters of common interest in the field of air quality control. Furthermore, the Texas PSD SIP rules mandate that the TCEQ shall provide for public participation and notification regarding permitting applications to any other state or local air pollution control agencies, local government officials of the city or county where the source will be located, tribal authorities, and Federal Land Manager (FLMs) whose lands may be affected by emissions from the source or modification. Additionally, the State's PSD SIP rules require the TCEQ to consult with FLMs regarding permit applications for sources with the potential to impact Class I Federal Areas. The SIP also includes a commitment to consult continually with the FLMs on the review and implementation of the visibility program, and the State recognizes the expertise of the FLMs in monitoring and new source review applicability analyses for visibility and

has agreed to notify the FLMs of any advance notification or early consultation with a new or modifying source prior to the submission of a permit application. Likewise, the State's Transportation Conformity SIP rules provide for interagency consultation, resolution of conflicts, and public notification.

(2) Public Notification: The i-SIP submissions from Texas provide the SIP regulatory citations requiring the TCEQ to regularly notify the public of instances or areas in which any NAAQS are exceeded. Included in the SIP are the rules for TCEQ to advise the public of the health hazard associated with such exceedances; and enhance public awareness of measures that can prevent such exceedances and of ways in which the public can participate in the regulatory and other efforts to improve air quality. In addition, as discussed for infrastructure element B above, the TCEQ air monitoring Web site provides quality data for each of the monitoring stations in Texas; this data is provided instantaneously for certain pollutants, such as ozone. The Web site also provides information on the health effects of lead, ozone, particulate matter, and other criteria pollutants.

(3) PSD and Visibility Protection: The PSD requirements for this element are the same as those addressed under element (C) above. The Texas SIP requirements relating to visibility and regional haze are not affected when we establish or revise a NAAQS. Therefore, we believe that there are no new visibility protection requirements due to the revision of the NAAQS, and consequently there are no newly applicable visibility protection obligations pursuant to infrastructure element (J).

(K) Air quality and modeling/data: The SIP must provide for performing air quality modeling, as prescribed by EPA, to predict the effects on ambient air quality of any emissions of any NAAQS pollutant, and for submission of such data to EPA upon request.

The TCEQ has the power and duty, under the TCAA to develop facts and investigate providing for the functions of environmental air quality assessment. Past modeling and emissions reductions measures have been submitted by the State and approved into the SIP. In addition to the ability to perform modeling for nonattainment SIPs, Texas has the ability to perform modeling on a case by case permit basis consistent with their SIP-approved PSD rules and with our guidance.

The TCAA authorizes and requires TCEQ to cooperate with the federal government and local authorities concerning matters of common interest in the field of air quality control, thereby allowing the agency to make such submissions to the EPA.

(L) Permitting Fees: The SIP must require each major stationary source to pay permitting fees to the permitting authority, as a condition of any permit required under the CAA, to cover the cost of reviewing and acting upon any application for such a permit, and, if the permit is issued, the costs of implementing and enforcing the terms of the permit. The fee requirement applies until a fee program established by the state pursuant to Title V of the CAA, relating to operating permits, is approved by EPA.

See the discussion for element (E) above for the description of the mandatory collection of permitting fees outlined in the SIP.

(M) Consultation/participation by affected local entities: The SIP must provide for consultation and participation by local political subdivisions affected by the SIP.

See discussion for element (J)(1) and (2) above for a description of the SIP's public participation process, the authority to advise and consult, and the PSD SIP's public participation requirements. Additionally, the TCAA also requires initiation of cooperative action between local authorities and the TCEQ, between one local authority and another, or among any combination of local authorities and the TCEQ for control of air pollution in areas having related air pollution problems that overlap the boundaries of political subdivisions, and entering into agreements and compacts with adjoining states and Indian tribes, where appropriate. TCEQ has a long history of successful cooperation with affected local entities. The transportation conformity component of the Texas SIP requires that interagency consultation and opportunity for public involvement be provided before making transportation conformity determinations and before adopting applicable SIP revisions on transportation-related issues.

IV. Proposed Action

EPA is proposing to approve portions of the December 13, 2012 and December 7, 2012, infrastructure SIP submissions from Texas, which address the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2008 O_3 and 2010 NO_2 NAAQS. Specifically, we are proposing to approve the following infrastructure elements, or portions thereof: 110(a)(2)(A), (B), (C), (D)(i) (portions pertaining to PSD for O_3 and 2010 NO_2 and portions pertaining to nonattainment and interference with maintenance for NO_2), (D)(ii), (E), (F), (G), (H), (K), (L), and (M). Based upon review of the state's infrastructure SIP submissions and relevant statutory and regulatory authorities and provisions referenced in these submissions or referenced in Texas SIP, we believe that Texas has the infrastructure in place to address the applicable required elements of sections 110(a)(1) and (2) (except otherwise noted) to ensure that the 2008 O_3 and 2010 NO_2 NAAQS are implemented in the state.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Interstate transport of pollution, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Visibility.

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

Dated: January 26, 2016.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2016–02310 Filed 2–5–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 215 and 252

RIN 0750–AI84

Defense Federal Acquisition Regulation Supplement: DFARS Case 2016–D017, Independent Research and Development Expenses

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: DoD is seeking information that will assist in the development of a revision to the DFARS to ensure that substantial future independent research and development (IR&D) expenses as a means to reduce evaluated bid prices in competitive source selections are evaluated in a uniform way during competitive source selections. In addition to the request for written comments on this proposed rulemaking, DoD will hold a public meeting to hear the views of interested parties.

DATES: *Submission of comments:* Interested parties should submit written comments to the address shown below on or before April 8, 2016, to be considered in the development of any proposed DFARS rule.

Public meeting: A public meeting will be held in the General Services Administration (GSA), Central Office Auditorium, 1800 F Street NW., Washington DC, 20405, on March 3, 2016, from 12:00 p.m. to 4:00 p.m., local time. The GSA Auditorium is located on the main floor of the building.

Individuals wishing to attend the public meeting should register by February 25, 2016, to ensure adequate accommodations, to facilitate entry into the building, and to create an attendee list for secure entry to the GSA building for anyone who is not a Federal Government employee with a Government badge. Interested parties may register at the Web site, *http://www.acq.osd.mil/dpap/dars/IR&D.html,* by providing the following information:

• Company or organization name;

• Names, telephone numbers and email addresses of persons planning to attend;

• Last four digits of social security number for each attendee (non-Federal employees only); and

• Identify if company or organization desires to make a presentation; limit to one presentation per company or organization. Presentations will be limited to approximately 10 minutes as time permits.

One valid, government-issued photo identification card will be required to enter the building. Non-U.S. citizens may use their valid passport as photo identification. Attendees are encouraged to arrive at least 30 minutes early to accommodate security procedures.

Special Accommodations: The public meeting location is physically accessible to persons with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Mark Gomersall, telephone 703–602–0302, at least 10 working days prior to the meeting date.

ADDRESSES: Submit comments identified by DFARS Case 2016–D017, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2016–D017'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2016–D017.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2016–D017'' on your attached document.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2016–D017 in the subject line of the message.

○ *Fax:* 571–372–6099.

○ *Mail:* Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD (AT&L) DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, telephone 571–372–6099; facsimile 571–372–6101.

SUPPLEMENTARY INFORMATION:

I. Background

As expressed in the ''Implementation Directive for Better Buying Power 3.0—Achieving Dominant Capabilities Through Technical Excellence and Innovation,'' dated April 9, 2015, the Under Secretary of Defense for Acquisition, Technology and Logistics noted a concern when ''promised future IRAD [Independent Research and Development] expenditures are used to substantially reduce the bid price on competitive procurements. In these cases, development price proposals are reduced by using a separate source of government funding (allowable IRAD overhead expenses spread across the total business) to gain a price advantage in a specific competitive bid. This is not the intended purpose of making IRAD an allowable cost.''

DoD is considering a proposed approach whereby solicitations would require offerors to describe in detail the nature and value of prospective IR&D projects on which the offeror would rely to perform the resultant contract. Then, as a standard approach, DoD would evaluate proposals in a manner that would take into account that reliance by adjusting the total evaluated price to the Government, for evaluation purposes only, to include the value of related future IR&D projects.

II. Solicitation of Public Comment

DoD is seeking comments on this planned approach in order to assist in the development of a proposed DFARS rule. Specifically, the Department is interested in understanding whether the planned approach would achieve the objective of treating the proposed use of substantial future IR&D expenses as a