radius of Paoli Municipal Airport, Paoli, IN.

This action supports new public instrument procedures.

Class E airspace designations are published in paragraph 6005 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL IN E5 Paoli, IN [Establish]

Paoli Municipal Airport, IN
(Lat. 38°35′05″ N, long. 86°27′54″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Paoli Municipal Airport.

Issued in Fort Worth, Texas, on December 19, 2022.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2022–27814 Filed 12–21–22; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2022–0956; FRL–10491–01–R3]

Air Plan Disapproval; West Virginia; Revision to the West Virginia State Implementation Plan To Add the SSM Rule 45CSR1—Alternative Emission Limitations During Startup, Shutdown, and Maintenance Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to disapprove a state implementation plan (SIP) revision submitted by the State of West Virginia on June 13, 2017. The revision pertains to a new rule setting forth the requirements to establish, at the discretion of the Secretary of the West Virginia Department of Environmental Protection (WVDEP), an alternative emission limitation (AEL) for a source that requests an AEL. This SIP revision was submitted in response to a finding of substantial inadequacy and SIP call published on June 12, 2015, for provisions in the West Virginia SIP related to excess emissions during startup, shutdown, and malfunction (SSM) events. EPA is proposing to disapprove the SIP revision and proposing to determine that such SIP revision does not correct the deficiencies identified in the June 12, 2015, SIP Call.

DATES: Written comments must be received on or before January 23, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2022–0956 at *www.regulations.gov,* or via email to *Gordon.Mike@epa.gov*. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, 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. 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 the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Serena Nichols, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2053. Ms. Nichols can also be reached via electronic mail at *Nichols.Serena@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

A. EPA's 2015 SSM SIP Action

On February 22, 2013, the EPA issued a **Federal Register** notice of proposed rulemaking (the February 2013 Proposal) outlining EPA's policy at the time with respect to SIP provisions related to periods of startup, shutdown, and malfunction (SSM). EPA analyzed specific SSM SIP provisions and explained how each one either did or did not comply with the Clean Air Act (CAA) with regard to excess emission

events.[1] For each SIP provision that the EPA determined to be inconsistent with the CAA, the EPA proposed to find that the existing SIP provision was substantially inadequate to meet CAA requirements and thus proposed to issue a SIP call under CAA section 110(k)(5). On September 17, 2014, the EPA issued a document supplementing and revising what the Agency had previously proposed on February 22, 2013 (the supplemental notice of proposed rulemaking (SNPR)), in light of a D.C. Circuit decision that determined the CAA precludes authority of the EPA to create affirmative defense provisions. EPA outlined its updated policy that affirmative defense SIP provisions are not consistent with CAA requirements. EPA proposed in the supplemental proposal document to apply its revised interpretation of the CAA to specific affirmative defense SIP provisions and proposed SIP calls for those provisions where appropriate (79 FR 55920, September 17, 2014).

On June 12, 2015, pursuant to CAA section 110(k)(5), the EPA finalized ''State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction'' (80 FR 33839 June 12, 2015), hereafter referred to as the ''2015 SSM SIP Action.'' The 2015 SSM SIP Action clarified, restated, and updated the EPA's interpretation that SSM exemptions (whether automatic or discretionary) and affirmative defense SIP provisions are inconsistent with CAA requirements. The 2015 SSM SIP Action found that certain SIP provisions in 36 states were substantially inadequate to meet CAA requirements and issued a SIP call to those states to submit SIP revisions to address the inadequacies. EPA established an 18-month deadline by which the affected states had to submit such SIP revisions. States were required to submit corrective revisions to their SIPs in response to the SIP calls by November 22, 2016.

EPA issued a Memorandum in October 2020 (2020 Memorandum), which stated that certain provisions governing SSM periods in SIPs could be viewed as consistent with CAA requirements.[2] Importantly, the 2020 Memorandum stated that it ''did not alter in any way the determinations made in the 2015 SSM SIP Action that identified specific state SIP provisions that were substantially inadequate to meet the requirements of the Act.'' Accordingly, the 2020 Memorandum had no direct impact on the SIP call issued to West Virginia in 2015. The 2020 Memorandum did, however, indicate the EPA's intent at the time to review SIP calls that were issued in the 2015 SSM SIP Action to determine whether the EPA should maintain, modify, or withdraw particular SIP calls through future agency actions.

On September 30, 2021, EPA's Deputy Administrator withdrew the 2020 Memorandum and announced EPA's return to the policy articulated in the 2015 SSM SIP Action (2021 Memorandum).[3] As articulated in the 2021 Memorandum, SIP provisions that contain exemptions or affirmative defense provisions are not consistent with CAA requirements and, therefore, generally are not approvable if contained in a SIP submission. This policy approach is intended to ensure that all communities and populations, including overburdened communities, receive the full health and environmental protections provided by the CAA.[4] The 2021 Memorandum also retracted the prior statement from the 2020 Memorandum of EPA's plans to review and potentially modify or withdraw particular SIP calls. That statement no longer reflects the EPA's intent. EPA intends to implement the principles laid out in the 2015 SSM SIP Action as the agency takes action on SIP submissions, including West Virginia's SIP submittal provided in response to the 2015 SIP call.

B. West Virginia's Provisions Related to Excess Emissions

With respect to the West Virginia SIP, in the 2015 SSM SIP Action, EPA determined that 14 provisions were substantially inadequate to meet CAA requirements.[5] Three of these provisions allowed for automatic exemptions; eight of these provisions allowed for discretionary exemptions from otherwise applicable SIP emission limitations; one of these provisions imposed an alternative limit on hot mix asphalt plants; one of these provisions allowed the state to establish alternative visible emission standards; one of these was an affirmative defense provision identified by EPA to be substantially inadequate. The rationale underlying EPA's determination that the provisions were substantially inadequate to meet CAA requirements, and therefore to issue a SIP call to West Virginia to remedy the provisions, is detailed in the 2015 SSM SIP Action and the accompanying proposals.

In response to the 2015 SSM SIP Action, West Virginia submitted a SIP revision on June 13, 2017. West Virginia's submission requested the approval of a new state rule into the West Virginia SIP that sets forth the requirements to establish an AEL for a source that may require an AEL.

II. Summary of West Virginia's SIP Revision and EPA Analysis

A. West Virginia's SIP Revision

The new regulations adopted by West Virginia in response to the 2015 SSM SIP Action can be found at W.Va. Code R. 45–1–1 through 45–1–5. Section 45–1–1.1 explains that the rule contains criteria to establish an alternative emission limitation during startup, shutdown and maintenance, and was adopted to respond to the 2015 SSM SIP Action. Section 45–1–1.5.a states that ''persons'' subject to 45CSR2 through 7, 45CSR10, 45CSR21, or 45CSR40 that may be unable to meet an emission limit during startup, shutdown or maintenance ''may request'' an AEL in accordance with 45CSR1–1–3, while 45CSR1–1–5.b states that persons subject to 45CSR16 or 45CSR34 shall meet the applicable startup or shutdown provisions of applicable Federal rules and are not eligible for an AEL. [6] W.Va. Code R. 45–1–2 contains definitions for the new regulation. Notably, the submitted rule does not itself establish any AELs for any sources or categories. Rather, it contains provisions authorizing the Secretary to establish AELs through permits and sets forth certain requirements that any such AELs must meet. Additionally, it provides a mechanism for sources to request AELs by applying for permits, and provides that sources applying for such permits

[1] State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction, 78 FR 12460 (February 22, 2013).

[2] October 9, 2020, Memorandum ''Inclusion of Provisions Governing Periods of Startup, Shutdown, and Malfunctions in State Implementation Plans,'' from Andrew R. Wheeler, Administrator.

[3] September 30, 2021, Memorandum ''Withdrawal of the October 9, 2020, Memorandum Addressing Startup, Shutdown, and Malfunctions in State Implementation Plans and Implementation of the Prior Policy,'' from Janet McCabe, Deputy Administrator.

[4] *See* 80 FR 33840, 33985, June 12, 2015

[5] Id. at 33962.

[6] The headings for West Virginia's regulations use the ''W.Va. Code R. X–X–X'' format, while references to regulatory sections within the text of the regulation itself follow the ''XCSRX'' format, where ''X'' represents a numeral. The remainder of this notice will use the ''XCSRX'' format for most references.

shall propose AELs that meet the criteria set forth in the rule.

The regulation at 45CSR1–3.1 states that the Secretary of WVDEP may establish an AEL ''as a practically enforceable permit condition . . . in accordance with the requirements of 45CSR13, 45CSR14, or 45CSR19 as applicable.'' [7] The regulations at 45CSR1–3.2 through 45CSR1–3.4 then explain acceptable forms that the AELs may take, so long as the normal permit limits and AELs provide for continuous compliance and do not result in ''effectively unlimited or an uncontrolled level of emissions.'' These explanations and limitations closely follow the guidance provided by EPA's 2015 SSM SIP Action.[8] Finally, 45CSR1–3.5 states that the Secretary shall use the criteria in 45CSR1–5 to develop the AEL.

The criteria in 45CSR1–5.1.a through 45CSR1–5.1.f require that limits developed by the Secretary must closely follow six of the seven specific criteria listed as appropriate considerations for SIP provisions addressing startup and shutdowns in EPA's 2015 SSM SIP Action.[9] Also, 45CSR1–5.2 states that an AEL must require the source to use good practices to minimize emissions and to use best efforts regarding planning, design and operating procedures, which closely parallels the sixth criterion in EPA's 2015 SSM SIP Action.[10] However, 45CSR1–3.5 also allows an AEL to be developed for ''maintenance,'' while the 2015 SSM SIP Action notes that maintenance is generally included in ''phases of normal operation at a source, for which the source can be designed, operated, and maintained in order to meet the applicable emission limitations and during which a source should be expected to control and minimize emissions. Accordingly, exemptions for emissions during these periods of normal source operation are not consistent with CAA requirements.'' [11] Because maintenance is a different normal mode of operation, any AEL developed for maintenance periods ''must meet the substantive requirements applicable to the type of SIP provision at issue, must meet the applicable level of stringency for that type of emission limitation and must be legally and practically enforceable.'' [12]

Finally, 45CSR1–6 requires that sources maintain certain records during periods of startup, shutdown and maintenance, while 45CSR1–7 states that any inconsistency between this regulation and any rule shall be resolved by the determination of the Secretary of WVDEP based upon application of the more stringent provision.

B. EPA's Analysis

EPA has identified several significant concerns with West Virginia's June 13, 2017, SIP submittal which suggest that it should not be approved. First, the SIP revision did not remove any of the existing West Virginia regulatory provisions from West Virginia's regulations that were found to be substantially inadequate in the 2015 SSM SIP Action, nor did the revision ask EPA to remove these provisions from the EPA-approved West Virginia SIP. Instead, the SIP submittal asks EPA to approve, as a SIP revision, a newly-adopted West Virginia regulation (45 CSR 1) that allows, but does not require, sources to apply for and receive AELs during periods of startup, shutdown, or maintenance, but not malfunction.[13] Moreover, the rule does not establish such limits for the sources that are subject to the automatic or discretionary exemptions provisions.

As such, West Virginia's SIP submittal does not remove from the West Virginia regulations, or from the EPA-approved West Virginia SIP, those provisions allowing automatic exemptions (W. Va. Code R. 45–2–9.1, W. Va. Code R. 45–7–10.3 and W. Va. Code R. 45–40–100.8) and discretionary exemptions (W. Va. Code R. 45–2–10.1, W. Va. Code R. 45–3–7.1, W. Va. Code R. 45–5–13.1, W. Va. Code R. 45–6–8.2, W. Va. Code R. 45–7–9.1, W. Va. Code R. 45–10–9.1 and W. Va. Code R. 45–21–9) from otherwise applicable SIP emission limits. These automatic and discretionary exemptions are still applicable and available to any source covered by these regulations. Therefore, the primary problem expressed in EPA's 2015 SSM SIP Action—the existence of automatic or discretionary exemptions from otherwise applicable SIP limitations—has not been solved. The new provision allowing sources to apply for AELs is not mandatory, so it is questionable as to why any source would apply for an AEL if the alternative is to do nothing and remain subject to the automatic or discretionary exemption from the limit that is still in West Virginia's regulations. Finally, even if a source covered by one of these automatic or discretionary exemptions for SSM events applies for an AEL, it is not clear from the text of the 45CSR1 regulation that the automatic or discretionary exemptions otherwise allowed by West Virginia's regulations are not available to a source that is granted an AEL by West Virginia. Without these provisions being removed from West Virginia's own regulations and the SIP, the foundational problems in West Virginia's SIP cited by EPA in the 2015 SSM SIP Action still persist.

A second concern supporting EPA's proposed disapproval of the SIP revision is that states may not unilaterally amend their SIPs without the appropriate process contemplated by the CAA. Even if the AEL approval process described in the SIP revision were mandatory for every source with emissions limitations subject to the SIP-called provisions, all revisions to SIP-approved emissions limitations must be subject to a state public comment process and submitted to EPA for approval. There is no explicit requirement in West Virginia's proposed SIP revision that would require State-approved AELs to be submitted to EPA for approval. Even if West Virginia intended to submit these AELs as SIP revisions, the potential resource burden on West Virginia and EPA in evaluating each single source AEL for both consideration of the criteria for an AEL and compliance with the requirements for revising a SIP could be significant.

Additionally, even if all sources were required to put in place AELs upon State approval, and even if all State-approved AELs are be submitted for EPA approval into West Virginia's SIP, until all sources potentially covered by the SIP-called provisions have had their AELs approved into the SIP, West Virginia would still be in violation of EPA's 2015 SSM SIP Policy and the accompanying SIP calls, and may be subject to sanctions and/or a Federal implementation plan (FIP) accordingly.

A third concern is that the additional regulatory language in 45CSR1 added by West Virginia is not in accordance with the first, and potentially most important, of the seven criteria EPA set forth in the 2015 SSM SIP Action. The 2015 SSM SIP Action states that, ''except in the case where a single source or small group of sources has the potential to cause an exceedance of the NAAQS [National Ambient Air Quality Standard] or PSD [prevention of significant deterioration] increments, it may be appropriate, in consultation with EPA, to create narrowly-tailored SIP revisions that take technological limitations into account and state that

[7] 45CSR13 generally covers minor source permitting. 45CSR14 is the Prevention of Significant Deterioration (PSD) permit program. 45CSR19 is the nonattainment new source review permit program.

[8] 80 FR 33840 at 33980, June 12, 2015.

[9] Id.

[10] Id.

[11] 80 FR 33913, June 12, 2015.

[12] Id.

[13] The full text of West Virginia's adopted regulation, 45 CSR 1, is in the docket for this action.

the otherwise applicable emissions limitations do not apply during narrowly-defined startup and shutdown periods.'' [14] The 2015 SSM SIP Action outlines seven criteria that would be considered by EPA when determining whether a SIP revision setting an alternative emission limitation during an SSM event complies with the CAA requirements and is therefore approvable. The first criterion is that the revision must be limited to specific, narrowly-defined source categories using specific control strategies.

West Virginia's submittal creates a process in which the Secretary may establish an AEL for a single source on a case-by-case basis, rather than establishing a single AEL applicable to a group of sources within a specific, narrowly-defined source category, which is problematic on its own. In addition, setting AELs on a single source, case-by-case basis raises concerns regarding the consistency of SSM provisions between similar types of sources with similar emission controls. When developing its AEL policy, EPA envisioned that states would create one standard value AEL for startups or shutdowns that would apply to a group of similar sources with similar emission controls, such as coal-fired boilers using wet scrubbers to control sulfur dioxide, and would require no further review or judgment by the state or EPA. However, West Virginia's approach would require each such source to apply for an AEL and potentially receive a different AEL than other similar sources. This could lead to inconsistent alternative limits for sources that should probably have similar alternative limits for startup or shutdown.

A fourth concern is that the additional language added by 45CSR1 does not cover malfunctions, while the 2015 SSM SIP Action did cite to certain West Virginia regulations providing for exemptions during malfunctions.[15] While the State is not required to establish an AEL for malfunctions, the continued existence of exemptions for malfunction events fails to address the 2015 SSM SIP Action.

Another significant concern with West Virginia's SIP submission is that 45CSR1–1–5.b states that sources subject to new source performance standards (NSPS), as incorporated into 45CSR16, and National Emissions Standards for Hazardous Air Pollutants (NESHAPS), as incorporated into 45CSR34, shall follow any SSM provisions set forth in an applicable NSPS and/or NESHAP and is not eligible for an AEL. This reliance on SSM provisions in NSPS and NESHAPS is problematic in some cases for multiple reasons.

First, EPA admits that many of the existing NSPS and NESHAP standards still contain exemptions from emission limitations during periods of SSM. The exemptions in these EPA regulations, however, predate the 2008 issuance of the D.C. Circuit decision in *Sierra Club* v. *Johnson,* in which the court held that emission limitations must be continuous and thus cannot contain exemptions for emissions during SSM events.[16] Likewise, the NSPS general provisions in 40 CFR 60.8 also predate that 2008 court decision. Since the 2008 *Sierra Club* decision, EPA has been working to remove or revise these SSM provisions as NSPS and NESHAPS are reviewed.[17] Thus, some NSPS and NESHAPS have been revised to address the 2008 Sierra Club decision, but some have not, and West Virginia's 45CSR1–1–5.b does not distinguish between the updated standards and not-yet-updated standards. Despite the fact that EPA has not completed its work removing SSM provisions from every NSPS and NESHAP, the Agency is not willing to newly approve problematic SSM provisions into SIPs.

Second, while the 2015 SSM SIP Action acknowledges that certain Federal rules may provide useful examples of approaches for appropriate and feasible AELs for states to apply during startup and shutdown in a SIP provision (in particular those Federal rules that have been revised or newly promulgated since 2008),[18] it should not be assumed that emission limitation requirements in recent NESHAP and NSPS are appropriate for all sources regulated by the SIP. The universe of sources regulated by the Federal NSPS and NESHAP programs is not identical to the universe of sources regulated by states for purposes of the NAAQS. Moreover, the pollutants regulated under the NESHAP program (*i.e.,* hazardous air pollutants) are in many cases different than those that would be regulated for purposes of attaining and maintaining the NAAQS, protecting PSD increments, improving visibility, and meeting other CAA requirements. *See* 80 FR 33916, June 12, 2015. Therefore, the particular work practice standards which any particular NSPS or NESHAP adopts for an SSM event as part of a continuously applicable emission limitation would still need to be evaluated on a case-by-case basis as to their applicability and appropriateness as AELs for SIP purposes. Furthermore, the SIP must be clear as to what the applicable limitations are for each source at all times. West Virginia's regulation at 45CSR1–1–5.b leaves it up to each source to identify which NSPS and/or NESHAP and any applicable SSM provision may apply, which makes it far from clear to EPA and the public which standard applies, making it difficult or impossible to enforce any standard against the source. Finally, EPA also recommends giving consideration to the seven specific criteria delineated in the 2015 SSM SIP Action for developing AELs in SIP provisions that apply during startup and shutdown. *See id.* at 33980.

III. Proposed Action

EPA's review indicates that West Virginia's submittal (1) does not remove those provisions of State regulation that were identified by the 2015 SIP Action as inconsistent with the CAA, but instead adopts an optional regulatory process for creating source-specific AELs; and (2) requires individual, source-by-source determinations of alternative limits subject only to required State approval, without any requirement that such revisions of otherwise applicable emissions limitations should be submitted to EPA as a separate SIP revision. EPA also believes this source-by-source approach will prove burdensome for both West Virginia and EPA, and potentially result in similar sources in similar source categories receiving different and inconsistent alternative emission limits during startup and shutdown. In addition, as mentioned above, until all sources potentially covered by the SIP-called provisions have had their AELs approved into the SIP, West Virginia would still be in violation of EPA's 2015 SSM SIP Policy and the accompanying SIP calls, and may be subject to sanctions and/or a FIP accordingly. For these and other reasons described above, EPA is therefore proposing to disapprove West Virginia's June 13, 2017 SIP revision that establishes a new rule setting forth the requirements to establish an AEL for a source voluntarily requesting an AEL. EPA is soliciting public comments on the issues discussed in this document.

[14] 80 FR 33840 at 33914, June 12, 2015.

[15] See 45CSR2–9.1, 45CSR4–100.8, 45CSR3–7.1, 45CSR5–13.1, 45CSR6–8.2, 45CSR7–9.1, 45CSR10–9.1, 45CSR21–9.

[16] 551 F.3d 1019 (D.C. Cir. 2008).

[17] 80 FR 33840 at 33890–91, June 12, 2015.

[18] Specifically, EPA is referring to Federal rules for the New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants that have been issued since the D.C. Circuit's decision of December 19, 2008, *Sierra Club* v. *Johnson,* 551 F.3d 1019 (D.C. Cir. 2008).

These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' as defined by Executive Order 12866 and was therefore not submitted to the Office of Management and Budget for review.

B. Paperwork Reduction Act (PRA)

This proposed action does not impose an information collection burden under the PRA because it does not contain any information collection activities.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action merely proposes to disapprove a SIP submission as not meeting the CAA.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. This action does not apply on any Indian reservation land, any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, or non-reservation areas of Indian country. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because it merely proposes to disapprove a SIP submission as not meeting the CAA.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations.

This action merely proposes to disapprove a SIP submission as not meeting the CAA.

List of Subjects in 40 CFR Part 52

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

Diana Esher,

Acting Regional Administrator, Region III.

[FR Doc. 2022–27713 Filed 12–21–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–R01–OAR–2020–0007; FRL–10498–01–R1]

Approval of the Clean Air Act, Section 112(l), Authority for Hazardous Air Pollutants: Air Emissions Standards for Halogenated Solvent Cleaning Machines; State of Rhode Island Department of Environmental Management

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to grant the Rhode Island Department of Environmental Management (RI DEM) the authority to implement and enforce the amended Rhode Island Code of Regulations, Control of Emissions from Organic Solvent Cleaning (Organic Solvent Cleaning Rule), and the General Definitions Regulation (General Definitions Rule) in place of the National Emission Standard for Halogenated Solvent Cleaning (Halogenated Solvent NESHAP) as a partial rule substitution as it applies to organic solvent cleaning machines in Rhode Island. Upon approval, RI DEM's amended Organic Solvent Cleaning Rule and General Definitions Rule would apply to all sources that otherwise would be regulated by the Halogenated Solvent NESHAP, except for continuous web cleaning machines, for which the Halogenated Solvent NESHAP would continue to apply. The EPA has reviewed RI DEM's request and has preliminarily determined that the State's amended Organic Solvent Cleaning Rule and General Definitions Rule satisfy the requirements necessary for approval. Thus, the EPA is proposing to approve the request. This approval would make RI DEM's amended Organic Solvent Cleaning Rule and General Definitions Rule federally enforceable. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before January 23, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2020–0007 at *https://www.regulations.gov,* or via email to *bird.patrick@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket.