consultation with the FLMs on Regional Haze issues throughout the implementation period of the SIP.

D. Periodic SIP Revisions and Five-Year Progress Reports

Consistent with the requirements of 40 CFR 51.308(g), the District of Columbia has committed to submitting a report on reasonable progress (in the form of a SIP revision) to the EPA every five years following the initial submittal of its regional haze SIP.

IV. What action is EPA proposing to take?

EPA is proposing to approve the revision to the District of Columbia SIP submitted by the District of Columbia through the DDOE on October 27, 2011 that addresses regional haze for the first implementation period. EPA is proposing to make a determination that the District of Columbia Regional Haze SIP contains the emission reductions needed to achieve the District of Columbia's share of emission reductions agreed upon through the regional planning process. Furthermore, the District of Columbia's Regional Haze Plan ensures that emissions from the District of Columbia will not interfere with the reasonable progress goals for neighboring states' Class I areas. Accordingly, EPA is proposing to find that this revision meets the applicable visibility related requirements of 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 p.m.$_{2.5}$ NAAQS. EPA is also proposing to conclude that the Regional Haze Plan submitted by the District of Columbia also satisfies the BART requirements of section 169A of the CAA. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely 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 CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Visibility, Volatile organic compounds.

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

Dated: November 8, 2011.

W.C. Early,

Acting, Regional Administrator, Region III.

[FR Doc. 2011–29595 Filed 11–15–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2008–0637; FRL -9492–8]

Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Infrastructure Requirements for 1997 8-Hour Ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve submittals from the State of Oklahoma 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 the 1997 and 2006 fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS or standards). We are proposing to find that the current Oklahoma State Implementation Plan (SIP) meets the following infrastructure elements for the 1997 8-hour ozone NAAQS and the 1997 and 2006 $PM_{2.5}$ NAAQS: 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). EPA is also proposing to find that emissions from sources in Oklahoma do not interfere with measures required in the SIP of any other state under part C of the Act to prevent significant deterioration of air quality, with regard to the 2006 $PM_{2.5}$ NAAQS. This action is being taken under section 110 and part C of the Act.

DATES: Comments must be received on or before December 16, 2011.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2008–0637, by one of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *U.S. EPA Region 6 ''Contact Us'' Web site: http://epa.gov/region6/r6comment.htm.* Please click on ''6PD (Multimedia)'' and select ''Air'' before submitting comments.
- *Email:* Mr. Guy Donaldson at *donaldson.guy@epa.gov.* Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number (214) 665–7263.
- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

• *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2008–0637. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the 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 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. If possible, please make the appointment at least two working days in advance of your visit. There will be 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.

The State submittal is also available for public inspection during official business hours, by appointment, at the Oklahoma Department of Environmental Quality (ODEQ), Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101–1677.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Johnson, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, *telephone* (214) 665–2154; *fax number* (214) 665–6762; *email address johnson.terry@epa.gov.*

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

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I. Background

A. What are the National Ambient Air Quality Standards?

Section 109 of the Act requires EPA to establish NAAQS for pollutants that ''may reasonably be anticipated to endanger public health and welfare,'' and to develop a primary and secondary standard for each NAAQS. The primary standard is designed to protect human health with an adequate margin of safety, and the secondary standard is designed to protect public welfare and the environment. EPA has set NAAQS for six common air pollutants, referred to as criteria pollutants: carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter (PM), and sulfur dioxide. These standards present state and local governments with the minimum air quality levels they must meet to comply with the Act. Also, these standards provide information to residents of the United States about the air quality in their communities.

B. What is a SIP?

The SIP is a set of air pollution regulations, control strategies, other means or techniques, and technical analyses developed by the state, to ensure that the state meets the NAAQS. The SIP is required by section 110 and other provisions of the Act. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emissions inventories, monitoring networks, and modeling demonstrations. Each state must submit these regulations and control strategies to EPA for approval and incorporation into the Federally-enforceable SIP. Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin.

C. What is the background for this rulemaking?

Under sections 110(a)(1) and (2) of the Act, states are required to submit SIPs that provide for the implementation, maintenance, and enforcement (the infrastructure) of a new or revised NAAQS within three years following the promulgation of the NAAQS, or within such shorter period as EPA may prescribe. Section 110(a)(2) lists the specific infrastructure elements that must be incorporated into the SIPs, including for example, requirements for emission inventories, new source review (NSR), air pollution control measures, and monitoring that are designed to assure attainment and maintenance of the NAAQS. Table 1 in Section D of this rulemaking provides a list of all 14 infrastructure elements.[1]

On July 18, 1997, we published new and revised NAAQS for ozone (62 FR 38856) and PM (62 FR 38652). For ozone, we set an 8-hour standard of 0.08

[1] Two elements identified in section 110(a)(2) are not governed by the 3-year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within 3 years after promulgation of a new or revised NAAQS, but rather are due at the time the nonattainment area plan requirements are due pursuant to section 172 of the CAA. These elements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D Title I of the CAA. Therefore, this action does not cover these specific SIP elements.

parts per million (ppm) to replace the 1-hour standard of 0.12 ppm. For PM we set a new annual and a new 24-hour NAAQS for particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (denoted $PM_{2.5}$). The annual $PM_{2.5}$ standard was set at 15 micrograms per cubic meter (μg/m³). The 24-hour $PM_{2.5}$ standard was set at 65 μg/m³. On October 17, 2006, we published revised standards for PM (71 FR 61144). For $PM_{2.5}$, the annual standard of 15 μg/m³ was retained, and the 24-hour standard was revised to 35 μg/m³. For PM_{10} the annual standard was revoked, and the 24-hour standard (150 μg/m³) was retained. For more information on these standards, please see the 1997 and 2006 **Federal Register** notices (62 FR 38856, 62 FR 38652, and 71 FR 61144).

Thus, states were required to submit such SIPs for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS to EPA no later than June 2000.[2] However, intervening litigation over the 1997 8-hour ozone and $PM_{2.5}$ NAAQS created uncertainty about how to proceed, and many states did not provide the required ''infrastructure'' SIP submission for these newly promulgated NAAQS.

On March 4, 2004, Earthjustice submitted a notice of intent to sue related to EPA's failure to issue findings of failure to submit related to the infrastructure requirements for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS. EPA entered into a consent decree with Earthjustice which required EPA, among other things, to complete a **Federal Register** notice announcing EPA's determinations pursuant to section 110(k)(1)(B) of the Act as to whether each state had made complete submissions to meet the requirements of section 110(a)(2) for the 1997 8-hour ozone NAAQS by December 15, 2007. Subsequently, EPA received an extension of the date to complete this **Federal Register** notice until March 17, 2008, based upon agreement to make the findings with respect to submissions made by January 7, 2008. In accordance with the consent decree, EPA made completeness findings for each state based upon what the Agency had received from each state as of January 7, 2008. With regard to the 1997 $PM_{2.5}$ NAAQS, EPA entered into a consent decree with Earthjustice, which required EPA, among other things, to complete a **Federal Register** notice announcing EPA's determinations pursuant to section 110(k)(1)(B) of the Act as to whether each state had made complete submissions to meet the requirements of section 110(a)(2) for the 1997 $PM_{2.5}$ NAAQS by October 5, 2008.

On March 27, 2008, and October 22, 2008, we published findings concerning whether states had made the 110(a)(2) submissions for the 1997 ozone (73 FR 16205) and $PM_{2.5}$ standards (73 FR 62902). In the March 27, 2008 action, we found that Oklahoma made submissions that addressed some, but not all of the requirements of section 110(a)(2) of the Act necessary to implement the 1997 8-hour ozone NAAQS. As required by section 110(a)(2)(C) and (J), Oklahoma had failed to submit a SIP addressing changes to the part C Prevention of Significant Deterioration (PSD) permit program required by the November 29, 2005 (70 FR 71612, page 71699) final rule that made nitrogen oxides (NO_X) a precursor for ozone in the part C regulations at 40 CFR 51.166 and in 40 CFR 52.21. In the October 22, 2008 action, we found that Oklahoma failed to make a submittal to satisfy the requirements of section 110(a)(2) of the Act necessary to implement the 1997 $PM_{2.5}$ NAAQS.

On October 2, 2007 we issued ''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,'' Memorandum from William T. Harnett, Director, Air Quality Policy Division (AQPD), Office of Air Quality Planning and Standards (OAQPS).[3] On September 25, 2009, we issued ''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),'' Memorandum also from William T. Harnett, Director, AQPD, OAQPS. Each of these guidance memos addresses the SIP elements found in 110(a)(2). In each of these guidance memos, the guidance states that, to the extent that existing SIPs already meet the requirements, states need only certify that fact to us.

On December 5, 2007 the ODEQ submitted a letter certifying that the Oklahoma SIP includes all the requirements in section 110(a)(1) and (2) of the Act for implementation of the 1997 8-hour ozone NAAQS. The letter also stated that ODEQ would evaluate the particulate matter provisions of the Oklahoma SIP for consistency with Federal requirements.

On June 24, 2010 the ODEQ submitted a letter certifying that the Oklahoma SIP includes all the requirements in section 110(a)(1) and (2) of the Act for implementation of the 1997 $PM_{2.5}$ NAAQS. Attached to the certification letter was supporting information that identified the Oklahoma SIP provisions, regulations and statutes that support the section 110(a)(2) infrastructure elements for the NAAQS. At this time, ODEQ also submitted revisions to their PSD SIP that addressed NO_X as a precursor to ozone. EPA approved the SIP revisions incorporating NO_X as an ozone precursor (see 75 FR 72695, November 26, 2010).

On April 5, 2011 the ODEQ submitted a letter, including supporting information, certifying that the Oklahoma SIP includes all the requirements in section 110(a)(1) and (2) of the Act for implementation of the 2006 revisions to the $PM_{2.5}$ NAAQS.

Additional 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 those infrastructure SIP submissions.[4] Those commenters specifically raised concerns involving provisions in existing SIPs and with EPA's statements in other proposals that it would address two issues separately and not as part of actions on the infrastructure SIP submissions: (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction 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

[2] EPA issued a revised 8-hour ozone standard on March 27, 2008 (73 FR 16436). On September 16, 2009, the EPA Administrator announced that EPA would take rulemaking action to reconsider the 2008 primary and secondary ozone NAAQS. On January 19, 2010, EPA proposed to set different primary and secondary ozone standards than those set in 2008 to provide requisite protection of public health and welfare, respectively (75 FR 2938). On September 22, 2011, EPA clarified that the current ozone standard is set at 75 ppb. This rulemaking does not address the 2008 ozone standard.

[3] This and any other guidance documents referenced in this action are in the docket for this rulemaking.

[4] 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.

substantive issues for which EPA likewise stated in other proposals 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 believes that its statements in various proposed actions on infrastructure SIPs with respect to these four individual issues should be explained in greater depth. It is important to emphasize that EPA is taking the same position with respect to these four substantive issues in this action on the infrastructure SIP submittals for the 1997 8-hour ozone NAAQS and the 1997 and 2006 $PM_{2.5}$ NAAQS submissions from Oklahoma.

EPA intended the statements in the other proposals concerning these four issues merely to be informational, and to provide general notice of the potential existence of provisions within the existing SIPs of some states that might require future corrective action. EPA did not want states, regulated entities, or members of the public to be under the misconception that the Agency's approval of the infrastructure SIP submission of a given state should be interpreted as a 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. EPA is reiterating that position in this action on these infrastructure SIP submittals for Oklahoma.

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

The requirement for the SIP submissions at issue arises out of CAA section 110(a)(1). That provision requires that states must make a SIP submission ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof)'' and that these SIPS are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must meet. EPA has historically referred to these particular submissions that states must make after the promulgation of a new or revised NAAQS as ''infrastructure SIPs.'' This specific term does not appear in the statute, but EPA uses the term to distinguish this particular type of SIP submission designed to address basic structural requirements of a SIP from other types of SIP submissions designed to address other different requirements, such as ''nonattainment SIP'' submissions required to address the nonattainment planning requirements of part D, ''regional haze SIP'' submissions required to address the visibility protection requirements of CAA section 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.[5] 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.[6]

Notwithstanding that section 110(a)(2) provides that ''each'' SIP submission must meet the list of requirements therein, EPA has long noted that this literal reading of the statute is internally inconsistent, insofar as section 110(a)(2)(I) pertains to nonattainment SIP requirements that could not be met on the schedule provided for these SIP submissions in section 110(a)(1).[7] This

[5] 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.

[6] 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'').

[7] See, *e.g.,* Id., 70 FR 25162, at 63–65 (May 12, 2005) (explaining relationship between timing

Continued

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.[8] 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.[9]

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

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

On October 2, 2007, EPA issued guidance making recommendations for the infrastructure SIP submissions for both the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS.[10] 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.''[11] 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.''[12] 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.''[13] 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.

On September 25, 2009, EPA issued guidance to make recommendations to states with respect to the infrastructure SIPs for the 2006 $PM_{2.5}$ NAAQS.[14] In the 2009 Guidance, EPA addressed a number of additional issues that were not germane to the infrastructure SIPs for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS, but were germane to these SIP submissions for the 2006 $PM_{2.5}$ NAAQS, *e.g.,* the requirements of section 110(a)(2)(D)(i) that EPA had bifurcated from the other infrastructure elements for those specific 1997 ozone and $PM_{2.5}$ NAAQS.

Significantly, neither the 2007 Guidance nor the 2009 Guidance explicitly referred to the SSM, director's discretion, minor source NSR, or NSR Reform issues as among specific substantive issues EPA expected states to address in the context of the infrastructure SIPs, nor did EPA give any more specific recommendations with respect to how states might address such issues even if they elected to do so. The SSM and director's discretion issues implicate section 110(a)(2)(A),

requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[8] 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.

[9] 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.

[10] 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'').

[11] Id., at page 2.

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

[13] 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.

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

and the minor source NSR and NSR Reform issues implicate section 110(a)(2)(C). In the 2007 Guidance and the 2009 Guidance, however, EPA did not indicate to states that it intended to interpret these provisions as requiring a substantive submission to address these specific issues in existing SIP provisions in the context of the infrastructure SIPs for these NAAQS. Instead, EPA's 2007 Guidance merely indicated its belief that the states should make submissions in which they established that they have the basic SIP structure necessary to implement, maintain, and enforce the NAAQS. EPA believes that states can establish that they have the basic SIP structure, notwithstanding that there may be potential deficiencies within the existing SIP. Thus, EPA's proposals for other states mentioned these issues not because the Agency considers them issues that must be addressed in the context of an infrastructure SIP as required by section 110(a)(1) and (2), but rather because EPA wanted to be clear that it considers these potential existing SIP problems as separate from the pending infrastructure SIP actions. The same holds true for this action on the infrastructure SIP submittals for Oklahoma.

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.[15] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[16] Significantly, EPA's determination that an action on the infrastructure SIP submittal 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.[17]

D. What elements are required under section 110(a)(2)?

Pursuant to the October 2, 2007, EPA guidance for addressing the SIP infrastructure elements required under sections 110(a)(1) and (2) for the 1997 ozone and 1997 and 2006 $PM_{2.5}$ NAAQS, there are 14 essential components that must be included in the SIP. These are listed in Table 1 below.

TABLE 1—SECTION 110(a)(2) ELEMENTS REQUIRED IN SIPS

Clean Air Act citation	Brief description
Section 110(a)(2)(A)	Emission limits and other control measures.
Section 110(a)(2)(B)	Ambient air quality monitoring/data system.
Section 110(a)(2)(C)	Program for enforcement of control measures.
Section 110(a)(2)(D)	Interstate transport.
Section 110(a)(2)(E)	Adequate resources.
Section 110(a)(2)(F)	Stationary source monitoring system.
Section 110(a)(2)(G)	Emergency power.
Section 110(a)(2)(H)	Future SIP revisions.
Section 110(a)(2)(J)[18]	Consultation with government officials.
Section 110(a)(2)(J)	Public notification.
Section 110(a)(2)(J)	Prevention of significant deterioration (PSD) and visibility protection.
Section 110(a)(2)(K)	Air quality modeling/submission of such data.
Section 110(a)(2)(L)	Permitting fees.

[15] 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).

[16] EPA has recently utilized this authority to correct errors in past actions on SIP submissions related to PSD programs. See, ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536 (December 30, 2010). EPA has previously used its authority under CAA 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See, *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).

[17] 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).

[18] Section 110(a)(2)(I) is omitted from the list. Section 110(a)(2)(I) pertains to the nonattainment planning requirements of part D, Title I of the Act. This section is not governed by the 3-year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within 3 years after promulgation of a new or revised NAAQS, but are due at the time the nonattainment area plan requirements are due pursuant to section 172. Thus this action does not cover section 110(a)(2)(I).

TABLE 1—SECTION 110(a)(2) ELEMENTS REQUIRED IN SIPS—Continued

Clean Air Act citation	Brief description
Section 110(a)(2)(M)	Consultation/participation by affected local entities.

II. What action is EPA proposing?

EPA is proposing to approve the Oklahoma SIP submittals of December 5, 2007, June 24, 2010, and April 5, 2011, 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. The Oklahoma submittals do not include revisions to the SIP, but document how the current Oklahoma SIP already includes the required infrastructure elements. In today's action, we are proposing to find that the following section 110(a)(2) elements are contained in the current Oklahoma SIP and provide the infrastructure for implementing the 1997 ozone and the 1997 and 2006 $PM_{2.5}$ standards: emission limits and other control measures (section 110(a)(2)(A)); ambient air quality monitoring/data system (section 110(a)(2)(B)); the 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)).

We are also proposing to approve the Oklahoma SIP provisions that address the requirement of section (110)(a)(2)(D)(i)(II) of the Act that emissions from sources in Oklahoma do not interfere with measures required in the SIP of any other state under part C of the Act to prevent significant deterioration of air quality for the 2006 $PM_{2.5}$ NAAQS.

III. How has Oklahoma addressed the elements of section 110(a)(2)?

The Oklahoma submittal addresses the elements of Section 110(a)(2) as described below. We provide a more detailed review and analysis of the Oklahoma infrastructure SIP elements in the Technical Support Document (TSD), located in the docket for this rulemaking.

Enforceable emission limits and other control measures, section 110(a)(2)(A): Section 110(a)(2)(A) requires that all measures and other elements in the SIP be enforceable. This provision does not require the submittal of regulations or emission limits developed specifically for attaining the 1997 8-hour ozone and 1997 and 2006 $PM_{2.5}$ standards. Those regulations are due later as part of attainment demonstrations. Additionally, as explained earlier (see footnote 1), EPA does not consider SIP requirements triggered by the nonattainment area mandates in part D of Title I of the CAA to be governed by the submission deadline of section 110(a)(1). Nevertheless, Oklahoma has included some SIP provisions originally submitted in response to part D in its submission documenting its compliance with the infrastructure requirements of section 110(a)(1) and (2). Oklahoma has continually updated the elements of its SIP revisions submitted in response to the infrastructure requirements of section 110(a)(2) and the nonattainment requirements of part D. For the purposes of this action, EPA is reviewing any rules originally submitted in response to part D solely for the purposes of determining whether they support a finding that the state has met the basic infrastructure requirements under section 110(a)(2).

The Oklahoma Environmental Quality Act and the Oklahoma Environmental Quality Code designate the Oklahoma Department of Environmental Quality (ODEQ) as the state air pollution control agency having jurisdiction for air quality matters.[19] The Oklahoma Environmental Quality Code establishes that ODEQ establish an air quality program for air quality. Further, the Oklahoma Clean Air Act designates ODEQ to establish and implement air quality programs and provides enforcement authority for regulations promulgated under the Act.[20]

The ODEQ has promulgated rules to limit and control emissions of, among other things, PM, sulfur compounds (including sulfur dioxide or SO_2), nitrogen compounds (including NO_X), and VOCs.[21] These rules include emission limits, control measures, permits, fees, and compliance schedules and are found within Title 252, Chapter 100 of the Oklahoma Administrative Code (denoted 252:100 OAC).

In this action, EPA is not proposing to approve or disapprove any existing state provisions with regard to excess emissions during startup, shutdown, or malfunction (SSM) of operations at a facility. EPA believes that a number of states may have SSM SIP provisions which are contrary to the Act and inconsistent with existing EPA guidance,[22] and the Agency plans to address such state regulations in the future. In the meantime, EPA encourages any state having a deficient SSM provision to take steps to correct it as soon as possible. Similarly, in this proposed action EPA does not include a review of, and also does not propose to take any action to approve or disapprove, any existing SIP rules with regard to director's discretion or variance provisions. EPA believes that a number of states have such provisions that are contrary to the Act and not consistent with existing EPA guidance (52 FR 45044, November 24, 1987)[23] and the Agency plans to take action in the future to address such state regulations. In the meantime, EPA encourages any state having a director's discretion or variance provision in its SIP that is contrary to the Act and inconsistent with EPA guidance to take steps to correct the deficiency as soon as possible.

A detailed list of the applicable rules at 252:100 OAC, listed above, is provided in the TSD. The Oklahoma SIP contains enforceable emission limits and other control measures, which are in the federally enforceable SIP. EPA is

[19] Except for indoor air quality and asbestos as regulated for worker safety by the Federal Occupational Safety and Health Act and by Chapter 11 of Title 40 of the Oklahoma statutes.

[20] See 27A O.S.Supp.1995, § 1–1–101; 27A O.S.Supp.1995, § 2–1–101; Title 27A, §§ 2–5–101 to 2–5–107.

[21] NO_X and VOCs are precursors to ozone. PM can be emitted directly and secondarily formed; the latter is the result of NO_X and SO_2 precursors combining with ammonia to form ammonium nitrate and ammonium sulfate.

[22] ''State Implementation Plans (SIPs): Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown,'' Memorandum from Steven A. Herman, Assistant Administrator for Enforcement and Compliance Assurance, and Robert Perciasepe, Assistant Administrator for Air and Radiation, dated September 20, 1999.

[23] The section addressing exemptions and variances is found on p. 45109 of the 1987 rulemaking.

proposing to determine that the Oklahoma SIP meets the requirements of section 110(a)(2)(A) of the Act with respect to the 1997 8-hour ozone and 1997 and 2006 $PM_{2.5}$ NAAQS.

Ambient air quality monitoring/data system, section 110(a)(2)(B): Section 110(a)(2)(B) requires SIPs to include provisions for establishment and operation of ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to EPA upon request. The ODEQ operates and maintains a state-wide network of air quality monitors; data are collected, results are quality assured and the data are submitted to EPA's Air Quality System [24] on a regular basis. The Oklahoma Statewide Air Quality Surveillance Network was approved by EPA at 37 FR 10842, 10887 and revised on March 28, 1979 (44 FR 18490) and January 12, 1981 (46 FR 2655). Oklahoma's monitoring network includes the State and Local Air Monitoring Stations (SLAMS), which measure ambient concentrations of those pollutants for which standards have been established in 40 CFR part 50 (46 FR 2655). Oklahoma's air quality surveillance network consists of stations that measure ambient concentrations of the criteria pollutants, including ozone [25] and $PM_{2.5}$. The ODEQ Web site provides the ozone and $PM_{2.5}$ monitor locations and current and historical data, including ozone design values for current [26] and past trienniums. On June 30, 2010, ODEQ submitted its 2010 Annual Air Monitoring Network Plan (AAMNP) that addresses each of the criteria pollutants, including 8-hour ozone and $PM_{2.5}$ and thus allows the state to measure its air quality for compliance with the 1997 ozone and 1997 and 2006 $PM_{2.5}$ NAAQS. EPA approved the 2010 AAMNP on January 12, 2011.[27]

In summary, Oklahoma meets the requirements to establish, operate, and maintain an ambient air monitoring network, collect and analyze the monitoring data, and make the data available to EPA upon request. The EPA is proposing to find that the current Oklahoma SIP meets the requirements of section 110(a)(2)(B) of the Act for the 1997 ozone and 1997 and 2006 $PM_{2.5}$ NAAQS.

Program for enforcement of control measures and regulation of the modification and construction of stationary sources, including a permit program, pursuant to section 110(a)(2)(C): In its submittal for the 1997 8-hour ozone NAAQS, the ODEQ did not specifically address this element of section 110(a)(2)(C). The ODEQ did, however, include a review of enforcement of control measures, including review of proposed new sources, contained in its SIP in its June 24, 2010 and April 5, 2011 certifications regarding the 1997 and 2006 $PM_{2.5}$ NAAQS, respectively.

The ODEQ has requisite enforcement authority as provided under the Oklahoma Environmental Quality Act, Oklahoma Environmental Quality Code and the Oklahoma Clean Air Act.[28] The administrative proceedings for enforcement actions, including administrative compliance orders and determination of penalty, are provided under 252 OAC chapter 4, subchapter 9. Among the issues addressed in 252 OAC chapter 100, subchapters 3, 5, 8, 9, 13, 17, 19, 23, 24, 25, 31, 33, 37, 39, 43, and Appendices A, C–G and L, are allowable emission rates, compliance, control plan requirements, control schedules, monitoring and testing requirements, and reporting and recordkeeping requirements. These clarify the boundaries beyond which regulated entities in Oklahoma can expect enforcement action.

To meet the requirement for having a program for the regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQS are achieved, including a permit program as required by Parts C and D, generally, the State is required to have SIP-approved PSD, Nonattainment, and Minor NSR permitting programs adequate to implement the 1997 8-hour ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS. As discussed previously, we are not evaluating nonattainment-related provisions, such as the nonattainment NSR program required by part D in 110(a)(2)(C) and measures for attainment required by section 110(a)(2)(I), as part of the infrastructure SIPs for these three NAAQS because these submittals are required beyond the date (3 years from NAAQS promulgation) that section 110 infrastructure submittals are required.

PSD programs apply in areas that are meeting the NAAQS or are unclassifiable, referred to as areas in attainment. PSD applies to new major sources and major modifications at existing sources. Oklahoma's PSD program was initially approved into the SIP on August 25, 1983 (see 48 FR 38635), giving the State authority to issue PSD permits and enforce them under its approved PSD SIP. Subsequent revisions to Oklahoma's PSD program were found to be consistent with Federal regulations, and as such, were approved by EPA into the SIP on February 12, 1991 (see 56 FR 05653) and July 23, 1991 (see 56 FR 33715).

To implement section 110(a)(2)(C) for the 1997 ozone NAAQS, a state must have updated its PSD rules to address NO_X as an ozone precursor (70 FR 71612). To meet this requirement Oklahoma submitted updated PSD rules for ozone on June 24, 2010, and EPA approved them on November 26, 2010 (75 FR 72695).

To implement section 110(a)(2)(C) for the $PM_{2.5}$ NAAQS, a state must provide revisions to implement the NAAQS, due May 16, 2011 (73 FR 28321 May 16, 2008). On July 16, 2010, ODEQ submitted revisions to the Oklahoma SIP that amended their PSD program to meet these $PM_{2.5}$ NAAQS implementation requirements. We will act on this submission in a separate rulemaking. Previously, on December 29, 2008, EPA approved revisions to the values for PM significant deterioration increments in accordance with 40 CFR 51.166.[29] We determined these revisions to the PM PSD increments complied with EPA's PSD regulations.

In this action, EPA is not proposing to approve or disapprove any state rules with regard to the NSR Reform requirements. EPA will act on SIP submittals that were made for purposes of adopting NSR Reform through a separate rulemaking process.

Oklahoma has the authority to issue permits under the SIP-approved PSD program to sources of GHG emissions (75 FR 82536, December 30, 2010; 75 FR 77698, December 13, 2010).[30] The Tailoring Rule established thresholds that phase in the applicability of PSD

[24] The Air Quality System (AQS) is EPA's repository of ambient air quality data. AQS stores data from over 10,000 monitors, 5,000 of which are currently active. State, Local and Tribal agencies collect the data and submit it to AQS on a periodic basis.

[25] During the ozone monitoring season, the ozone monitors are constantly running and recording one-hour ozone averages. Oklahoma submits the hourly data into AQS, where the 8-hour averages are computed. Oklahoma also computes the 8-hour averages and posts the data at *http://www.deq.state.ok.us/AQDnew/monitoring/index.htm*.

[26] The current design values reflect the 2008–2010 ozone season data.

[27] A copy of our approval letter is in the docket for this rulemaking. At the time of this writing, the review of the 2011 AAMNP has not been completed.

[28] See 59 FR 32365 EPA incorporation by reference, the Oklahoma Environmental Quality Act; Oklahoma Clean Air Act of 1992.

[29] See 73 FR 79400.

[30] To view Oklahoma's letter, in which the State told EPA it had this authority, please see *http://www.epa.gov/nsr/2010letters/ok.pdf*.

requirements to GHG sources, starting with the largest GHG emitters, and were designed to relieve the overwhelming administrative burdens and costs associated with the dramatic increase in permitting burden that would have resulted from applying PSD requirements to GHG emission increases at or above only the mass-based statutory thresholds of 100/250 tons per year generally applicable to all PSD-regulated pollutants starting on January 2, 2011. However, EPA recognized that even after it finalized the Tailoring Rule, many SIPs with approved PSD programs would, until they were revised, continue to apply PSD at the statutory thresholds, even though the States would not have sufficient resources to implement the PSD program at those levels. EPA consequently implemented its ''PSD SIP Narrowing Rule'' and narrowed its approval of those provisions of previously approved SIPs that apply PSD to GHG emissions increases from sources emitting GHGs below the Tailoring Rule thresholds (75 FR 82536, December 30, 2010). Through the PSD SIP Narrowing Rule, EPA withdrew its previous approvals of those programs to the extent the SIPs apply PSD to increases in GHG emissions from GHG-emitting sources below the Tailoring Rule thresholds. The portions of the PSD programs regulating GHGs from GHG-emitting sources with emission increases at or above the Tailoring Rule thresholds remained approved. The effect of EPA narrowing its approval in this manner is that the provisions of previously approved SIPs that apply PSD to GHG emissions increases from sources emitting GHGs below the Tailoring Rule thresholds have the status of having been submitted by the State but not yet acted upon by EPA (75 FR 82536, December 30, 2010).

Oklahoma submitted to EPA a supplemental certification, dated October 24, 2011, certifying that the portion of the GHG PSD program in the State's submittal under infrastructure SIP review is only the portion that remained approved after EPA's promulgation of the PSD SIP Narrowing Rule, which is the portion that regulates GHG-emitting sources with GHG emissions at or above the Tailoring Rule thresholds. Therefore, we are proposing to find that the current Oklahoma PSD SIP meets section 110(a)(2)(C) with respect to the 1997 8-hour ozone and $PM_{2.5}$ NAAQS.

EPA has determined that Oklahoma's minor NSR program adopted pursuant to section 110(a)(2)(C) of the Act regulates emissions of ozone and $PM_{2.5}$ and their precursors. EPA has also been made aware of concerns that certain provisions of some states' minor NSR programs adopted pursuant to section 110(a)(2)(C) of the Act may not meet all the requirements found in EPA's regulations implementing that provision. See 40 CFR 51.160–51.164. EPA has approved Oklahoma's minor NSR program into the SIP and various revisions pertaining to the minor program.[31] Oklahoma and EPA have relied upon Oklahoma's existing minor NSR program to assure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the NAAQS. In this action, EPA is proposing to approve Oklahoma's infrastructure SIP for the 1997 ozone and 1997 and 2006 $PM_{2.5}$ standards with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. EPA is not proposing to approve or disapprove Oklahoma's existing minor NSR program itself to the extent that it is inconsistent with EPA's regulations governing this program. EPA believes that a number of states may have minor NSR provisions that are contrary to the existing EPA regulations for this program. EPA intends to work with states to reconcile state minor NSR programs with EPA's regulatory provisions for the program. The statutory requirements of section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs, and EPA believes it may be time to revisit the regulatory requirements for this program in order to give the states an appropriate level of flexibility to design programs that meet their particular air quality concerns, while assuring reasonable consistency across the country in protecting the NAAQS with respect to new and modified minor sources.

Interstate transport, section 110(a)(2)(D): Section 110(a)(2)(D) has two components, 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). Section 110(a)(2)(D)(i) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, interfering with maintenance of the NAAQS in another state, or from interfering with measures required to prevent significant deterioration of air quality or to protect visibility in another state. Section 110(a)(2)(D)(ii) requires SIPs to include provisions insuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement.

On April 25, 2005 (70 FR 21147), EPA published a finding that all States had failed to submit new SIPs addressing interstate transport for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS, as required by section 110(a)(2)(D)(i) of the CAA. Section 110(a)(2)(D)(i) pertains to interstate transport of certain emissions. On August 15, 2006, EPA issued its ''Guidance for State Implementation Plan (SIP) Submission 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'' (2006 Guidance). EPA developed the 2006 Guidance to make recommendations to states for making submissions to meet the requirements of section 110(a)(2)(D)(i) for the 1997 8-hour ozone standards and the 1997 $PM_{2.5}$ standards. As identified in the 2006 Guidance, the ''good neighbor'' provisions in section 110(a)(2)(D)(i) require each state to submit a SIP that prohibits emissions that adversely affect another state in the ways contemplated in the statute. Section 110(a)(2)(D)(i) contains four distinct requirements related to the impacts of interstate transport. The SIP must prevent sources in the state from emitting pollutants in amounts which will: (1) Contribute significantly to nonattainment of the NAAQS in other states; (2) interfere with maintenance of the NAAQS in other states; (3) interfere with provisions to prevent significant deterioration of air quality in other states; and (4) interfere with efforts to protect visibility in other states.

On November 26, 2010, we found for the 1997 ozone and $PM_{2.5}$ standards, that emissions from sources in Oklahoma do not interfere with measures required in the SIP of any other state under part C of the CAA to prevent significant deterioration of air quality (75 FR 72695). On October 17, 2011, we proposed that Oklahoma has sufficient measures to prevent significant contribution to nonattainment or significant interference with maintenance for the 1997 and 2006 $PM_{2.5}$ standards (76 FR 64065). In the same action, we proposed that emissions from Oklahoma do not contribute to nonattainment of the 1997 ozone standard. We also proposed that emissions from Oklahoma do, or in the alternative, do not interfere with maintenance of the 1997 ozone standard and also took comment on whether emissions from Oklahoma do not

[31] See Regulation 1.4 at 48 FR 38635 (0825–1983); 56 FR 33715 (07–23–1991).

interfere with maintenance.[32] In this rulemaking, we are addressing only the requirement that pertains to preventing sources in Oklahoma from emitting pollutants that will interfere with measures required to prevent significant deterioration of air quality in other states for the 2006 $PM_{2.5}$ standard. In its April 5, 2011, submission, Oklahoma indicated that its current NSR SIP is adequate to prevent such interference.

The 2006 Guidance states that the PSD permitting program is the primary measure that each state must include to prevent interference with other State's programs to prevent significant deterioration of air quality in accordance with section 110(a)(2)(D)(i)(II). EPA believes that Oklahoma's April 5, 2011, submission is consistent with the 2006 Guidance, when considered in conjunction with the State's PSD program. As discussed previously in this rulemaking with regards to section 110(a)(2)(C) and in the TSD, the State's PSD program is in the SIP and meets the basic requirements for implementing the $PM_{2.5}$ NAAQS . Therefore, EPA is proposing that Oklahoma has sufficient measures in place to prevent interference with other State's programs to prevent significant deterioration of the 2006 $PM_{2.5}$ standard.

Section 110(a)(2)(D)(ii) of the Act requires compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement. Section 115(a) addresses endangerment of public health or welfare in foreign countries from pollution emitted in the United States. Pursuant to section 115, the Administrator has neither received nor issued a formal notification that emissions from Oklahoma are endangering public health or welfare in a foreign country. Section 126(a) of the Act requires new or modified sources to notify neighboring states of potential impacts from such sources. Oklahoma PSD permitting regulations at 252 OAC chapter 100 require that affected states be notified of permitting actions and be provided with a copy of the draft permit no later than the commencement of the public comment period.[33] (75 FR 72695). The state also has no pending obligations under section 126 of the Act.

EPA is proposing to find that the Oklahoma SIP meets the requirements of section 110(a)(2)(D)(ii) of the Act for the 1997 ozone and 1997 and 2006 $PM_{2.5}$ NAAQS.

Adequate resources, section 110(a)(2)(E): Chapter 9, titled ''Resources,'' of the Oklahoma SIP was originally approved on May 31, 1972, and provides assurances that the State has the adequate resources, *i.e.,* personnel and funding, to carry out their SIP.[34] The Oklahoma Environmental Quality Act, the Oklahoma Environmental Code and the Oklahoma Clean Air Act are codified at Title 27A of the Oklahoma Statutes, titled Environment and Natural Resources.[35] Together, these laws name the ODEQ as the state air control agency, with principal authority in the state on matters relating to the quality of air resources, and charge the ODEQ with preparing and implementing the SIP. The Oklahoma Clean Air Act also authorizes the ODEQ to establish fees to review and act on permit applications; amend and review permits; conduct inspections of facilities; and enforce the rules and orders of permits.

Additionally, there are Federal sources of funding for the implementation of the 1997 8-hour ozone and 1997 and 2006 $PM_{2.5}$ NAAQS through, for example, the CAA sections 103 and 105 grant funds. The ODEQ receives Federal funds on an annual basis, under section 105 of the Act, to support its air quality programs. Fees collected for the Title V and non-Title V permit programs also provide necessary funds to help implement the State's air programs. EPA fully approved Oklahoma's Title V program at 66 FR 63170 (12/05/01). EPA approved Oklahoma's Title 1 program at 48 FR 38635 and 64 FR 59629. More specific information on permitting fees is provided in the discussion for 110(a)(2)(L) below and in the TSD.

Section 110(a)(2)(E)(ii) requires that the state comply with section 128. Section 128 requires: (1) That the majority of members of the state body which approves permits or enforcement orders do not derive any significant portion of their income from entities subject to permitting or enforcement orders under the CAA; and (2) any potential conflicts of interest by such body be adequately disclosed. In 1982, the EPA approved into the SIP the Oklahoma Code of Ethics for State Officials and Employees (47 FR 20771), and in 1994 EPA incorporated by reference the Oklahoma Clean Air Act of 1992 and Oklahoma Environmental Quality Act that contain, among other things, financial disclosures, conflicts of interest and ethical conduct for the Executive Director of the ODEQ and classified employees of the agency (See 59 FR 32365 for reference to the Acts).

EPA is proposing to find that the Oklahoma SIP meets the requirements of section 110(a)(2)(E) of the Act for the 1997 8-hour ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS.

Stationary source monitoring system, section 110(a)(2)(F): The Oklahoma rules at 252 OAC chapter 100, subchapters 5, 8, 9, 17, 23, 24, 25, and 43 require that stationary sources monitor for compliance, provide recordkeeping and reporting, and provide for enforcement of ozone, $PM_{2.5}$, and precursors to these pollutants (SO_2, ammonia, volatile organic compounds and NO_X). The ODEQ uses this data to track progress towards maintaining the NAAQS, develop control and maintenance strategies, identify sources and general emission levels, and determine compliance with Oklahoma and EPA requirements. These rules have been approved by EPA for incorporation into the SIP.

Under the Oklahoma Clean Air Act at Section 27A–2–5–105, the ODEQ is required to analyze the emissions data from point, area, mobile, and biogenic (natural) sources. The ODEQ uses this data to track progress towards maintaining the NAAQS, develop control and maintenance strategies, identify sources and general emission levels, and determine compliance with Oklahoma and EPA requirements. Emissions data are available electronically: *http://www.epa.gov/ttn/chief/eiinformation.html*. Oklahoma's point source emission inventory (EI) is available at *http://www.deq.state.ok.us/AQDnew/Emissions/Data.htm*.

EPA is proposing to find that the Oklahoma SIP meets the requirements of section 110(a)(2)(F) for the 1997 8-hour ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS.

Emergency power, section 110(a)(2)(G): Section 110(a)(2)(G) requires states to provide for authority to address activities causing imminent and substantial endangerment to public health, including contingency plans to implement the emergency episode provisions in their SIPs. The Executive Director of the ODEQ is empowered by the Oklahoma Environmental Quality Code to respond to air pollution episodes and other air quality

[32] In the **Federal Register** notice we stated our intent to base our interference with maintenance decision on the final determination for our July 11, 2011, supplemental notice of proposed rulemaking to include Oklahoma in the Cross State Air Pollution Rule for the 1997 ozone NAAQS (76 FR 40662).

[33] OAC 252:100–8–8(e): Transmission of notice of draft permit to affected states.

[34] See 37 FR 10887.

[35] See 59 FR 32365 (June 23, 1994) for incorporation by reference of the Oklahoma Clean Air Act of 1992 and the Oklahoma Environmental Quality Act.

emergencies,[36] and the ODEQ has contingency plans to implement emergency episode provisions in the SIP. Oklahoma's Emergency Episode Plan was approved into the SIP by EPA on February 12, 1991 (56 FR 05653). Oklahoma's Emergency Episode Plan includes alert, warning, and emergency levels for emergency episodes involving PM_{10} and ozone concentrations. The episode criteria and contingency measures are found in the Emergency Episode Plan. The criteria for ozone are based on a 1-hour average ozone level. These episode criteria and contingency measures are adequate to address ozone emergency episodes and are in the federally approved SIP. We propose that the Oklahoma Emergency Episode Plan provides for the pollutants specified under 40 CFR 51.150 and is consistent with the provisions of 40 CFR 51.151 and 152, and Appendix L to Part 51.

The 2009 Infrastructure SIP Guidance for $PM_{2.5}$ recommends that a state with at least one monitored 24-hour $PM_{2.5}$ value exceeding 140.4 μg/m^3 since 2006 establish an emergency episode plan and contingency measures to be implemented should such level be exceeded again. The 2006–2010 ambient air quality monitoring data[37] for Oklahoma do not exceed 140.4 μg/m^3. The $PM_{2.5}$ levels have consistently remained below this level (140.4 μg/m^3), and furthermore, the state has appropriate general emergency powers to address $PM_{2.5}$ related episodes to protect the environment and public health. Given the state's monitored $PM_{2.5}$ levels, EPA is proposing that Oklahoma is not required to submit an emergency episode plan and contingency measures at this time, for the 1997 and 2006 $PM_{2.5}$ standards. Additional detail is provided in the TSD.

EPA is proposing to find that the Oklahoma SIP meets the requirements of section 110(a)(2)(G) for the 1997 8-hour ozone and 1997 and 2006 $PM_{2.5}$ NAAQS.

Future SIP revisions, section 110(a)(2)(H): The Oklahoma Environmental Quality Code and the Oklahoma Clean Air Act direct the ODEQ to prepare and develop the SIP and provide ODEQ with the necessary authority to carry out other duties, requirements and responsibilities necessary for the implementation of the Oklahoma Clean Air Act and fulfilling the requirements of the Federal Clean Air Act (OS 27A 2–5–105). Thus, Oklahoma has the authority to revise its SIP from time to time as may be necessary to take into account revisions of primary or secondary NAAQS, or the availability of improved or more expeditious methods of attaining such standards. Furthermore, Oklahoma also has the authority under these Oklahoma Clean Air Act provisions to revise its SIP in the event the EPA, pursuant to the Federal Clean Air Act, finds the SIP to be substantially inadequate to attain the NAAQS.

EPA is proposing to find that the Oklahoma SIP meets the requirements of section 110(a)(2)(H) for the 1997 8-hour ozone and 1997 and 2006 $PM_{2.5}$ NAAQS.

Consultation with government officials, section 110(a)(2)(J): Section 2–5–105 of the 1992 Oklahoma Clean Air Act gives the ODEQ the authority to advise, consult, and cooperate with other agencies of the State, towns, cities and counties, industries, other states and the Federal government, and with affected groups in the prevention and control of new and existing air contamination sources within the State. Chapter 10 of the original Oklahoma SIP approved on May 31, 1972 (37 FR 10887), provides for intergovernmental cooperation. Oklahoma's Intergovernmental Consultation Plan was revised and approved by EPA on May 14, 1982 (47 FR 20771). The 1990 Oklahoma Visibility Plan was approved by EPA into the SIP on November 8, 1999 (64 FR 60683), and requires the ODEQ to notify the FLM of the receipt of any analysis of the anticipated impacts on visibility in any Federal Class I area, and requires the ODEQ to consider any timely analysis performed by the FLM and to coordinate with the FLM in conducting any monitoring of visibility in the mandatory Federal Class I area. The Attainment Demonstration for the Central Oklahoma Early Action Compact (EAC) Area[38] incorporated a Memorandum of Agreement (MOA) between the ODEQ and the Association of Central Oklahoma Governments (ACOG) into the Oklahoma SIP, outlining the duties and responsibilities of each party for implementation of pollution control measures for the Central Oklahoma EAC area. The Attainment Demonstration for the Tulsa EAC Area[39] incorporated a MOA between the ODEQ and the Indian Nation Council of Governments (INCOG) into the Oklahoma SIP, outlining the duties and responsibilities of each party for implementation of pollution control measures for the Tulsa Metropolitan Area EAC area.

EPA is proposing to find that the Oklahoma SIP meets this portion of the section 110(a)(2)(J) requirements for the 1997 8-hour ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS.[40]

Public notification if NAAQS are exceeded, pursuant to section 110(a)(2)(J): Public notification begins with the air quality forecasts, which advise the public of conditions capable of exceeding the 8-hour ozone and $PM_{2.5}$ NAAQS. The air quality forecasts can be found on the ODEQ Web site and consist of an Air Quality Index (AQI) forecast with specific information on individual pollutants of concern, such as ozone and fine particulate matter. The AQI forecast includes three areas in the State.[41] AQI forecasts are made daily throughout the year, and ozone-specific forecasts are made daily during the ozone season for each of the three forecast areas. The ozone forecasts are made, in most cases, a day in advance by 2 p.m. local time and are valid for the next day. When the forecast indicates that ozone or fine particulate levels will be above their respective standards, the State notifies the National Weather Service, who then broadcasts the information across its weather wire. The AQI forecasts and pollutant-specific advisories are available through email and pager notification. Furthermore, the ODEQ publishes an annual Air Data Report, which summarizes observations made by the State's ambient monitoring network.[42] EPA is proposing to find that the Oklahoma SIP meets this portion of the section 110(a)(2)(J) requirements for the 1997 8-hour ozone and 1997 and 2006 $PM_{2.5}$ NAAQS.

PSD and visibility protection, section 110(a)(2)(J): This portion of section 110(a)(2)(J) in part requires that a state's SIP meet the applicable requirements of section 110(a)(2)(C) as relating to PSD programs. As discussed previously in this rulemaking with regards to section 110(a)(2)(C) and in the TSD, Oklahoma operates its EPA-approved PSD program under Regulation 1.4.4 ''Major Sources—Prevention of Significant

[36] See Oklahoma Environmental Quality Code at OS27A–2–3–502E.

[37] The ozone and PM data are available through AQS and the state Web site (*http://www.deq.state.ok.us/AQDnew/monitoring/index.htm*). The AQS data for PM are provided in the docket for this rulemaking.

[38] The Attainment Demonstration for the Central Oklahoma EAC Area was approved by EPA on August 16, 2005 (70 FR 48078).

[39] The Attainment Demonstration for the Tulsa EAC Area was approved by EPA on August 19, 2005 (70 FR 48645).

[40] Section 110(a)(2)(J) is divided into three segments: consultation with government officials; public notification; and PSD and visibility protection.

[41] There are three forecast areas in Oklahoma: Lawton, Oklahoma City, and Tulsa. For more information, please see *http://www.deq.state.ok.us/aqdnew/AQIndex/AQI.htm*.

[42] The Annual Air Data Report is available online at the ODEQ Web site at: *http://www.deq.state.ok.us/mainlinks/reports.htm*

Deterioration (PSD) Requirements for Attainment Areas'' (now OAC 252:100–8, Part 7 and elsewhere in OAC 252:100).

On November 8, 1999 (64 FR 60683), EPA approved Oklahoma's Visibility Protection Plan for the Federal Class I area.[43] In that rulemaking, EPA determined that Oklahoma's Visibility Protection Plan meets the visibility monitoring and NSR provisions under 40 CFR 51.305 and 51.307, as well as the visibility implementation control strategy and long-term strategy requirements under 40 CFR 51.302 and 51.306. The State's most recent SIP revision of its Regional Haze program was submitted to EPA on February 19, 2010, and we proposed action on it on March 22, 2011 (76 FR 16168). We expect to take final action on the Regional Haze submittal by December 16, 2011. With regard to the applicable requirements for visibility protection, EPA recognizes that states are subject to visibility and regional haze program requirements under part C of the Act (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, we find that there is no new visibility obligation ''triggered'' under section 110(a)(2)(J) when a new NAAQS becomes effective. This would be the case even in the event a secondary $PM_{2.5}$ NAAQS for visibility is established, because this NAAQS would not affect visibility requirements under part C. EPA is therefore proposing to find that the Oklahoma SIP meets the visibility protection requirements of section 110(a)(2)(J) for the 1997 8-hour ozone and 1997 and 2006 $PM_{2.5}$ NAAQS.

Air quality and modeling/data, section 110(a)(2)(K): The Oklahoma Environmental Quality Act, Oklahoma Environmental Quality Code and the Oklahoma Clean Air Act provide ODEQ with principal authority in the state on matters relating to the quality of air resources, and charges the ODEQ with preparing and implementing the SIP, which includes modeling to inform decisions on nonattainment area boundaries and demonstrate effectiveness of SIP control strategies.[44]

The ODEQ has demonstrated its capacity to perform modeling in past submitted SIP revisions. For example, Oklahoma submitted modeling in SIP revisions for the Oklahoma City and Tulsa Early Action Compact (EAC) Areas to demonstrate attainment of the 1997 ozone standard. The modeling in these SIPs was approved by EPA and adopted into the SIP.[45]

EPA is proposing to find that the Oklahoma SIP meets the requirements of section 110(a)(2)(K) for the 1997 8-hour ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS.

Permitting fees, section 110(a)(2)(L): The Oklahoma Environmental Quality Code authorizes the ODEQ, through the Board of Environmental Quality, to promulgate rules regarding permit fees. See 2–2–101. Whereas 2–5–113 of the Oklahoma Clean Air Act establishes that the owner or operator of any source required to have a permit must pay a permit fee to cover the cost of implementing and enforcing Oklahoma's permit program. EPA originally approved Regulation 1.4.1(d) of the Oklahoma Air Pollution Control Regulations that provides for permit fees into the Oklahoma SIP on August 25, 1983 (48 FR 38635). The Oklahoma regulations have since been reorganized, and the current fee provisions for annual operating fees for area and non-area sources are found at OAC 252:100–5–2; fee provisions for PSD applications are found at OAC 252:100–7–3, and fee provisions for Part 70 sources are found at OAC 252:100–8–1. EPA is proposing to find that the Oklahoma SIP meets the requirements of section 110(a)(2)(L) for the 1997 8-hour ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS.

Consultation/participation by affected local entities, section 110(a)(2)(M): Section 2–5–105 of the Oklahoma Clean Air Act authorizes the ODEQ to advise, consult and cooperate with other agencies of the State, towns, cities and counties, industries, other states and the Federal government, and with affected groups in the prevention and control of new and existing air contamination sources within the State. Oklahoma's Intergovernmental Consultation plan was approved by EPA on May 14, 1982 (47 FR 20771), and consisted of a process for consultation and planning with relevant local governmental organizations having responsibility for any SIP revision process. As part of the plan, the State entered into formal agreements with designated metropolitan planning organizations for air quality planning in their respective areas of the State. EPA is proposing to find that the Oklahoma SIP meets the requirements of section 110(a)(2)(M) for the 1997 8-hour ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS.

VII. Proposed Action

We are proposing to approve the SIP submittals provided by the State of Oklahoma to demonstrate that the Oklahoma SIP meets the requirements of section 110(a)(1) and (2) of the Act for the 1997 ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS.

We are proposing to find that the current Oklahoma SIP meets the infrastructure elements for the 1997 ozone and 1997 and 2006 $PM_{2.5}$ NAAQS:

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, pursuant to section 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).

We are also proposing to approve the Oklahoma SIP provisions that address the requirement of section (110)(a)(2)(D)(i)(II) of the Act that emissions from sources in Oklahoma do not interfere with measures required in the SIP of any other state under part C of the Act to prevent significant deterioration of air quality for the 2006 $PM_{2.5}$ NAAQS.

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

[43] Oklahoma has one mandatory Class I area. It is the Wichita Mountains National Wildlife Refuge in Comanche County near Fort Sill Military Reservation.

[44] Except for indoor air quality and asbestos as regulated for worker safety by the Federal Occupational Safety and Health Act and by Chapter 11 of Title 40 of the Oklahoma statutes.

[45] The Oklahoma City and Tulsa areas were designated as attainment and participated in the EAC program. EPA approved the modeling for these areas on August 16, 2005 (70 FR 48078) and on August 19, 2005 (70 FR 48645), respectively.

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 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 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.

List of Subjects in 40 CFR Part 52

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

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

Dated: November 7, 2011.

Al Armendariz,

Regional Administrator, Region 6.

[FR Doc. 2011–29638 Filed 11–15–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2008–0727; FRL–9493–8]

Extension of Public Comment Period for Proposed Action on Arkansas Regional Haze State Implementation Plan and Interstate Transport State Implementation Plan To Address Pollution Affecting Visibility and Regional Haze

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: On October 17, 2011, EPA published in the **Federal Register** a proposed rule proposing to partially approve and partially disapprove the Arkansas Regional Haze (RH) State Implementation Plan (SIP) and to partially approve and partially disapprove Arkansas' Interstate Transport SIP to address pollution affecting visibility, and requested comment by November 16, 2011. EPA is extending the public comment period for the proposed rule until December 22, 2011.

DATES: Comments must be received on or before December 22, 2011.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2008–0727, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *EPA Region 6 ''Contact Us'' Web site: http://epa.gov/region6/r6comment.htm.* Please click on ''6PD (Multimedia)'' and select ''Air'' before submitting comments.
- *Email:* Mr. Guy Donaldson at *donaldson.guy@epa.gov.* Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number (214) 665–7263.
- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue Suite 1200, Dallas, Texas 75202–2733.
- Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2008–0727. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

FOR FURTHER INFORMATION CONTACT: Ms. Dayana Medina, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7241; fax number (214) 665–7263; email address *medina.dayana@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA. On October 17, 2011, we published in the **Federal Register** a proposed rule proposing to partially approve and partially disapprove the Arkansas RH SIP and to partially approve and partially disapprove