TABLE 165.943—Continued

[Datum NAD 1983]

Event	Location	Event date
(3) City of Bayfield 4th of July Fireworks Display.	All waters of the Lake Superior North Channel in Bayfield, WI within the arc of a circle with a radius of no more than 1,120 feet from the launch site at position 46°48′39″ N., 090°48′35″ W.	On or around July 4th.
(4) Cornucopia 4th of July Fireworks Display.	All waters of Siskiwit Bay in Cornucopia, WI within the arc of a circle with a radius of no more than 1,120 feet from the launch site at position 46°51′35″ N., 091°06′13″ W.	On or around July 4th.
(5) Duluth 4th Fest Fireworks Display.	All waters of the Duluth Harbor Basin, Northern Section in Duluth, MN within the arc of a circle with a radius of no more than 1,120 feet from the launch site at position 46°46′14″ N., 092°06′16″ W.	On or around July 4th.
(6) LaPointe 4th of July Fireworks Display.	All waters of Lake Superior in LaPointe, WI within the arc of a circle with a radius of no more than 1,120 feet from the launch site at position 46°46′40″ N., 090°47′22″ W.	On or around July 4th.
(7) Two Harbors 4th of July Fireworks Display.	All waters of Agate Bay in Two Harbors, MN within the arc of a circle with a radius of no more than 1,120 feet from the launch site at position 46°46′40″ N., 090°47′22″ W.	On or around July 4th.
(8) Point to LaPointe Swim	All waters of the Lake Superior North Channel between Bayfield and LaPointe, WI within an imaginary line created by the following coordinates: 46°48′50″ N., 090°48′44″ W., moving southeast to 46°46′44″ N., 090°47′33″ W., then moving northeast to 46°46′52″ N., 090°47′17″ W., then moving northwest to 46°49′03″ N., 090°48′25″ W., and finally returning to the starting position.	Early August.
(9) Lake Superior Dragon Boat Festival Fireworks Display.	All waters of Superior Bay in Superior, WI within the arc of a circle with a radius of no more than 1,120 feet from the launch site at position 46°43′23″ N., 092°03′45″ W.	Late August.
(10) Superior Man Triathlon	All waters of the Duluth Harbor Basin, Northern Section in Duluth, MN within an imaginary line created by the following coordinates: 46°46′36″ N., 092°06′06″ W., moving southeast to 46°46′32″ N., 092°06′01″ W., then moving northeast to 46°46′45″ N., 092°05′45″ W., then moving northwest to 46°46′49″ N., 092°05′49″ W., and finally returning to the starting position.	Late August.

Dated: May 4, 2015

A.H. Moore, JR.,

Commander, U.S. Coast Guard, Captain of the Port Duluth.

[FR Doc. 2015–13932 Filed 6–5–15; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0852; FRL–9928–85–Region 4]

Approval and Promulgation of Implementation Plans; South Carolina; Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the September 20, 2011, State Implementation Plan (SIP) submission, provided by the South Carolina Department of Health and Environmental Control (SC DHEC) for inclusion into the South Carolina SIP. This proposal pertains to the Clean Air Act (CAA or the Act) infrastructure requirements for the 2008 Lead national ambient air quality standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. SC DHEC certified that the South Carolina SIP contains provisions that ensure the 2008 Lead NAAQS is implemented, enforced, and maintained in South Carolina. With the exception of provisions pertaining to prevention of significant deterioration (PSD) permitting for which EPA is proposing no action through this notice, EPA is proposing to approve that South Carolina's infrastructure SIP submission, provided to EPA on September 20, 2011, satisfies the required infrastructure elements for the 2008 Lead NAAQS.

DATES: Written comments must be received on or before July 8, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2012–0852, by one of the following methods:

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

2. *Email: R4–ARMS@epa.gov.*

3. *Fax:* (404) 562–9019.

4. *Mail:* ''EPA–R04–OAR–2012–0852,'' Air Regulatory Management Section (formerly Regulatory Development Section), Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Air Regulatory Management Section (formerly Regulatory Development Section), Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2012–0852. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *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 *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 electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Regulatory Management Section (formerly Regulatory Development Section), Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Zuri Farngalo, Air Regulatory Management Section (formerly Regulatory Development Section), Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9152. Mr. Farngalo can be reached via electronic mail at *farngalo.zuri@epa.gov.*

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I. Background

On October 5, 1978, EPA promulgated primary and secondary NAAQS for Lead under section 109 of the Act. *See* 43 FR 46246. Both primary and secondary standards were set at a level of 1.5 micrograms per cubic meter (μg/m^3), measured as Lead in total suspended particulate matter (Pb-TSP), not to be exceeded by the maximum arithmetic mean concentration averaged over a calendar quarter. This standard was based on the 1977 Air Quality Criteria for Lead (USEPA, August 7, 1977). On November 12, 2008 (75 FR 81126), EPA issued a final rule to revise the primary and secondary Lead NAAQS. The revised primary and secondary Lead NAAQS were revised to 0.15 μg/m^3. By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised NAAQS. Sections 110(a)(1) and (2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs to EPA no later than October 15, 2011, for the 2008 Lead NAAQS.[1]

Today's action is proposing to approve South Carolina's infrastructure submission for the applicable requirements of the 2008 Lead NAAQS, with the exception of the PSD permitting requirements for major sources contained in sections 110(a)(2)(C), prong 3 of D(i) and (J). With respect to South Carolina's infrastructure SIP submission related to the provisions pertaining to the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i) and (J), EPA approved these elements on March 18, 2015 (80 FR 14019). This action is not approving any specific rule, but rather proposing that South Carolina's already approved SIP meets certain CAA requirements.

II. What elements are required under Sections 110(a)(1) and (2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 2008 Lead NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with the 1978 Lead NAAQS.

Section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of this proposed rulemaking are listed below[2] and in EPA's October 14, 2011, memorandum entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Sections 110(a)(1) and 110(a)(2) for the 2008 Lead (Pb) National Ambient Air

[1] In these infrastructure SIP submissions States generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the federally-approved SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2). Throughout this rulemaking, unless otherwise indicated, state regulations referenced herein as ''Regulation(s)'' have been approved into South Carolina's federally-approved SIP. South Carolina statutes, referenced as the ''S.C. Code Ann.'' are not a part of the SIP unless otherwise indicated.

[2] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements 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. Today's proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C).

Quality Standards (NAAQS)'' (2011 Lead Infrastructure SIP Guidance).

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement, Prevention of Significant Deterioration (PSD) and new source review (NSR).[3]
- 110(a)(2)(D): Interstate and international transport provisions.
- 110(a)(2)(E): Adequate personnel, funding, and authority.
- 110(a)(2)(F): Stationary source monitoring and reporting.
- 110(a)(2)(G): Emergency episodes.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(I): Nonattainment area plan or plan revision under part D. [4]
- 110(a)(2)(J): Consultation with government officials, public notification, and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

III. What is EPA's approach to the review of infrastructure SIP submissions?

EPA is acting upon the SIP submission from South Carolina that addresses the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the Lead NAAQS. The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions ''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 these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment plan SIP'' submissions to address the nonattainment planning requirements of part D of title I of the CAA, ''regional haze SIP'' submissions required by EPA rule to address the visibility protection requirements of CAA section 169A, and nonattainment new source review permit program submissions to address the permit requirements of CAA, title I, part D.

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions, and section 110(a)(2) provides more details concerning the required contents of these submissions. 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 program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[5] EPA therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, EPA believes that the list of required elements for infrastructure SIP submissions provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission.

The following examples of ambiguities illustrate the need for EPA to interpret some section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submissions for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that ''each'' SIP submission must meet the list of requirements therein, while EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in part D of title I of the Act, which specifically address nonattainment SIP requirements.[6] Section 110(a)(2)(I) pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submissions to address nonattainment area requirements are due. For example, section 172(b) requires EPA to establish a schedule for submission of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) allows up to two years, or in some cases three years, for such designations to be promulgated.[7] This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, EPA must determine which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submission.

Another example of ambiguity within sections 110(a)(1) and 110(a)(2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submission, and whether EPA must act upon such SIP submission in a single action. Although section 110(a)(1) directs states to submit ''a plan'' to meet these requirements, EPA interprets the CAA to allow states to make multiple SIP submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action.[8] Similarly, EPA interprets the CAA to

[3] This rulemaking only addresses requirements for this element as they relate to attainment areas.

[4] As mentioned above, this element is not relevant to today's proposed rulemaking.

[5] For example: Section 110(a)(2)(E)(i) 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 SIP-approved program to address certain sources as required by part C of title I of the CAA; and section 110(a)(2)(G) provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

[6] *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 NOx SIP Call; Final Rule,'' 70 FR 25162, at 25163—65 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[7] EPA notes that this ambiguity within section 110(a)(2) is heightened by the fact that various subparts of part D set specific dates for submission of certain types of SIP submissions in designated nonattainment areas for various pollutants. Note, *e.g.,* that section 182(a)(1) provides specific dates for submission of emissions inventories for the ozone NAAQS. Some of these specific dates are necessarily later than three years after promulgation of the new or revised NAAQS.

[8] *See, e.g.,* ''Approval and Promulgation of Implementation Plans; New Mexico; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Permitting,'' 78 FR 4339 (January 22, 2013) (EPA's final action approving the structural PSD elements of the New Mexico SIP submitted by the State separately to meet the requirements of EPA's 2008 $PM_{2.5}$ NSR rule), and ''Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport Requirements for the 2006 $PM_{2.5}$ NAAQS,'' (78 FR 4337) (January 22, 2013) (EPA's final action on the infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS).

allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a given NAAQS without concurrent action on the entire submission. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.[9]

Ambiguities within sections 110(a)(1) and 110(a)(2) may also arise with respect to infrastructure SIP submission requirements for different NAAQS. Thus, 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. The states' attendant infrastructure SIP submissions for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submission for purposes of section 110(a)(2)(B) could be very different for different pollutants because the content and scope of a state's infrastructure SIP submission to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[10]

EPA notes that interpretation of section 110(a)(2) is also necessary when EPA reviews other types of SIP submissions required under the CAA. Therefore, as with infrastructure SIP submissions, EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submissions For example, section 172(c)(7) requires that attainment plan SIP submissions required by part D have to meet the ''applicable requirements'' of section 110(a)(2). Thus, for example, attainment plan SIP submissions must meet the requirements of section 110(a)(2)(A) regarding enforceable emission limits and control measures and section 110(a)(2)(E)(i) regarding air agency resources and authority. By contrast, it is clear that attainment plan SIP submissions required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the PSD program required in part C of title I of the CAA, because PSD does not apply to a pollutant for which an area is designated nonattainment and thus subject to part D planning requirements. As this example illustrates, each type of SIP submission may implicate some elements of section 110(a)(2) but not others.

Given the potential for ambiguity in some of the statutory language of section 110(a)(1) and section 110(a)(2), EPA believes that it is appropriate to interpret the ambiguous portions of section 110(a)(1) and section 110(a)(2) in the context of acting on a particular SIP submission. In other words, EPA assumes that Congress could not have intended that each and every SIP submission, regardless of the NAAQS in question or the history of SIP development for the relevant pollutant, would meet each of the requirements, or meet each of them in the same way. Therefore, EPA has adopted an approach under which it reviews infrastructure SIP submissions against the list of elements in section 110(a)(2), but only to the extent each element applies for that particular NAAQS.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements.[11] EPA issued the 2011 Lead Infrastructure SIP Guidance[12] to provide states with up-to-date guidance for Lead infrastructure SIPs. Within this guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions. The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, EPA interprets sections 110(a)(1) and 110(a)(2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.[13]

EPA's approach to review of infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. EPA believes that this approach to the review of a particular infrastructure SIP submission is appropriate, because it would not be reasonable to read the general requirements of section 110(a)(1) and the list of elements in 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations 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. These provisions, 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 evaluates adequacy of the infrastructure SIP submission. EPA believes that a better approach is for states and EPA to focus attention on those elements of section 110(a)(2) of the CAA most likely to warrant a specific SIP revision due to the promulgation of a new or revised NAAQS or other factors.

Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of sections 110(a)(1) and 110(a)(2) because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory

[9] On December 14, 2007, the State of Tennessee, through the Tennessee Department of Environment and Conservation, made a SIP revision to EPA demonstrating that the State meets the requirements of sections 110(a)(1) and (2). EPA proposed action for infrastructure SIP elements (C) and (J) on January 23, 2012 (77 FR 3213) and took final action on March 14, 2012 (77 FR 14976). On April 16, 2012 (77 FR 22533) and July 23, 2012 (77 FR 42997), EPA took separate proposed and final actions on all other section 110(a)(2) infrastructure SIP elements of Tennessee's December 14, 2007 submittal.

[10] 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.

[11] EPA notes, however, that nothing in the CAA requires EPA to provide guidance or to promulgate regulations for infrastructure SIP submissions. The CAA directly applies to states and requires the submission of infrastructure SIP submissions, regardless of whether or not EPA provides guidance or regulations pertaining to such submissions. EPA elects to issue such guidance in order to assist states, as appropriate.

[12] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements Required under Clean Air Act Sections 110(a)(1) and 110(a)(2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS),'' Memorandum from Stephen D. Page, October 14, 2011.

[13] Although not intended to provide guidance for purposes of infrastructure SIP submissions for the 2008 Lead NAAQS, EPA notes, that following the 2011 Lead Infrastructure SIP Guidance, EPA issued the ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2).'' Memorandum from Stephen D. Page, September 13, 2013. This 2013 guidance provides recommendations for air agencies' development and the EPA's review of infrastructure SIPs for the 2008 ozone primary and secondary NAAQS, the 2010 primary nitrogen dioxide (NO_2) NAAQS, the 2010 primary sulfur dioxide (SO_2) NAAQS, and the 2012 primary fine particulate matter ($PM_{2.5}$) NAAQS, as well as infrastructure SIPs for new or revised NAAQS promulgated in the future.

tools allow EPA to take appropriately 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 to otherwise comply with the CAA.[14] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[15] Significantly, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies 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 an infrastructure SIP submission, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.[16]

IV. What is EPA's analysis of how South Carolina addressed the elements of Sections 110(a)(1) and (2) ''infrastructure'' provisions?

The South Carolina infrastructure submission addresses the provisions of sections 110(a)(1) and (2) as described below.

1. 110(a)(2)(A): *Emission limits and other control measures:* Several provisions within South Carolina Regulations and the 1976 South Carolina Code of Laws, as amended, (''S.C. Code Ann.'') are relevant to air quality control measures. Section 48–1–50(23) of the 1976 South Carolina Code of Laws, as amended, (''S.C. Code Ann.'') provides the SC DHEC with the authority to ''[a]dopt emission and effluent control regulations standards and limitations that are applicable to the entire State, that are applicable only within specified areas or zones of the State, or that are applicable only when a specified class of pollutant is present. EPA has made the preliminary determination that the South Carolina's SIP and practices are adequate to protect the 2008 Lead NAAQS in the State.

In this action, EPA is not proposing to approve or disapprove any existing State provisions with regard to excess emissions during startup, shutdown and malfunction (SSM) of operations at a facility. EPA believes that a number of states have SSM provisions which are contrary to the CAA and existing EPA guidance, ''State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown'' (September 20, 1999), and the Agency is addressing such state regulations in a separate action.[17] In the meantime, EPA encourages any state having a deficient SSM provision to take steps to correct it as soon as possible.

Additionally, in this action, EPA is not proposing to approve or disapprove any existing State rules with regard to director's discretion or variance provisions. EPA believes that a number of states have such provisions which are contrary to the CAA and existing EPA guidance (52 FR 45109 (November 24, 1987)), 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 which is contrary to the CAA and EPA guidance to take steps to correct the deficiency as soon as possible.

2. 110(a)(2)(B): *Ambient air quality monitoring/data system:* SIPs are required to provide for the establishment and operation of ambient air quality monitors, the compilation and analysis of ambient air quality data, and the submission of these data to EPA upon request. South Carolina's Air Pollution Control Regulations, Regulation 61–62.5, Standard No. 7, *Prevention of Significant Deterioration,* along with the *South Carolina Network Description and Ambient Air Network Monitoring Plan,* provide for an ambient air quality monitoring system in the State. S.C. Code Ann. § 48–1–50(14) provides the Department with the necessary authority to ''[c]ollect and disseminate information on air and water control.'' Annually, States develop and submit to EPA for approval statewide ambient monitoring network plans consistent with the requirements of 40 CFR parts 50, 53, and 58. The annual network plan involves an evaluation of any proposed changes to the monitoring network, includes the annual ambient monitoring network design plan and a certified evaluation of the agency's ambient monitors and auxiliary support equipment.[18] On July 3, 2014, South Carolina submitted its plan to EPA. On October 8, 2014, EPA approved South Carolina's monitoring network plan. South Carolina's approved monitoring network plan can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2012–0852. EPA has made the preliminary determination that South Carolina's SIP and practices are adequate for the ambient air quality monitoring and data system related to the 2008 Lead NAAQS.

3. 110(a)(2)(C) *Program for enforcement, Prevention of Significant Deterioration (PSD) and new source review (NSR):* This element consists of three sub-elements; enforcement, state-wide regulation of new and modified minor sources and minor modifications of major sources; and preconstruction permitting of major sources and major modifications in areas designated attainment or unclassifiable for the subject NAAQS as required by CAA title I part C (*i.e.,* the major source PSD program). In this action, EPA is proposing to approve South Carolina's infrastructure SIP submission for the 2008 Lead NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that provides for enforcement of emission limits and control measures, the regulation of minor sources and modifications, and the enforcement emission limits to assist in the protection of air quality in nonattainment, attainment or unclassifiable areas. To meet these

[14] For example, EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. See ''Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revisions,'' 74 FR 21639 (April 18, 2011).

[15] EPA has used 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 section 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).

[16] *See, e.g.,* EPA's disapproval of 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 (Jan. 26, 2011) (final disapproval of such provisions).

[17] On May 22, 2015, the EPA Administrator signed a final action entitled, ''State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction.'' The prepublication version of this rule is available at *http://www.epa.gov/airquality/urbanair/sipstatus/emissions.html.*

[18] On occasion, proposed changes to the monitoring network are evaluated outside of the network plan approval process in accordance with 40 CFR part 58.

obligations, South Carolina cites to Regulation 61–62.5, Standard No. 7, *Prevention of Significant Deterioration,* and Regulation 61–62.5, Standard No. 7.1, *Nonattainment New Source Review,* and Regulation 61–62.1, Section II, *Permit Requirements,* which pertain to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as attainment or unclassifiable.

Enforcement: SC DHEC's above-described, SIP-approved regulations provide for enforcement of lead limits and control measures and construction permitting for new or modified stationary sources. Also S.C. Code Ann. § 48–1–50(11) provides the Department with the authority to ''Administer penalties as otherwise provided herein for violations of this chapter, including any order, permit, regulation or standards.''

Preconstruction PSD Permitting for Major Sources: With respect to South Carolina's infrastructure SIP submission related to the preconstruction PSD permitting requirements for major sources of section 110(a)(2)(C), EPA approved this element on March 18, 2015 (80 FR 14019), and thus is not proposing any action today regarding these requirements.

Regulation of minor sources and modifications: Section 110(a)(2)(C) also requires the SIP to include provisions that govern the minor source pre-construction program that regulates emissions of lead. Regulation 61–62.1, Section II, *Permit Requirements* governs the preconstruction permitting of modifications and construction of minor stationary sources.

EPA has made the preliminary determination that South Carolina's SIP and practices are adequate for program enforcement of control measures and regulation of minor sources and modifications related to the 2008 Lead NAAQS.

4. 110(a)(2)(D)(i) and (ii) *Interstate and International transport provisions:* Section 110(a)(2)(D)(i) has two components; 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(II). Each of these components have two subparts resulting in four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (''prong 1''), and interfering with maintenance of the NAAQS in another state (''prong 2''). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (''prong 3''), or to protect visibility in another state (''prong 4''). 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.

110(a)(2)(D)(i)(I)—prongs 1 and 2: Section 110(a)(2)(D)(i) requires infrastructure SIP submissions to include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment in, or interfering with maintenance of the NAAQS in another state. The physical properties of lead prevent lead emissions from experiencing that same travel or formation phenomena as $PM_{2.5}$ and ozone for interstate transport as outlined in prongs 1 and 2. More specifically, there is a sharp decrease in lead concentrations, at least in the coarse fraction, as the distance from a lead source increases. EPA believes that the requirements of prongs 1 and 2 can be satisfied through a state's assessment as to whether a lead source located within its State in close proximity to a state border has emissions that contribute significantly to the nonattainment or interfere with maintenance of the NAAQS in the neighboring state. For example, EPA's experience with the initial Lead designations suggests that sources that emit less than 0.5 tons per year (tpy) generally appear unlikely to contribute significantly to the nonattainment in another state. EPA's experience also suggests that sources located more than two miles from the state border generally appear unlikely to contribute significantly to the nonattainment in another state. South Carolina has one lead source that may potentially emit over 0.5 tpy that is currently being constructed, Johnson Controls, but it will be located well beyond 2 miles from the border of neighboring states. Thus, EPA believes there are no sources in South Carolina that are likely to contribute significantly to the nonattainment or interfere with maintenance of the NAAQS in another state. Therefore, EPA has made the preliminary determination that South Carolina's SIP meets the requirements of section 110(a)(2)(D)(i)(I).

110(a)(2)(D)(i)(II)—prong 3: With respect South Carolina's infrastructure SIP submission related to the preconstruction PSD permitting requirements for major sources of section 110(a)(2)(D)(i)(II), EPA approved this prong on March 18, 2015 (80 FR 14019), and thus is not proposing any action today regarding these requirements.

110(a)(2)(D)(i)(II)—prong 4: With regard to section 110(a)(2)(D)(i)(II), the visibility sub-element, referred to as prong 4, significant impacts from lead emissions from stationary sources are expected to be limited to short distances from the source. The 2011 Lead Infrastructure SIP Guidance notes that it is anticipated that lead emissions will contribute only negligibly to visibility impairment in Class I areas. Lead stationary sources in South Carolina are located distances from Class I areas such that visibility impacts are negligible. As noted above, South Carolina has one lead source that may potentially emit over 0.5 tpy that is currently being constructed, Johnson Controls, but it will be located at such a distance from Class I areas such that visibility impacts would be negligible. Therefore, EPA has preliminarily determined that the South Carolina SIP meets the relevant visibility requirements of prong 4 of section 110(a)(2)(D)(i).

110(a)(2)(D)(ii): *Interstate and International transport provisions:* 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. With regard to the requirements of section 110(a)(2)(D)(ii), South Carolina does not have any pending obligation under sections 115 and 126 of the CAA. Additionally, Regulation 61–62.5, Standards 7 and 7.1 (q)(2)(iv), *Public Participation,* requires SC DHEC to notify air agencies ''whose lands may be affected by emissions'' from each new or modified major source if such emissions may significantly contribute to levels of pollution in excess of a NAAQS in any air quality control region outside of the South Carolina. EPA has made the preliminary determination that South Carolina's SIP and practices are adequate for insuring compliance with the applicable requirements relating to interstate and international pollution abatement for the 2008 Lead NAAQS.

5. 110(a)(2)(E): *Adequate personnel, funding, and authority:* Section 110(a)(2)(E) requires that each implementation plan provide (i) necessary assurances that the State will have adequate personnel, funding, and authority under state law to carry out its implementation plan, (ii) that the State comply with the requirements respecting State Boards pursuant to section 128 of the Act, and (iii)

necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provisions. EPA is proposing to approve South Carolina's SIP as meeting the requirements of section 110(a)(2)(E). EPA's rationale for today's proposal respecting each requirement of section 110(a)(2)(E) is described below.

With respect to section 110(a)(2)(E)(i) and (iii), SC DHEC develops, implements and enforces EPA-approved SIP provisions in the State. S.C. Code Ann. Section 48, Title 1, as referenced in SC DHEC's infrastructure SIP submission, provides the Department's general legal authority to establish a SIP and implement related plans. Specifically, S.C. Code Ann. § 48–1–50(12) grants SC DHEC the statutory authority to ''[a]ccept, receive and administer grants or other funds or gifts for the purpose of carrying out any of the purposes of this chapter; [and to] accept, receive and receipt for Federal money given by the Federal government under any Federal law to the State of South Carolina for air or water control activities, surveys or programs.'' S.C. Code Ann. Section 48, Title 2 grants SC DHEC statutory authority to establish environmental protection funds, which provide resources for SC DHEC to carry out its obligations under the CAA. Additionally, Regulation 61–30, *Environmental Protection Fees,* provides SC DHEC with the ability to access fees for environmental permitting programs. SC DHEC implements the SIP in accordance with the provisions of S.C. Code Ann § 1–23–40 (the Administrative Procedures Act) and S.C. Code Ann. Section 48, Title 1.

The requirements of 110(a)(2)(E)(i) and (iii) are further confirmed when EPA performs a completeness determination for each SIP submittal. This provides additional assurances that each submittal provides evidence that adequate personnel, funding, and legal authority under State Law has been used to carry out the State's implementation plan and related issues. This information is included in all prehearings and final SIP submittal packages for approval by EPA.

EPA also notes that annually, states update grant commitments based on current SIP requirements, air quality planning, and applicable requirements related to the NAAQS, including the lead NAAQS. On March 11, 2014, EPA submitted a letter to South Carolina outlining 105 grant commitments and current status of these commitments for fiscal year 2013. The letter EPA submitted to South Carolina can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2012–0852. There were no outstanding issues, therefore South Carolina's grants were finalized and closed out. EPA has made the preliminary determination that South Carolina has adequate resources for implementation of the 2008 Lead NAAQS.

With respect to 110(a)(2)(E)(ii), South Carolina satisfies the requirements of CAA section 128(a)(1) for the SC Board of Health and Environmental Control, which is the ''board or body which approves permits and enforcement orders'' under CAA programs in South Carolina, through S.C. Code Ann. Section 8–13–730. S.C. Code Ann. Section 8–13–730 provides that ''[u]nless otherwise provided by law, no person may serve as a member of a governmental regulatory agency that regulates business with which that person is associated,'' and S.C. Code Ann. Section 8–13–700(A) which provides in part that ''[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated.'' S.C. Code Ann. Section 8–13–700(B)(1)–(5) provides for disclosure of any conflicts of interest by public official, public member or public employee, which meets the requirement of CAA Section 128(a)(2) that ''any potential conflicts of interest . . . be adequately disclosed.'' These state statutes—S.C. Code Ann. Sections 8–13–730, 8–13–700(A), and 8–13–700(B)(1)–(5)—have been approved into the South Carolina SIP as required by CAA section 128. Thus, EPA has made the preliminary determination that South Carolina's SIP and practices are adequate for insuring compliance with the applicable requirements relating to state boards for the 2008 Lead NAAQS.

6. 110(a)(2)(F) *Stationary source monitoring system:* South Carolina's infrastructure SIP submission describes the establishment of requirements for compliance testing by emissions sampling and analysis, and for emissions and operation monitoring to ensure the quality of data in the State. SC DHEC uses these data to track progress towards maintaining the NAAQS, develop control and maintenance strategies, identify sources and general emission levels, and determine compliance with emission regulations and additional EPA requirements. These SIP requirements are codified at Regulation 61–62.1, Definitions and General Requirements, which provides for an emission inventory plan that establishes reporting requirements of the South Carolina SIP. South Carolina's SIP requires owners or operators of stationary sources to monitor emissions, submit periodic reports of such emissions and maintain records as specified by various regulations and permits, and to evaluate reports and records for consistency with the applicable emission limitation or standard on a continuing basis over time. The monitoring data collected and records of operations serve as the basis for a source to certify compliance, and can be used by SC DHEC as direct evidence of an enforceable violation of the underlying emission limitation or standard. Accordingly, EPA is unaware of any provision preventing the use of credible evidence in the South Carolina SIP.

Additionally, South Carolina is required to submit emissions data to EPA for purposes of the National Emissions Inventory (NEI). The NEI is EPA's central repository for air emissions data. EPA published the Air Emissions Reporting Rule (AERR) on December 5, 2008, which modified the requirements for collecting and reporting air emissions data (73 FR 76539). The AERR shortened the time states had to report emissions data from 17 to 12 months, giving states one calendar year to submit emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through EPA's online Emissions Inventory System. States report emissions data for the six criteria pollutants and their associated precursors—NO_X, sulfur dioxide, ammonia, lead, carbon monoxide, particulate matter, and VOC. Many states also voluntarily report emissions of hazardous air pollutants. South Carolina made its latest update to the 2011 NEI on April 8, 2014. EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site *http://www.epa.gov/ttn/chief/eiinformation.html*. EPA has made the preliminary determination that South Carolina's SIP and practices are adequate for the stationary source monitoring systems related to the 2008 Lead NAAQS. Accordingly, EPA is proposing to approve South Carolina's infrastructure SIP submission with respect to section 110(a)(2)(F).

7. 110(a)(2)(G) *Emergency episodes:* This section requires that states

demonstrate authority comparable with section 303 of the CAA and adequate contingency plans to implement such authority. Regulation 61–62.3, Air Pollution Episodes, provides for contingency measures when an air pollution episode or exceedance may lead to a substantial threat to the health of persons in the state or region. S.C. Code Ann. Section 48–1–290 provides SC DHEC, with concurrent notice to the Governor, the authority to issue an order recognizing the existence of an emergency requiring immediate action as deemed necessary by SC DHEC to protect the public health or property. Any person subject to this order is required to comply immediately. Additionally, S.C. Code Ann. Section 1–23–130 provides the Department with the authority to establish emergency regulations if it finds that an imminent peril to public health, safety, or welfare requires immediate promulgation of an emergency regulation or it finds that abnormal or unusual conditions, immediate need, or the state's best interest requires immediate promulgation of emergency regulations to protect or manage natural resources. EPA has made the preliminary determination that South Carolina's SIP, state laws and practices are adequate for emergency powers related to the 2008 Lead NAAQS. Accordingly, EPA is proposing to approve South Carolina's infrastructure SIP submission with respect to section 110(a)(2)(G).

8. 110(a)(2)(H) *Future SIP revisions:* As previously discussed, SC DHEC is responsible for adopting air quality rules and revising SIPs as needed to attain or maintain the NAAQS. South Carolina has the ability and authority to respond to calls for SIP revisions, and has provided a number of SIP revisions over the years for implementation of the NAAQS. Additionally, S.C. Code Ann. Section 48, Title 1, provides SC DHEC with the necessary authority to revise the SIP to accommodate changes in the NAAQS and thus revise the SIP as appropriate. EPA has made the preliminary determination that South Carolina adequately demonstrates a commitment to provide future SIP revisions related to the 2008 Lead NAAQS when necessary. Accordingly, EPA is proposing to approve South Carolina's infrastructure SIP submission with respect to section 110(a)(2)(H).

9. 110(a)(2)(J) *Consultation with government officials, public notification, and PSD and visibility protection:* EPA is proposing to approve South Carolina's infrastructure SIP submission for the 2008 Lead NAAQS with respect to the general requirement in section 110(a)(2)(J) to include a program in the SIP that provides for meeting the applicable consultation requirements of section 121, the public notification requirements of section 127; and the visibility protection requirements of Part C of the Act. With respect to South Carolina's infrastructure SIP submission related to the *PSD* permitting requirements, EPA approved this sub-element of 110(a)(2)(J) on March 18, 2015 (80 FR 14019) and thus is not proposing any action today regarding these requirements. EPA's rationale for its proposed action regarding applicable consultation requirements of section 121 and the public notification requirements of section 127, and visibility protection requirements is described below.

110(a)(2)(J) (121 consultation) Consultation with government officials: Regulation 61–62.5, Standard No. 7, *Prevention of Significant Deterioration,* as well as the State's Regional Haze Implementation Plan, *See* 77 FR 38509, (which allows for consultation between appropriate state, local, and tribal air pollution control agencies as well as the corresponding Federal Land Managers), provide for consultation with government officials whose jurisdictions might be affected by SIP development activities. South Carolina adopted state-wide consultation procedures for the implementation of transportation conformity, which require SC DHEC to consult with federal, state and local transportation and air quality agency officials on the development of motor vehicle emissions budgets. EPA has made the preliminary determination that South Carolina's SIP and practices adequately demonstrate consultation with government officials related to the 2008 Lead NAAQS when necessary. Accordingly, EPA is proposing to approve South Carolina's infrastructure SIP submission with respect to section 110(a)(2)(J) consultation with government officials.

110(a)(2)(J) (127 public notification) Public notification: These requirements are met through 61–62.3, *Air Pollution Episodes,* which requires that SC DHEC notify the public of any air pollution episode or NAAQS violation. Regulation 61–62.5, Standard 7.1 (q), *Public Participation,* notifies the public by advertisement in a newspaper of general circulation in each region in which a proposed plant or modifications will be constructed of the degree of increment consumption that is expected from the plant or modification, and the opportunity for comment at a public hearing as well as written public comment. An opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the plant or modification, alternatives to the plant or modification, the control technology required, and other appropriate considerations is also offered. EPA has made the preliminary determination that South Carolina's SIP and practices adequately demonstrate the State's ability to provide public notification related to the 2008 Lead NAAQS when necessary. Accordingly, EPA is proposing to approve South Carolina's infrastructure SIP submission with respect to section 110(a)(2)(J) public notification.

110(a)(2)(J)—Visibility protection: The 2011 Lead Infrastructure SIP Guidance notes that EPA does not generally treat the visibility protection aspects of section 110(a)(2)(J) as applicable for purposes of the infrastructure SIP approval process. EPA recognizes that states are subject to visibility protection and regional haze program requirements under Part C of the Act (which includes sections 169A and 169B). However, in the event of the establishment of a new primary NAAQS, the visibility protection and regional haze program requirements under part C do not change. Thus, EPA concludes there are no new applicable visibility protection obligations under section 110(a)(2)(J) as a result of the 2008 Lead NAAQS, and as such, has made the preliminary determination that South Carolina's SIP is adequate as it relates to the visibility protection sub-element of section 110(a)(2)(J).

10. 110(a)(2)(K) *Air quality and modeling/data:* Section 110(a)(2)(K) of the CAA requires that SIPs provide for performing air quality modeling so that effects on air quality of emissions from NAAQS pollutants can be predicted and submission of such data to the USEPA can be made. Regulations 61–62.5, Standards No. 2, *Ambient Air Quality Standards,* and Regulation 61–62.5, Standard No. 7, *Prevention of Significant Deterioration,* of the South Carolina SIP specify that required air modeling be conducted in accordance with 40 CFR part 51, Appendix W ''Guideline on Air Quality Models.'' These standards demonstrate that South Carolina has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of emissions of lead. Additionally, South Carolina supports a regional effort to coordinate the development of emissions inventories and conduct regional modeling for several NAAQS, including the 2008 Lead NAAQS, for the southeastern states. Taken as a whole, South Carolina's air quality regulations and

practices demonstrate that SC DHEC has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of any emissions of any pollutant for which a NAAQS had been promulgated, and to provide such information to the EPA Administrator upon request. EPA has made the preliminary determination that South Carolina's SIP and practices adequately demonstrate the State's ability to provide for air quality and modeling, along with analysis of the associated data, related to the 2008 Lead NAAQS. Accordingly, EPA is proposing to approve South Carolina's infrastructure SIP submission with respect to section 110(a)(2)(K).

11. 110(a)(2)(L)—*Permitting fees:* This section requires the SIP to direct the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under the CAA, a fee sufficient to cover (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V.

Section 48–2–50 of the South Carolina Code prescribes that SC DHEC charge fees for environmental programs it administers pursuant to federal and state law and regulations including those that govern the costs to review, implement and enforce PSD and NNSR permits. Regulation 61–30, *Environmental Protection Fees* [19] prescribes fees applicable to applicants and holders of permits, licenses, certificates, certifications, and registrations, establishes procedures for the payment of fees, provides for the assessment of penalties for nonpayment, and establishes an appeals process for refuting fees. This regulation may be amended as needed to meet the funding requirements of the state's permitting program. Additionally, South Carolina has a federally-approved title V program, Regulation 61–62.70, *Title V Operating Permit Program,* [20] which implements and enforces the requirements of PSD and nonattainment NSR for facilities once they begin operating. EPA has made the preliminary determination that South Carolina's SIP and practices adequately provide for permitting fees related to the 2008 Lead NAAQS when necessary. Accordingly, EPA is proposing to approve South Carolina's infrastructure SIP submission with respect to section 110(a)(2)(L).

12. 110(a)(2)(M) *Consultation/participation by affected local entities:* This element requires states to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP. Regulation 61–62.5, Standard No. 7, *Prevention of Significant Deterioration,* of the South Carolina SIP requires that SC DHEC notify the public of an application, preliminary determination, the activity or activities involved in the permit action, any emissions change associated with any permit modification, and the opportunity for comment prior to making a final permitting decision. SC DHEC has recently worked closely with local political subdivisions during the development of its Transportation Conformity SIP, Regional Haze Implementation Plan, and Early Action Compacts. EPA has made the preliminary determination that South Carolina's SIP and practices adequately demonstrate consultation with affected local entities related to the 2008 Lead NAAQS. Accordingly, EPA is proposing to approve South Carolina's infrastructure SIP submission with respect to section 110(a)(2)(M).

V. Proposed Action

With the exception of the PSD permitting requirements for major sources contained in section 110(a)(2)(C), prong 3 of (D)(i), and (J), EPA is proposing to approve that SC DHEC's infrastructure SIP submission, submitted September 20, 2011, for the 2008 Lead. EPA is proposing to approve these portions of South Carolina's infrastructure submission for the 2008 Lead NAAQS because this submission is consistent with section 110 of the CAA.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 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 proposed action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action for the state of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). The Catawba Indian Nation Reservation is located within the State of South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120, ''all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.'' However, EPA has determined that because this proposed rule does not have substantial direct effects on an Indian Tribe because, as noted above, this action is not approving any specific rule, but rather proposing that South Carolina's already approved SIP meets certain CAA requirements. EPA notes today's action will not impose

[19] This regulation has not been incorporated into the federally-approved SIP.

[20] Title V program regulations are federally-approved but not incorporated into the federally-approved SIP.

substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: May 28, 2015.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2015–13947 Filed 6–5–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 88

World Trade Center Health Program; Petition 007—Autoimmune Diseases; Finding of Insufficient Evidence

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Denial of petition for addition of a health condition.

SUMMARY: On April 6, 2015, the Administrator of the World Trade Center (WTC) Health Program received a petition (Petition 007) to add certain autoimmune diseases, including rheumatoid arthritis and connective tissues diseases, to the List of WTC-Related Health Conditions (List). Upon reviewing the scientific and medical literature, including information provided by the petitioner, the Administrator has determined that the available evidence does not have the potential to provide a basis for a decision on whether to add certain autoimmune diseases to the List. The Administrator finds that insufficient evidence exists to request a recommendation of the WTC Health Program Scientific/Technical Advisory Committee (STAC), to publish a proposed rule, or to publish a determination not to publish a proposed rule.

DATES: The Administrator of the WTC Health Program is denying this petition for the addition of a health condition as of June 8, 2015.

FOR FURTHER INFORMATION CONTACT: Rachel Weiss, Program Analyst, 1090 Tusculum Avenue, MS: C–46, Cincinnati, OH 45226; telephone (855) 818–1629 (this is a toll-free number); email *NIOSHregs@cdc.gov.*

SUPPLEMENTARY INFORMATION:

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A. WTC Health Program Statutory Authority
B. Petition 007
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A. WTC Health Program Statutory Authority

Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347), amended the Public Health Service Act (PHS Act) to add Title XXXIII [1] establishing the WTC Health Program within the Department of Health and Human Services (HHS). The WTC Health Program provides medical monitoring and treatment benefits to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery, and cleanup workers who responded to the September 11, 2001, terrorist attacks in New York City, at the Pentagon, and in Shanksville, Pennsylvania (responders), and to eligible persons who were present in the dust or dust cloud on September 11, 2001 or who worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area (survivors).

All references to the Administrator of the WTC Health Program (Administrator) in this notice mean the Director of the National Institute for Occupational Safety and Health (NIOSH) or his or her designee.

Pursuant to § 3312(a)(6)(B) of the PHS Act, interested parties may petition the Administrator to add a health condition to the List in 42 CFR 88.1. Within 60 calendar days after receipt of a petition to add a condition to the List, the Administrator must take one of the following four actions described in § 3312(a)(6)(B) and 42 CFR 88.17: (i) Request a recommendation of the STAC; (ii) publish a proposed rule in the **Federal Register** to add such health condition; (iii) publish in the **Federal Register** the Administrator's determination not to publish such a proposed rule and the basis for such determination; or (iv) publish in the **Federal Register** a determination that insufficient evidence exists to take action under (i) through (iii) above.

B. Petition 007

On April 6, 2015, the Administrator received a petition to add ''autoimmune diseases, such as Rheumatoid Arthritis'' to the List (Petition 007).[2] The petition was submitted by a WTC Health Program member who responded to the September 11, 2001, terrorist attacks in New York City. The petitioner indicated that she has been diagnosed with rheumatoid arthritis, an autoimmune disorder, and is currently receiving treatment for a number of other WTC-related health conditions. The petitioner described an article published in the Journal of Arthritis and Rheumatology by Webber *et al.* [2015],[3] which was designed to test the hypothesis that acute and chronic 9/11 work-related exposures were associated with the risk of certain new-onset systemic autoimmune diseases.

C. Administrator's Determination on Petition 007

The Administrator has established a methodology for evaluating whether to add non-cancer health conditions to the List of WTC-Related Health Conditions, published online in the Policies and Procedures section of the WTC Health Program Web site.[4] In accordance with the methodology, the Administrator directs the WTC Health Program Associate Director for Science (ADS) to conduct a review of the scientific literature to determine if the available scientific information has the potential to provide a basis for a decision on whether to add the condition to the List. The literature review includes published, peer-reviewed direct observational and/or epidemiological studies about the health condition among 9/11-exposed populations. The studies are reviewed for their relevance, quantity, and quality to provide a basis for deciding whether to propose adding the health condition to the List. Where the available evidence has the potential to provide a basis for a decision, the ADS further assesses the scientific and medical evidence to determine whether a causal relationship between 9/11 exposures and the health condition is supported. A health condition may be added to the List if published, peer-reviewed direct observational or epidemiologic studies provide

[1] Title XXXIII of the PHS Act is codified at 42 U.S.C. 300mm to 300mm–61. Those portions of the Zadroga Act found in Titles II and III of Public Law 111–347 do not pertain to the WTC Health Program and are codified elsewhere.

[2] See Petition 007. WTC Health Program: Petitions Received. *http://www.cdc.gov/wtc/received.html.*

[3] Webber M.P., Moir W., Zeig-Owens R., Glaser M.S., Jaber N., Hall C., Berman J., Qayyum B., Loupasakis K., Kelly K., and Prezant D.J. [2015]. Nested case-control study of selected systemic autoimmune diseases in World Trade Center rescue/recovery workers. Journal of Arthritis & Rheumatology 67(5):1369–1376.

[4] ''Policy and Procedures for Adding Non-Cancer Conditions to the List of WTC-Related Health Conditions,'' John Howard, MD, Administrator of the WTC Health Program, October 21, 2014. *http://www.cdc.gov/wtc/pdfs/WTCHP_PP_Adding_NonCancers_21_Oct_2014.pdf.*