2. Comments are due no later than August 31, 2015. Reply comments are due no later than September 15, 2015.

3. Pursuant to 39 U.S.C. 505, the Commission appoints James F. Callow to serve as officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2015–18666 Filed 7–29–15; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2014–0443; FRL–9931–34–Region 4]

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

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the July 17, 2012, State Implementation Plan (SIP) submission, submitted by the Commonwealth of Kentucky, Energy and Environment Cabinet, Department for Environmental Protection, through the Kentucky Division for Air Quality (KY DAQ) for inclusion into the Kentucky 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 submission.'' KY DAQ certified that the Kentucky SIP contains provisions that ensure the 2008 Lead NAAQS is implemented, enforced, and maintained in Kentucky. With the exception of provisions pertaining to prevention of significant deterioration (PSD) permitting, EPA is proposing to determine that Kentucky's infrastructure SIP submission, provided to EPA on July 17, 2012, satisfies the required infrastructure elements for the 2008 Lead NAAQS.

DATES: Written comments must be received on or before August 31, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2014–0443, 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–2014–0443,'' Air Regulatory Management Section (formerly the Regulatory Development Section), Air Planning and Implementation Branch (formerly the Air Planning 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, 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 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2014–0443. 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, 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, 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 August 7, 1977 Air Quality Criteria for Lead. On November 12, 2008 (75 FR 81126), EPA issued a final rule to revise the primary and secondary Lead NAAQS. The 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]

This action is proposing to approve Kentucky's infrastructure SIP submission for the applicable requirements of the 2008 Lead NAAQS, with the exception of preconstruction PSD permitting requirements for major sources contained in sections 110(a)(2)(C), prong 3 of D(i), and (J). On March 18, 2015, EPA approved Kentucky's July 17, 2012, infrastructure SIP submission regarding the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i) and (J) for the 2008 Lead NAAQS. *See* 80 FR 14019. Therefore, EPA is not proposing any action today pertaining to the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i), and (J) for the 2008 Lead NAAQS. For the aspects of Kentucky's submittal proposed for approval today, EPA notes that the Agency is not approving any specific rule, but rather proposing that Kentucky's already approved SIP meets certain CAA requirements.

[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). Unless otherwise indicated, the Title 15A regulations of the Kentucky Administrative Regulation (''KAR'') cited throughout this rulemaking have been approved into Kentucky's federally-approved SIP. The Kentucky Revised Statutes (''KRS'') cited throughout this rulemaking, however, are not approved into the Kentucky SIP unless otherwise indicated.

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.

More specifically, 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 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)(i): Interstate transport provisions.
- 110(a)(2)(D)(ii): Interstate and International Transport.
- 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, 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.

[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. This proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C).

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

EPA is acting upon the SIP submission from Kentucky that addresses the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2008 Lead NAAQS. 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 ''each 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

[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 this proposed rulemaking.

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 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.

[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 NO_X 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).

[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.

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 Lead Infrastructure SIP Guidance on October 14, 2011.[12] EPA developed this document to provide states with up-to-date guidance for the 2008 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 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 Kentucky addressed the elements of sections 110(a)(1) and (2) ''infrastructure'' provisions?

The Kentucky 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: There are several provisions within Kentucky's regulations that provide KY DAQ with the necessary authority to adopt and

[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, 2001.

[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.

[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).

enforce air quality controls, which include enforceable emission limitations and other control measures. Some sections but not all of the following chapters,[17] provide the state the necessary authority; 401 KAR Chapter 50 *General Administrative Procedures* 401 KAR 51 *Attainment and Maintenance of the National Ambient Air Quality Standards,* 401 KAR 52 *Permits, Registrations, and Prohibitory Rules,* and 401 KAR 53 *Ambient Air Quality.* EPA has made the preliminary determination that these provisions and Kentucky's practices are adequate to protect the 2008 Lead NAAQS in the Commonwealth.

In this action, EPA is not proposing to approve or disapprove any existing Kentucky 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.[18] 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. 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. 401 KAR 50:050 *Monitoring* and KRS 224.10–100(22) along with the Kentucky Annual Monitoring Network Plan, provide for an ambient air quality monitoring system in the State, which includes the monitoring of lead at appropriate locations throughout the state using the EPA approved Federal Reference Method or equivalent monitors. 401 KAR Chapter 50 *General Administrative Procedures* also provides Kentucky with the statutory authority to ''determine by means of field sampling and other studies, including the examination of available data collected by any local, State or federal agency or any person, the degree of air contamination and air pollution in the State and the several areas of the State.'' The monitors are all part of the Air Quality Systems (AQS) and identification numbers. 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.[19] The latest monitoring network plan for Kentucky was submitted to EPA on June 30, 2014, and on October 30, 2014, EPA approved this plan. Kentucky's approved monitoring network plan can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2014–0443. EPA has made the preliminary determination that Kentucky'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, PSD, and 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). To meet these obligations, Kentucky cited regulations 401 KAR 50:060. The enforcement aspect of 110(a)(2)(C) provides for enforcement of the terms and conditions of permits and compliance schedules, and 401 KAR 52 Permits, Registrations, and Prohibitory Rules, which pertain to the construction of new stationary sources or any project at an existing stationary source. In this action, EPA is only proposing to approve the enforcement and the regulation of minor sources and minor modifications aspects of Kentucky's section 110(a)(2)(C) infrastructure SIP submission.

Enforcement: KY DAQ's above-described, SIP-approved regulations provide for enforcement of lead emission limits and control measures and construction permitting for new or modified stationary sources.

Preconstruction PSD Permitting for Major Sources: With respect to Kentucky's July 17, 2012, infrastructure SIP submission related to the preconstruction PSD permitting requirements for major sources of section 110(a)(2)(C), EPA took final action to approve these provisions for the 2008 Lead NAAQS on March 18, 2015. *See* 80 FR 14019.

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 the 2008 Lead NAAQS. Regulation 401 KAR 52:030 governs the preconstruction permitting of modifications and construction of minor stationary sources.

EPA has made the preliminary determination that Kentucky's SIP and practices are adequate for 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)(i)(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 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)

[17] There are various chapters from the Kentucky submittal cited to throughout this document as showing that Kentucky meets the infrastructure requirements. To see exactly what sections Kentucky cited in each chapter, refer to the submittal which can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2014–0443.

[18] 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.*

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

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 the 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 suggests that sources located more than two miles from the state border or that sources that emit less than 0.5 tons per year (tpy) generally appear unlikely to contribute significantly to the nonattainment in another state. Kentucky has one lead source that has emissions which exceed 0.5 tpy, however, the source is located about 50 miles from the border.[20] As a result of its distance to the border, EPA believes it is unlikely to contribute significantly to the nonattainment or interfere with maintenance of the NAAQS in another state. Therefore, EPA has made the preliminary determination that Kentucky's SIP meets the requirements of section 110(a)(2)(D)(i)(I).

110(a)(2)(D)(i)(II) Prong 3: With respect to Kentucky's July 17, 2012 infrastructure SIP submission related to the interstate transport requirements for PSD of prong 3 of section 110(a)(2)(D)(i), EPA took final action to approve this portion of Kentucky's submission for the 2008 Lead NAAQS on March 18, 2015. *See* 80 *FR* 14019.

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 visibility impacts from stationary source lead emissions are expected to be limited to short distances from the source. The 2011 Lead Infrastructure SIP Guidance notes that the lead constituent of PM would likely not travel far enough to affect Class 1 areas and that the visibility provisions of the CAA do not directly regulate lead. Lead stationary sources in Kentucky are located distances from Class I areas such that visibility impacts are negligible. Accordingly, EPA has preliminarily determined that the Kentucky 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: With regard to section 110(a)(2)(D)(ii), section 6 of KAR Chapter 52:100, *Public, Affected State, and US EPA Review,* outlines how Kentucky will notify neighboring states of potential impacts from new or modified sources. Further, EPA is unaware of any pending obligations for the Commonwealth pursuant to sections 115 or 126 of the CAA. EPA has made the preliminary determination that Kentucky DAQ'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. Accordingly, EPA is proposing to approve Kentucky's infrastructure SIP submission with respect to section 110(a)(2)(D)(ii).

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 Kentucky's SIP as meeting the requirements of sub-elements 110(a)(2)(E)(i), (ii) and (iii). EPA's rationale for this proposal respecting sub-element (i), (ii),and(iii) is described in turn below.

To satisfy the requirements of sections 110(a)(2)(E)(i) and (iii), Kentucky's infrastructure SIP submission cites regulation 401 KAR 50:038 *Air Emissions Fee,* which provides the assessment fees necessary to fund the state Title V permit program. EPA submitted a letter to Kentucky on February 27, 2014, outlining 105 grant commitments and the current status of these commitments for fiscal year 2013. The letter EPA submitted to Kentucky can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2014–0443. Annually, states update these grant commitments based on current SIP requirements, air quality planning, and applicable requirements related to the NAAQS. Kentucky satisfactorily met all commitments agreed to in the Air Planning Agreement for fiscal year 2013, therefore Kentucky's grants were finalized and closed out.

Section 110(a)(2)(E)(ii) requires that Kentucky comply with section 128 of the CAA. Section 128 requires that: (1) The majority of members of the state board or body which approves permits or enforcement orders represent the public interest and do not derive any significant portion of their income from persons subject to permitting or enforcement orders under the CAA; and (2) any potential conflicts of interest by such board or body, or the head of an executive agency with similar, powers be adequately disclosed.

KY DAQ's infrastructure SIP submission adequately demonstrated that Kentucky's SIP meets the applicable section 128 requirements pursuant to section 110(a)(2)(E)(ii).

For purposes of section 128(a)(1), Kentucky has no boards or bodies with authority over air pollution permits or enforcement actions. Such matters are instead handled by the Director of the KY DAQ. As such, a ''board or body'' is not responsible for approving permits or enforcement orders in Kentucky, and the requirements of section 128(a)(1) are not applicable. For purposes of section 128(a)(2), Kentucky's SIP has been updated. On October 3, 2012, EPA finalized approval of KY DAQ's July 17, 2012, SIP revision requesting incorporation of KRS Chapters 11A.020, 11A.030, 11A.040 and Chapters 224.10–020 and 224.10–100 into the SIP to address sub-element 110(a)(2)(E)(ii). *See* 77 FR 60307. With the incorporation of these regulations into the Kentucky SIP, EPA has made the preliminary determination that the Commonwealth has adequately addressed the requirements of section 128(a)(2), and accordingly has met the infrastructure SIP requirements of section 110(a)(2)(E)(ii). Therefore, EPA is proposing to approve KY DAQ's SIP as meeting the requirements of sub-elements 110(a)(2)(E)(i), (ii) and (iii).

6. 110(a)(2)(F) Stationary source monitoring system: KY DAQ's infrastructure SIP submission describes how the State establishes requirements for emissions compliance testing and

[20] The one facility in Kentucky that has lead emissions greater than 0.5 tpy is the EnerSys facility located at 761 Eastern Bypass Richmond, KY 40475. The lead emissions from this facility are 0.55 tpy.

utilizes emissions sampling and analysis. It further describes how the State ensures the quality of its data through observing emissions and monitoring operations. KY DAQ 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. KY DAQ meets these requirements through KY DAQ 401 KAR 50:050 *Monitoring.* These requirements are incorporated into the SIP at Chapter 50 *General Administrative Procedures* allows for the use of credible evidence in the event that the KY DAQ Director has evidence that a source is violating an emission standard or permit condition, the Director may require that the owner or operator of any source submit to the Director any information necessary to determine the compliance status of the source. In addition, EPA is unaware of any provision preventing the use of credible evidence in the Kentucky SIP.

In addition, Kentucky 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. *See* 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 the precursors that form them—NO_X, sulfur dioxide, ammonia, lead, carbon monoxide, particulate matter, and volatile organic compounds. Many states also voluntarily report emissions of hazardous air pollutants. Kentucky made its latest update to the 2013 NEI on November 11, 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 Kentucky's SIP and practices are adequate for the stationary source monitoring systems obligations for the 2008 Lead NAAQS.

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. Kentucky's infrastructure SIP submission cites 401 KAR Chapter 55 *Emergency Episodes* as identifying air pollution emergency episodes and preplanned abatement strategies, and providing the means to implement emergency air pollution episode measures. Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the cabinet determines that the accumulation of air contaminants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, present a threat to the health of the public. The intent of this administrative regulation is to provide for the curtailment or reduction of processes or operations which emit an air contaminant or an air contaminant precursor whose criteria has been reached and are located in the affected area for which an episode level has been declared. This rule defines what an episodic criteria is and the procedure for an episode declaration. In addition, KRS 224.10–410 provides: ''Notwithstanding any inconsistent provisions of law, whenever the Secretary of the Energy and Environment Cabinet finds, after investigation, that any person or combination of persons is causing, engaging in or maintaining a condition or activity which, in his judgment, presents a danger to the health or welfare of the people of the state or results in or is likely to result in damage to natural resources, and relates to the prevention and abatement powers of the secretary and it therefore appears to be prejudicial to the interests of the people of the state to delay action until an opportunity for a hearing can be provided, the secretary may, without prior hearing, order such person or combination of persons by notice, in writing wherever practicable or in such other form as in the secretary's judgment will reasonably notify such person or combination of persons whose practices are intended to be proscribed, to discontinue, abate or alleviate such condition or activity, and thereupon such person or combination of persons shall immediately discontinue, abate or alleviate such condition or activity. As soon as possible thereafter, not to exceed ten (10) days, the secretary shall provide the person or combination of persons an opportunity to be heard and to present proof that such condition or activity does not violate the provisions of this section. The secretary shall adopt any other appropriate rules and regulations prescribing the procedure to be followed in the issuance of such orders. The secretary shall immediately notify the Governor of any order issued pursuant to this section.'' EPA has made the preliminary determination that Kentucky's SIP and practices are adequate to satisfy the emergency powers obligations of the 2008 Lead NAAQS.

8. 110(a)(2)(H) Future SIP revisions: KY DAQ is responsible for adopting air quality rules and revising SIPs as needed to attain or maintain the NAAQS in Kentucky. 401 KAR Chapter 53 *Ambient Air Quality* and Chapter 51 *Attainment and Maintenance of the National Ambient Air Quality Standards* grant KY DAQ the broad authority to implement the CAA, and as such, provides KY DAQ the authority to prepare and develop, after proper study, a comprehensive plan for the prevention of air pollution. These statutes also provide KY DAQ 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. Accordingly, EPA has made the preliminary determination that Kentucky's SIP and practices adequately demonstrate a commitment to provide future SIP revisions related to the 2008 Lead NAAQS, when necessary.

9. 110(a)(2)(J): EPA is proposing to approve Kentucky's infrastructure SIP 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 visibility protection. With respect to Kentucky's infrastructure SIP submission related to the preconstruction PSD permitting requirements of section 110(a)(2)(J), EPA took final action to approve Kentucky's July 17, 2012, 2008 Lead infrastructure SIP for these requirements on March 18, 2015. *See* 80 FR 14019. EPA's rationale for applicable consultation requirements of section 121, the public notification requirements of section 127, and visibility is described below.

Consultation with government officials (121 consultation): Section 110(a)(2)(J) of the CAA requires states to provide a process for consultation with local governments, designated organizations and federal land managers (FLMs) carrying out NAAQS implementation requirements pursuant to section 121 relative to consultation. 401 KAR 52 *Permits, Registrations, and Prohibitory Rules* along with the Regional Haze SIP Plan (which allows

for consultation between appropriate state, local, and tribal air pollution control agencies as well as the corresponding FLMs), provide for consultation with government officials whose jurisdictions might be affected by SIP development activities. Implementation of transportation conformity as outlined in the consultation procedures requires KY DAQ 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 Kentucky's SIP and practices adequately demonstrate that the State meets applicable requirements related to consultation with government officials for the 2008 Lead NAAQS when necessary.

Public notification (127 public notification): To meet the public notification requirements of section 110(a)(2)(J), statutes 401 KAR 51 *Attainment and Maintenance of the National Ambient Air Quality Standards and* 401 KAR 52 *Permits, Registrations* provides Kentucky with the authority to declare an emergency and notify the public accordingly when it finds t a generalized condition of water or air pollution which is causing imminent danger to the health or safety of the public. For example, 401 KAR 52:100. *Public, Affected State, and U.S. EPA Review* of the Kentucky SIP process affords the public an opportunity to participate in regulatory and other efforts to improve air quality by holding public hearings for interested persons to appear and submit written or oral comments. EPA also notes that KY DAQ maintains a Web site that provides the public with notice of the health hazards associated with Lead NAAQS exceedances, measures the public can take to help prevent such exceedances, and the ways in which the public can participate in the regulatory process. See *http://air.ky.gov/Pages/default.aspx.*

EPA has made the preliminary determination that Kentucky's SIP and practices adequately demonstrate the State's ability to provide public notification related to the 2008 Lead NAAQS when necessary.

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. EPA thus does not expect states to address visibility in lead infrastructure submittals. 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. Accordingly, EPA is proposing to approve section 110(a)(2)(J) of KY DAQ's infrastructure SIP submission with respect to visibility.

EPA has made the preliminary determination that Kentucky's SIP and practices adequately demonstrate the State's ability to meet the requirements of section 110(a)(2)(J) to include a program in the SIP that provides for meeting the applicable requirements of section 121 (consultation), section 127 public notification, and visibility protection.

10. 110(a)(2)(K) Air quality 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. 401 KAR Chapter 50 *General Administrative Procedures* require that air modeling be conducted in accordance with 40 CFR part 51, appendix W ''Guideline on Air Quality Models.'' These regulations demonstrate that Kentucky has the authority to perform air quality modeling and to provide relevant data for the purpose of predicting the effect on ambient air quality of the 2008 Lead NAAQS. Additionally, Kentucky 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, Kentucky's air quality regulations demonstrate that KY DAQ has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the 2008 Lead NAAQS. EPA has made the preliminary determination that Kentucky'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 when necessary.

11. 110(a)(2)(L) Permitting fees: This element necessitates that the SIP require 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.

To satisfy these requirements, Kentucky Regulation 401 KAR 50:038 *Air Emissions Fee,* and the Title V Operating Permit Program Implementation Protocol dated August 13, 1999, is how KY DAQ collects adequate emission fees related to the cost of administering the air quality program mandated under Title V of the CAA Amendments of 1990 (Public Law 101–549, as amended). Funds collected in support of the program are used in support of review, implementation, and enforcement of PSD/NNSR permits. The Title V program takes over for the PSD/NNSR permit once the source begin operating. EPA has made the preliminary determination that Kentucky's practices adequately provide for permitting fees related to the 2008 Lead NAAQS, when necessary.

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. 401 KAR 52 *Permits, Registrations* authorize and require KY DAQ to advise, consult, cooperate and enter into agreements with other agencies of the state, the Federal Government, other states, interstate agencies, groups, political subdivisions, and industries affected by the provisions of this act, rules, or policies of the department. EPA has made the preliminary determination that Kentucky's SIP and practices adequately demonstrate consultation with affected local entities related to the 2008 Lead NAAQS, when necessary.

V. Proposed Action

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), EPA is proposing to approve that KY DAQ's infrastructure SIP submission, submitted July 17, 2012, for the 2008 Lead NAAQS meets the above described infrastructure SIP requirements. EPA is proposing to approve these portions of Kentucky's infrastructure SIP submission for the 2008 Lead NAAQS because these aspects of the submission are 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. 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 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, the Kentucky SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

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

Dated: July 14, 2015.

Heather Mc Teer Toney,

Regional Administrator, Region 4.

[FR Doc. 2015–18613 Filed 7–29–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2015–0323; FRL–9931–15–Region 10]

Approval and Promulgation of Implementation Plans; Oregon: Grants Pass Second 10-Year PM_{10} Limited Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the limited maintenance plan submitted by the State of Oregon on April 22, 2015, for the Grants Pass maintenance area for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The plan explains how this area will continue to meet the PM_{10} National Ambient Air Quality Standard for a second 10-year period through 2025.

DATES: Comments must be received on or before August 31, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2015–0323, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: edmondson.lucy@epa.gov.*
- *Mail:* Lucy Edmondson, U.S. EPA Region 10, Office of Air, Waste and Toxics, AWT–150, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101
- *Hand Delivery/Courier:* U.S. EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Lucy Edmondson, Office of Air, Waste and Toxics, AWT–150. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Lucy Edmondson at telephone number: (360) 753–9082, email address: *edmondson.lucy@epa.gov,* or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: For further information, please see the direct final action, of the same title, which is located in the Rules section of this **Federal Register**. The EPA is simultaneously approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If the EPA receives no adverse comments, the EPA will not take further action on this proposed rule.

If the EPA receives adverse comments, the EPA will withdraw the direct final rule and it will not take effect. The EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: July 8, 2015.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2015–18349 Filed 7–29–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R09–OAR–2015–0279; FRL–9930–98–Region 9]

Air Plan Approval; California; Mammoth Lakes; Redesignation Request; PM_{10} Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.