Dated: November 13, 2017.

Jonodev O. Chaudhuri,

Chairman.

Kathryn Isom-Clause,

Vice Chair.

E. Sequoyah Simermeyer,

Associate Commissioner.

[FR Doc. 2017–25046 Filed 11–17–17; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2017–0435; FRL–9970–19–Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Arkansas; Infrastructure State Implementation Plan Requirements for the National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Arkansas to address the requirements of section 110(a)(1) and (2) of the Clean Air Act (CAA or Act) for the 2006 and 2012 fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS), 2008 lead (Pb) NAAQS, 2008 ozone (O_3) NAAQS, 2010 nitrogen dioxide (NO_2) NAAQS, and the 2010 sulfur dioxide (SO_2) NAAQS. Under CAA sections 110(a)(1) and 110(a)(2), each state is required to submit a SIP that provides for the implementation, maintenance, and enforcement of a revised primary or secondary NAAQS. CAA section 110(a)(1) and (2) require each state to make a new SIP submission within three years after EPA promulgates a new or revised NAAQS for approval into the existing SIP to assure that the SIP meets the applicable requirements for such new and revised NAAQS. This type of SIP submission is commonly referred to as an ''infrastructure SIP or ''i-SIP.'' We propose approval of this action under Section 110 of the Act.

DATES: Written comments must be received on or before December 20, 2017.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2017–0435, at *http://www.regulations.gov* or via email to *salem.nevine@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Ms. Nevine Salem, (214) 665–7222, *salem.nevine@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

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

FOR FURTHER INFORMATION CONTACT: Nevine Salem, (214) 665–7222, *salem.nevine@epa.gov.* To inspect the hard copy materials, please schedule an appointment with her or Bill Deese at (214) 665–7253.

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

I. Background

The EPA has revised certain NAAQS that are the subject of this SIP revision proposal action. In 2006, following a periodic review of the NAAQS for $PM_{2.5}$, EPA revised the $PM_{2.5}$ NAAQS to 35 micrograms per cubic meter ($\mu g/m^3$), and the annual standard was retained at 15 $\mu g/m^3$. 71 FR 61144 (October 17, 2006). In 2012, we promulgated a final rule to address revised primary annual $PM_{2.5}$ NAAQS. 78 FR 3086 (January 15, 2013). The primary annual standard was revised to 12.0 $\mu g/m^3$, and we retained the 24-hour $PM_{2.5}$ standards of 35 $\mu g/m^3$. In 2008, following a periodic review of the NAAQS for Pb, we revised the NAAQS to 0.15 $\mu g/m^3$ for both the primary and secondary standards. 73 FR 66964 (November 12, 2008). In March 2008, following a periodic review, EPA revised the primary and secondary O_3 NAAQS. 73 FR 16436 (March 27, 2008) to establish a new primary standard of 0.075 parts per million (ppm), expressed to three decimal places, based on a 3-year average of the fourth-highest maximum 8-hour average concentration, and revised the current 8-hour standard by making it identical to the revised primary standard.

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

Additionally, in June 2010, the EPA revised the primary SO_2 NAAQS to establish a new 1-hour standard, with a level of 75 ppb, based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. 75 FR 35520 (June 22, 2010).

Pursuant to section 110(a)(1) of the CAA, states are required to submit i-SIPs that provide for the implementation, maintenance and enforcement of a new or revised SAAQS within 3 years following the promulgation of such new or revised NAAQS. Section 110(a)(2) lists specific requirements that that i-SIPs must include to adequately address such new or revised NAAQS, as applicable.

On March 24, 2017, the Arkansas Department of Environmental Quality (ADEQ) submitted SIP revisions to address all of the revised NAAQS as required by i-SIP requirements. Each state must submit an i-SIP within three years after the promulgation of a new or revised NAAQS. Section 110(a)(2) of the CAA includes a list of specific elements the i-SIP must meet. In an effort to assist states in complying with this requirement, EPA issued guidance addressing the i-SIP elements for the NAAQS.[1] Our technical evaluation of

[1] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act sections 110(a)(1) and 110(a)(2),''

Continued

the Arkansas March, 24, 2017 i-SIP submittal is provided in the Technical Support Document (TSD), which is in the docket for this rulemaking.[2]

EPA is proposing to approve the Arkansas i-SIP submittal except for certain portions[3] of the SIP pertaining to CAA section 110(a)(2)(D)(i)(I) for interstate transport[4] for the 2008 ozone,[5] 2010 SO_2, and the 2012 $PM_{2.5}$ submittal(s) that pertain to significant contribution to nonattainment or interference with maintenance of the NAAQS in other states, and CAA section 110(a)(2)(D)(i)(II) for 2006 and 2012 $PM_{2.5}$, 2008 O_3, 2010 NO_2 and 2010 SO_2 NAAQS pertaining to the visibility protection requirements. EPA will take action in separate, future rule making(s) for the portions of the 2008 ozone, 2010 SO_2, and the 2012 $PM_{2.5}$ submittal(s) that pertain to significant contribution to nonattainment or interference with maintenance of the NAAQS in other states and the portions which will interfere with visibility protection measures in other states for the 2012 $PM_{2.5}$, 2008 O_3, and 2010 SO_2 NAAQS. EPA is proposing to approve the remainder of the Arkansas i-SIP submittal for the 2006 $PM_{2.5}$; 2008 Pb; 2008 O_3, 2010 NO_2, 2010 SO_2, 2012 $PM_{2.5}$ for i-SIP purposes.[6]

II. EPA's Evaluation of Arkansas' NAAQS Infrastructure Submission

The State's submittal on March 24, 2017 demonstrates how the existing Arkansas SIP meets the infrastructure requirements for 2006 $PM_{2.5}$, 2008 Pb; 2008 O_3, 2010 NO_2, 2010 SO_2 and, 2012 $PM_{2.5}$. Below is a summary of EPA's evaluation of the Arkansas i-SIP for each applicable element of CAA 110(a)(2) A–M. More detailed information can be found in our TSD that is in the docket to this rulemaking action.

(A) Emission limits and other control measures: The CAA § 110(a)(2)(A) requires the SIP to include enforceable emission limits and other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of the Act and other related matters as needed to implement, maintain and enforce each of the NAAQS.[7] The State of Arkansas provided information to show that Arkansas's SIP contains enforceable emission limitations and other control measures requirements. The relevant provisions to address such requirements are a part of the Arkansas Water and Air Pollution Control Act (AWAPCA), Arkansas Code Annotated (''Ark. Code Ann.'') § 8–4–101 *et seq.,* and those provisions of the Arkansas Pollution Control & Ecology Commission (APC&EC) Regulation 19, codified in 40 CFR. 52.170. The regulations in APC& EC Regulation 19 have been duly adopted by the State and where these provisions relate to CAA section 110 requirements, SIP revisions have been submitted to and approved by EPA. The EPA-approved SIP revisions are codified at 40 CFR part 52, subpart E. Arkansas has an EPA-approved air permitting program for both major and minor facilities, which ensures that all applicable requirements are included in any applicable facility permit. A detailed list of the applicable authorities and regulations is provided in the TSD in the docket to this action. Arkansas' SIP contains enforceable emission limits and other control measures, which are also in the federally enforceable SIP. EPA is therefore proposing to find that the Arkansas SIP meets the requirements of section 110(a)(2)(A) of the Act with respect to 2012 $PM_{2.5}$, 2008 Pb, 2008 O_3, 2010 NO_2, and 2010 SO_2 NAAQS.

(B) Ambient air quality monitoring/ data system: Section 110(a)(2)(B) of the CAA requires SIPs to include provisions for establishment and operation of ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to EPA upon request. The SIP-approved APC&EC Regulation 19, Chapter 3 provides ADEQ with the responsibility to conduct ambient air monitoring in any area of the State that can be expected to be in excess of the NAAQS. 65 FR 61103 (October 16, 2000). Arkansas' Statewide Air Quality Surveillance Network was approved by EPA on August 6, 1981 (46 FR 40005), and consists of stations that measure ambient concentrations of the six criteria pollutants. The ADEQ operates and maintains a statewide network of air quality monitors—data are collected, results are quality assured, and the data are submitted to EPA's Air Quality System[8] on a regular basis. Regulation 19, Chapters 3 and Chapter 7 provide ADEQ with the authority to collect air quality monitoring data, quality-assure the results, and report the data. ADEQ maintains and operates a monitoring network to measure levels of the pollutants in accordance with EPA regulations specifying siting and monitoring requirements. All monitoring data is measured using EPA approved methods[9] and subject to the EPA quality assurance requirements.[10]

Memorandum from Stephen D. Page, September 13, 2013.

[2] Please see our Technical Support Document (TSD) included in the docket to this action for additional information on the following: The history of the NAAQS pollutants, their levels, forms and, determination of compliance; EPA's approach for reviewing i-SIPs; the details of the SIP submittal and EPA's evaluation thereof; the effect of recent court decisions on i-SIPs; the statutory and regulatory citations in the Arkansas SIP specific to this i-SIP review; citation to the specific i-SIP provisions applicable under CAA and EPA regulations; our Federal Register actions on the Arkansas minor New Source Review program and EPA approval activities; as well as the Arkansas Prevention of Significant Deterioration (PSD) program.

[3] The exceptions are: (1) The portions of the 2008 ozone NAAQS submittal that pertain to interstate transport of Arkansas emissions which will significantly contribute to nonattainment of the NAAQS in other states, (2) the portions of the 2010 SO_2 NAAQS submittal that pertain to interstate transport of Arkansas emissions to other states, and (3) the portions of the submittal that pertain to interstate transport of Arkansas emissions which will interfere with visibility protection measures in other states for the 2012 $PM_{2.5}$, 2008 O_3, 2010 NO_2, and 2010 SO_2 NAAQS. We will take future, separate action(s) on the portions of the 2008 ozone, 2012 $PM_{2.5}$, and 2010 SO_2 NAAQS submittal that pertain to significant contribution to nonattainment or interference with maintenance of the NAAQS in other states.

[4] An important aspect of the SIP is to ensure that emissions from within the state do not have certain prohibited impacts upon the ambient air in other states through the interstate transport of pollutants. This SIP requirement is specified in section 110(a)(2)(D) of the CAA. Pursuant to 110(a)(2)(D), each state's SIP must contain provisions adequate to prevent, among other things, emissions that interfere with measures required to be included in the SIP of any other state to prevent significant deterioration of air quality in any other state. Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin.

[5] CAA Section 110(a)(2)(D)(i)(I), which addresses the contribution to nonattainment and interference with maintenance of the 2008 Ozone NAAQS in other states was not included in this SIP submittal.

[6] See section III and Table I that follow (below) for more details on EPA's proposed actions in this rule making.

[7] We note that the specific nonattainment area plan requirements of CAA section 110(a)(2)(I) are subject to the timing requirements of CAA section 172, not the timing requirement of CAA section 110(a)(1). Thus, CAA section 110(a)(2)(A) does not require that states submit regulations or emissions limits specifically for attaining the 2006 $PM_{2.5}$, 2008 Pb, 2008 O_3, 2010 NO_2, 2010 SO_2 or 2012 $PM_{2.5}$ NAAQS. Those SIP provisions are due as part of each state's attainment plan, and will be addressed separately from the requirements of CAA section 110(a)(2)(A). See 73 FR 16025, 16206 (March 27, 2008). In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS to meet i-SIP requirements.

[8] A copy of the 2015–2016 Annual Air Monitoring Network Plan and EPA's approval letter are included in the docket for this proposed rulemaking.

[9] See Appendix C to 40 CFR Part 58—Ambient Air Quality Monitoring Methodology.

[10] See Appendix A to 40 CFR Part 58—Quality Assurance Requirements for Monitors used in

ADEQ submits all required data to EPA, pursuant to EPA regulations as specified in 40 CFR part 58. The monitoring network was approved into the SIP and it undergoes annual review by EPA.[11] The ADEQ Web site provides the monitor locations and posts past and current concentrations of criteria pollutants measured in the State's network of monitors.[12] Additional details of the applicable authorities and regulations are provided in the TSD in the docket to this action.

In summary, Arkansas meets the requirement to establish, operate, and maintain an ambient air monitoring network; collect and analyze the monitoring data; and make the data available to EPA upon request. EPA is proposing to find that the current Arkansas SIP meets the requirements of section 110(a)(2)(B) with respect to 2006 and 2012 $PM_{2.5}$, 2008 Pb, 2008 O_3, 2010 NO_2, and 2010 SO_2 NAAQS.

(C) Program for enforcement of control measures: The CAA § 110(a)(2)(C) requires SIPs to include the following three elements: (1) A program providing for enforcement of the measures in paragraph *A* above; (2) a program for the regulation of the modification and construction of stationary sources as necessary to protect the applicable NAAQS (*i.e.,* state-wide permitting of minor sources); and (3) a permit program to meet the major source permitting requirements of the CAA (for areas designated as attainment or unclassifiable for the NAAQS in question).[13]

(1) Enforcement of SIP Measures. As discussed previously, the Arkansas Water and Air Pollution Control Act (AWAPCA) provides the ADEQ with authority to enforce the State's environmental quality rules. The ADEQ established rules governing emissions of the NAAQS and their precursors throughout the state, and these rules are in the federally-enforceable SIP. The rules in Regulation 19, Chapters 1, 3–5, 7–10, 13 and 14; Regulation 26, Chapters 3 and Regulation 31, Chapters 1, 3, 4 and 8 include allowable rates, compliance, control plan requirements, actual and allowable emissions, monitoring and testing requirements, recordkeeping and reporting requirements, and control schedules.

These rules clarify the boundaries beyond which regulated entities in Arkansas can expect enforcement action. To meet the CAA requirement for having a program for the regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved—including a permit program as required by Parts C and D—generally, the State is required to have SIP-approved PSD, Nonattainment, and Minor New Source Review permitting programs adequate to implement the 2006 and 2012 $PM_{2.5}$, 2008 Pb, 2008 O_3, 2010 NO_2, and 2010 SO_2 NAAQS. As explained in footnote 7 above, we are not evaluating nonattainment-related provisions—such as the Nonattainment NSR program required by part D in 110(a)(2)(C) and measures for attainment required by section 110(a)(2)(I), as part of the infrastructure SIPs for these NAAQS—because these submittals are required beyond the date (3 years from NAAQS promulgation) that CAA section 110 infrastructure submittals are required.

(2) Minor New Source Review. Section 110(a)(2)(C) also requires that the SIP include measures to regulate construction and modification of stationary sources to protect the NAAQS. The Arkansas minor NSR permitting requirements are approved as part of the SIP.[14] Arkansas' minor source permitting requirements are contained at APC&EC Regulation 19, Chapter 4 and revisions to the rule were previously approved by EPA at 72 FR 18394 (April 12, 2007).[15] The SIP continues to require preconstruction permits for minor sources and minor modifications.

(3) Prevention of Significant Deterioration (PSD) permit program. The Arkansas' PSD program was initially approved into the SIP on January 14, 1982 (47 FR 02112). Subsequent revisions to Arkansas' PSD program were approved into the SIP on February 10, 1986 (51 FR 04910), May 2, 1991 (56 FR 20137), October 16, 2000 (65 FR 61103), and April 12, 2007 (72 FR 18394). On December 4, 2014, Arkansas submitted final SIP revisions to address the 2006 $PM_{2.5}$ PSD elements. EPA's final approval was published on March 4, 2015 (80 FR 11573). ADEQ has the authority to implement the 2006 $PM_{2.5}$ NAAQS and regulate and permit $PM_{2.5}$ emissions, and its precursors through the Arkansas PSD program. Arkansas submitted SIP revisions relating to Greenhouse Gases (GHG's) on July 2010 and a revision to that SIP on November 6, 2010 addressing the PSD program for EPA approval, which we approved on April 2, 2013 (78 FR 19596), whereby we also rescinded the Federal Implementation Plan (FIP) that was in place which addressed permitting for the GHG purposes in Arkansas. With the approval of the SIP revisions to address GHG PSD permitting and 2006 $PM_{2.5}$ PSD elements, ADEQ has a complete SIP approved PSD permitting program in place covering the required elements for all regulated New Source Review (NSR) pollutants. Arkansas' PSD portion of the federally-approved SIP covers all NSR regulated pollutants as well as the requirements to meet CAA 110(a)(2)(C) for the 2006 and 2012 $PM_{2.5}$, 2008 Pb, 2008 O_3, 2010 NO_2, and 2010 SO_2 NAAQS. Additional details of the applicable authorities and regulations are provided in the TSD in the docket to this action.

(D)(i) Interstate Pollution Transport: Section 110(a)(2)(D)(i)(I) of the CAA requires that the State's SIP contain adequate provisions to address interstate transport of certain emissions. The State's SIP must address any emissions activity in one state that contributes significantly to nonattainment, or interferes with maintenance, of the NAAQS in another state. The EPA refers to this requirement as prong 1 (significant contribution to nonattainment) and prong 2 (interference with maintenance).

Section 110(a)(2)(D)(i)(II) of the CAA requires SIPs to include provisions prohibiting any sources or other types of emissions activity in one state from interfering with measures required of any other state to prevent significant deterioration of air quality or from interfering with measures required of any other state to protect visibility (referring to visibility of Class I areas). The EPA sometimes refers to this requirement under CAA subsection 110(a)(2)(D)(i)(II) as prong 3 (interference with PSD) and prong 4 (interference with visibility protection). The EPA interprets CAA section

Evaluations of National Ambient Air Quality Standards.

[11] A copy of the 2015–2016 Annual Air Monitoring Network Plan and EPA's approval letter are included in the docket for this proposed rulemaking.

[12] See *https://www.adeq.state.ar.us/air/planning/monitoring.aspx.*

[13] Please see the TSD for further detail.

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

[15] The EPA has since proposed approval of revisions to the State's minor NSR rules at 82 FR 43506 (September 18, 2017). Comments must have been received by October 18, 2017.

110(a)(2) to require air agencies to address prong 3 and prong 4 as part of each infrastructure SIP submission.

We previously approved the portions of Arkansas' 2006 $PM_{2.5}$ NAAQS i-SIP which addressed the requirements that emissions within Arkansas be prohibited from contributing to the nonattainment or interfere with maintenance of the NAAQS in other states (prong 1 and 2). 78 FR 53269 (August 29, 2013). In this proposed rulemaking, EPA is not acting on provisions pertaining to CAA section 110(a)(2)(D)(i)(I) prong 1 and prong 2 for the following pollutants: 2012 $PM_{2.5}$, 2008 Ozone, and 2010 SO_2. We will address these requirements in a separate, future rulemaking(s). Also, EPA is proposing only to approve CAA section 110(a)(2)(D)(i)(II) (prong 3- PSD portion) for 2012 $PM_{2.5}$, 2008 Pb, 2008 O_3, 2010 NO_2, and 2010 SO_2 NAAQS. EPA will address 110(a)(2)(D)(i)(II) prong 4 for all the above pollutants in a separate, future rule making. However, EPA is proposing to approve subsections of 110(a)(D)(i) and 110(a)(D)(ii) for 2008 Lead (Pb) and 2010 NO_2 NAAQS.

Section 110(a)(2)(D)(ii) of the CAA requires SIPs to include adequate provisions to ensure compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement. Section 126(a) of the CAA requires new or modified sources to notify neighboring states of potential impacts from the source. Section 115 of the CAA relates to the international pollution abatement portion of 110(a)((2)(D)(ii).

The i-SIP must prohibit emissions within Arkansas from contributing significantly to the nonattainment of the NAAQS in other states, and from interfering with the maintenance of the NAAQS in other states (CAA section 110(a)(2)(D)(i)(I)). The SIP must also prohibit emissions within Arkansas both from interfering with measures required to prevent significant deterioration in other states and from interfering with measures required to protect visibility in other states (CAA section 110(a)(2)(D)(i)(II)).

Lead: We propose to approve the portion of the State's submittal which addresses the requirement that emissions within Arkansas be prohibited from contributing to the nonattainment of the Pb NAAQS in other states, and from interfering with the maintenance of the Pb NAAQS in other states. The physical properties of Pb, which is a metal and very dense, prevent Pb emissions from experiencing a significant degree of travel in the ambient air. No complex chemistry is needed to form Pb or Pb compounds in the ambient air; therefore, ambient concentrations of Pb are typically highest near Pb sources. More specifically, there is a sharp decrease in ambient Pb concentrations as the distance from the source increases. According to EPA's report entitled *Our Nation's Air: Status and Trends Through 2010,* Pb concentrations that are not near a source of Pb are approximately 8 times less than the typical concentrations near the source.[16] There are no areas within the State of Arkansas designated as nonattainment with respect to the 2008 lead NAAQS.

ADEQ has determined that there are few sources of lead emissions located in close proximity to Arkansas' borders (*e.g.,* within 2 miles), considering the physical properties of Pb explained above which prevent Pb emissions from experiencing the same travel or formation phenomena as $PM_{2.5}$ or ozone and there is a sharp decrease in Pb concentrations as the distance from a Pb source increases. Significant impacts from Pb emissions from stationary sources are limited to short distances from emitting sources, therefore, visibility is not affected by lead emissions.[17] Given this information, we propose to approve the portion of the Pb i-SIP submittal related to the protection of visibility in other states.

Nitrogen Dioxide (NO_2): We propose to approve the portion of the submittal which addresses the prevention of emissions which significantly contribute to the nonattainment of the NO_2 NAAQS in other states and interfere with the maintenance of the NO_2 NAAQS in other states. On February 17, 2012, EPA designated the entire United States as ''unclassifiable/attainment'' for the 2010 NO_2.[18] The available air quality data show that all areas in the country meet the 2010 NO_2 NAAQS for 2008–2010. No state or tribal entity recommended an area be designated ''nonattainment.'' As listed in our NO_2 Design Values report,[19] only one maintenance area exists for the prior annual NO_2 NAAQS (Los Angeles, California). With no nonattainment or maintenance areas in surrounding states, Arkansas does not significantly contribute to nonattainment or maintenance of the NO_2 NAAQS in any of the contiguous states. As further evidence that Arkansas NO_2 emissions do not contribute to nonattainment or maintenance of NAAQS, we reviewed more recent monitoring data for NO_2 throughout the United States. Using previous EPA methodology,[20] we evaluated specific monitors identified as having nonattainment and/or maintenance problems, which we refer to as ''receptors.'' We identify nonattainment receptors as any monitor that violated the NO_2 NAAQS in the most recent three-year period. Meanwhile, we identify NO_2 maintenance receptors as any monitor that violated the NO_2 NAAQS in either of the prior monitoring cycles (2010–2012 and 2011–2013), but attained in the most recent monitoring cycle (2012–2014). During the three most recent design value periods of 2010 through 2012, 2011 through 2013 and 2012 through 2014, we found no monitors violating the 2010 NO_2 NAAQS in the United States.

We are also proposing to approve the portion of the SIP pertaining to the prevention of significant deterioration in other states for Pb and NO_2, as Arkansas has a fully approvable PSD program. The program regulates all NSR pollutants, including greenhouse gases (GHGs) which prevents significant deterioration in nearby states.

2012 PM, O_3, SO_2: At this time, we are not proposing action on the i-SIP submittals which address the prevention of emissions which significantly contribute to the nonattainment of 2012 $PM_{2.5}$, 2008 Ozone, and 2010 SO_2 NAAQS in other states, and the interference with the maintenance 2012 $PM_{2.5}$, 2008 Ozone, 2010 NO_2, and 2010 SO_2 NAAQS in other states. We plan to act on these portions of the i-SIP in future, separate rulemaking actions.

Based on information presented in the State's SIP submission, we are proposing to approve the portion of the SIP submittal related to the prevention of significant deterioration in other states, as Arkansas has a fully approved PSD program that addresses all regulated new source review pollutants, including greenhouse gases (GHG) which prevent significant deterioration in nearby states.

(D)(ii) Interstate Pollution Abatement and International Air Pollution: In addition, CAA section 110(a)(2)(D)(ii) requires that the SIP contain adequate provisions insuring compliance with the applicable requirements of section 126 of the Act (relating to interstate pollution abatement) and 115 of the Act

[16] *http://www.epa.gov/airtrends/2011/report/fullreport.pdf.*

[17] Please see our TSD for more detailed information.

[18] See 77 FR 9532 (February 17, 2012).

[19] *http://epa.gov/airtrends/values.html.*

[20] See NO_X SIP call, 63 FR 57371 (October 27, 1998); CAIR, 7025172 (May 12, 2005; and Transport Rule or Cross-State Air Pollution Rule 76 FR 48208 (August 8, 2001).

(relating to international pollution abatement). Section 126(a) of the CAA requires new or modified sources to notify neighboring states of potential impacts from the source. Arkansas meets the CAA section 126 requirements as it has a fully approved PSD SIP and no source or sources have been identified by the EPA as having any interstate impacts under CAA section 126 in any pending action related to any air pollutant. Arkansas meets the section 115 requirements as there are no final findings by the EPA that Arkansas air emissions affect other countries. Therefore, we propose to approve the portion of the Arkansas SIP for these NAAQS: 2006 $PM_{2.5}$, 2008 Ozone, 2008 Pb, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ i-SIP pertaining to CAA section 110(a)(2)(D)(ii). For additional detail, please refer to the TSD.

(E) Adequate authority, resources, implementation, and oversight: CAA 110(a)(2)(E) requires that the SIP must provide for the following: (1) Necessary assurances that the state (and other entities within the state responsible for implementing the SIP) will have adequate personnel, funding, and authority under state or local law to implement the SIP, and that there are no legal impediments to such implementation; (2) compliance with requirements relating to state boards as required under section 128 of the CAA; and (3) necessary assurances that the state has responsibility for ensuring adequate implementation of any plan provision for which it relies on local governments or other entities to carry out. Both elements (A) and (E) herein address the requirement that a state have adequate authority to implement and enforce the SIP without legal impediments.

The i-SIP submission for the referenced NAAQS pollutants describes the SIP regulations governing the various functions of personnel within the ADEQ, including the administrative, technical support, planning, enforcement, and permitting functions of the program.

With respect to necessary assurances, and the requirement to address funding, Arkansas has authority to collect fees for the NSR permit programs, and other inspections, maintenance and renewals required of other air pollution sources also provide necessary funds to help implement the State's air programs. Ark. Code Ann. § 8–1–103(1)(A) grants APC&EC the authority to establish, by regulation, reasonable fees for initial issuance, annual review, and modification of permits. Under Ark. Code Ann. § 8–1–103(3), ADEQ is authorized to collect the fees established by APC&EC and shall deny the issuance of an initial permit, a renewal permit, or a modification permit if and when a facility fails or refuses to pay the fees after reasonable notice. APC&EC Regulation 9, Fee Regulation. Chapter 5, Air Permit Fees, contains the air permit fees applicable to non-part 70 permits, part 70 permits and general permits. More specific information on permitting fees is provided in the TSD.

With respect to authority and personnel, Ark. Code Ann. § 8–1–202(b)(2)(D) states that the Director of ADEQ's duties include the day-to-day administration of all activities that the Department is empowered by law to perform, including, but not limited to, the employment and supervision of such technical, legal, and administrative staff, within approved appropriations, as is necessary to carry out the responsibilities vested with ADEQ. The AWAPCA provides the ADEQ adequate authority, in part ''to administer and enforce all laws and regulations relating to pollution of the air.'' Ark. Code Ann. Sec. 8–4–311(7). APC&EC Regulation 19.301 gives ADEQ the responsibility of meeting all applicable regulations and requirements contained in the CAA, as amended, if any area of the state is determined to be in violation of the NAAQS. APC&EC Reg. 19.410 gives ADEQ the authority to revoke, suspend, or modify any permit for cause. For further details, please refer to the TSD.

Section 110(a)(2)(E)(ii) requires that the State's SIP comply with CAA section 128 that requires: (1) That the majority of members of the state body that approves permits or enforcement orders do not derive any significant portions of their income from entities subject to permitting or enforcement orders under the CAA; and (2) any potential conflicts of interest by such body be adequately disclosed. In 1982, the EPA approved the State's SIP submittal to demonstrate compliance of the SIP with Section 128 of the CAA. 47 FR 19136 (May 04, 1982). The submittal cited AWAPCA section 82–1901 as demonstrating compliance with CAA section 128(a)(1) and cited Arkansas Code of Ethics Law Act 570 of 1979, Section 3: Use of Public Office to Obtain Special Privilege Prohibited: Section 4: Use and Disclosure of Information—Acquired by Reason of Office Activities Requiring Disclosure; Section 5: Requirement to File Statement and Section 6: Statements Period Retained Public Access Signature Required. Under APC&EC Reg. 8.202, the Director or the Director's delegate shall issue all permits with nothing in APC&EC Regulation 8 being construed to authorize APC&EC to issue a permit, including the power to reverse or affirm a permitting decision by the Director.

Under Ark. Code Ann. § 21–8–1001, no member of a state board or commission or board member of an entity receiving state funds shall participate in, vote on, influence or attempt to influence an official decision if the member has pecuniary interest in the matter under consideration by the board, commission, or entity. In addition, no member of a state board or commission or board member of an entity receiving state funds shall participate in any discussion or vote on a rule or regulation that exclusively benefits the member. As required by the CAA, the SIP stipulates that any board or body, which approves permits or enforcement orders, must have at least a majority of members who represent the public interest and do not derive any ''significant portion'' of their income from persons subject to permits and enforcement orders or who appear before the board on issues related to the CAA. The members of the board or body, or the head of an agency with similar powers, are required to adequately disclose any potential conflicts of interest. While the ADEQ has no board or commission, the ADEQ submitted a letter dated January 19, 2012, that clarified that the Director of the ADEQ is considered the ''the head of an executive agency with similar powers,'' and must meet the requirement to adequately disclose any potential conflicts of interest.[21] The requirements of CAA section 110(a)(2)(E)(iii) concerning local governments or other entities, are not applicable to Arkansas because it does not rely on local agencies for specific SIP implementation.

(F) Stationary source monitoring system: CAA 110(A)(2)(F) requires the SIP provide for the establishment of a system to monitor emissions from stationary sources and to submit periodic emission reports. It must require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources, to monitor emissions from such sources. The SIP shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources. It shall require that the state correlate the source reports with emission limitations or standards established under the CAA. These

[21] The ADEQ submitted a letter to EPA Region 6 to clarify that the requirements of § 110(a)(2)(E)(ii) do apply to the Director of the ADEQ, and that EPA has already approved a state submittal to this effect. The letter is included in the docket to this action.

reports must be made available for public inspection at reasonable times.

The relevant regulatory requirements have been codified in APC&E Regulation 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control, Chapter 7 (pertaining to sampling and testing).

Provisions in APC&EC Chapter 7, Regulation 19.705 provide for the reporting of emissions inventories in a format established by the ADEQ on a schedule set forth in that section. In addition, APC&EC Regulation 19.705 requires the submission of emission statements as required by the CAA. Area, mobile, and non-road data are required to be reported on a three-year cycle.

Enforceable emission limitations and other control measures are covered in the Arkansas Water and Air Pollution Control Act and those provisions of Ark. Code Ann. §§ 8–4–310 and 8–4–311. Elements of the program for enforcement are found in the monitoring, recordkeeping and reporting requirements for sources in these control measures as well as individual SIP permits. Additional details and citations to the relevant regulatory authorities and provisions are discussed in the TSD. We are proposing that the Arkansas SIP meets the requirements of section 110(a)(2)(F).

(G) Emergency authority: CAA 110(A)(2)(G) requires a demonstration that the ADEQ has authority to restrain any source from causing imminent and substantial endangerment to public health or welfare or the environment. The SIP must include an adequate contingency plan to implement ADEQ's emergency authority.

Ark. Code Ann. § 8–1–202(b)(2)(C) empowers the ADEQ to issue orders under circumstances that reasonably require emergency measures to be taken to protect the environment or the public health and safety. APC&EC Reg. 8.502 requires ADEQ to publish a Notice of Emergency Order in a newspaper covering the affected area, or in a newspaper of statewide circulation. The notice must contain a description of the action, ADEQ's authority for taking the action and other information appropriate to ensure the public is informed about the action.

Ark. Code Ann. § 8–4–202(e)(1) empowers APC&EC to declare an emergency and implement emergency rules, regulations, suspensions, or moratoria on categories or types of permits if APC&EC determines that imminent peril to the public health, safety, or welfare requires immediate change in the rules or immediate suspension or moratorium on categories or types of permits. APC&EC Regulation 8, Administrative Procedures, Reg. 8.807 authorizes the Commission to waive or reduce the notice requirements in cases involving emergency rulemaking. No emergency rule shall be effective for more than 180 days.

(H) Future SIP revisions: CAA 110(a)(2)(H) requires that States have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate to attain the NAAQS.

The AWAPCA, Section 82–1935(1), empowers the APC&EC to ''formulate and promulgate, amend, repeal, and enforce rules and regulations implementing or effectuating the powers and duties of the Commission [. . .] to control air pollution''. Therefore, Arkansas has the authority to revise its SIP as may be necessary to take into account revisions of primary or secondary NAAQS, or the availability of improved or more expeditious methods of attaining such standards. Furthermore, Arkansas also has the authority under the AWAPCA provisions to revise its SIP in the event the EPA (pursuant to the Act) finds the SIP to be substantially inadequate to attain the NAAQS. APC&EC Regulation 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control, Chapter 1, provides a clear delineation of those regulations that are promulgated by APC&EC in satisfaction of certain requirements of the CAA. Ark. Code Ann. § 8–4–311(a)(7) empowers ADEQ to administer and enforce all laws and regulations relating to pollution of the air. Ark. Code Ann. § 8–4–202(d)(4)(A)(ii) authorizes APC&EC to refer to the Code of Federal Regulations for any APC&EC standard or regulation that is identical to a regulation promulgated by the EPA.

The Arkansas Pollution Control and Ecology Commission's Regulation 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control, Chapter 1, demonstrates that those regulations that are promulgated by the Commission satisfy the requirements of this provision of the CAA.

(I) Nonattainment areas: The CAA section 110(a)(2)(I) requires that in the case of a plan or plan revision for areas designated as nonattainment areas, states must meet applicable requirements of Part D of the CAA, relating to SIP requirements for designated nonattainment area. SIP revisions that implement the control strategies necessary to bring a nonattainment area into attainment of the NAAQSs are not required by CAA to be submitted within three years of the promulgation of a new or revised NAAQS. Therefore, as stated earlier, CAA 110(a)(1) does not require this element to be demonstrated as part of an infrastructure SIP submittal. 73 FR 16025 16206 (March 27, 2008).

(J) Consultation with government officials, public notification, PSD and visibility protection: The SIP must meet the following four CAA requirements: (1) Those listed in section 121 of the CAA, relating to interagency consultation; (2) those listed in CAA section 127, relating to public notification of NAAQS exceedances and related issues; (3) prevention of significant deterioration of air quality and (4) visibility protection.

Under APC&EC Regulation 19, Chapter 9, Arkansas has incorporated by reference the requirements in 40 CFR part 52 for PSD in their entirety, with the exception of 40 CFR 52.21(b)(2)(iii)(a), 52.21(b)(49), 52.21(b)(50), 52.21(b)(55–58), 52.21(i) and 52.21(cc). These provisions were approved by EPA as part of the federally-approved SIP. These incorporated provisions also provide for protection of visibility in Federal Class I areas. All new major sources and major modifications are subject to a comprehensive EPA-approved PSD permitting program, including GHG PSD permitting that was approved on April 2, 2013 (78 FR 19596) and $PM_{2.5}$ PSD permitting approved on March 4, 2015 (80 FR 11573). Chapter 9 of APC&EC Regulation 19 authorizes enforcement of regulations governing the prevention of significant deterioration of air quality and regulations governing the protection of visibility in mandatory Federal Class I areas.

The visibility sub-element of Element J is not being addressed because EPA stated in a September 13, 2013 ''Guidance on Infrastructure State Implementation Plan (SIP Elements under CAA sections 110(a)(1) and 110(a)(2)'' that we believe that there are no newly applicable visibility protection obligations pursuant to Element J after the promulgation of new or revised NAAQS.

(1) *Consultation With Identified Official on Certain Actions:* The i-SIP needs to show that there is an established process for consultation with general purpose local governments, designated organization of elected officials of local governments and any federal land manager having authority over federal land to which the plan applies, consistent with CAA section 121, which lists the specific types of

actions for which consultation is required. If the relevant statute is self-executing such that there is no associated regulation or other documents, then the statute would need to be included in the SIP. If a regulation or other document meeting the CAA requirements exists, then the regulation or other document would need to be included in the SIP submission, and the authorizing statute should be referenced but the statute is not required to be part of the EPA approved SIP. Under the requirements of 40 CFR 51.240, the SIP would need to identify organizations ''that will participate in developing, implementing, and enforcing the plan and the responsibilities of such organizations.'' The plan should include any agreements or memoranda of understanding among the organizations.

The AWAPCA, as codified under Ark Code Ann. A.C.A. § 8–1–203 provides that the APC&EC ''shall meet regularly in publicly noticed open meetings to discuss and rule upon matters of environmental concern'' prior to the adoption of any rule or regulation implementing the substantive statutes charged to the ADEQ for administration. In addition, Ark. Code Ann. section 8–4–311(a)(2) provides that the ADEQ or its successor shall have the power and duty ''to advise, consult, and cooperate with other agencies of the state, political subdivisions, industries, other states, the federal government, and with affected groups in the furtherance of the purposes of this chapter.'' Further, Regulation 19.904(D) provides that ADEQ shall make determinations that a source may affect air quality or visibility in a mandatory Class I federal area based on screening criteria agreed upon by the Department and the Federal Land Manager.[22]

(2) *Public Notification:* The i-SIP submission needs to demonstrate that the air agency does regularly notify the public of instances or areas in which the new or revised primary NAAQS was exceeded; it needs to advise the public of health hazards associated with such exceedances and of ways in which the public can participate in regulatory and other efforts to improve air quality. Public notification begins with the air quality forecasts, which advise the public of conditions capable of exceeding the 8-hour ozone[23] and $PM_{2.5}$ NAAQS. The air quality forecasts can be found on the ADEQ Web site: For 8-hour ozone and $PM_{2.5}$, the forecast includes two regions[24] in the State. Ozone forecasts are made daily during the ozone season for each of the forecast areas.[25] The ozone forecasts are made, in most cases, a day in advance by 2:00 p.m. local time and are valid for the next day. When the forecast indicates that ozone levels will be above the 8-hour ozone standard, the ADEQ and the Arkansas Department of Health issue an Ozone Health Advisory.

In addition, the State implements an Ozone Action Day (OAD) program[26] and will issue an ozone alert in the afternoon on the day before an elevated level of ozone is expected to occur. Announcements for an OAD will be broadcast through television and other news media, and to employers participating in the OAD program. The OAD program includes examples of actions that can be implemented by individuals and organizations to reduce ozone levels and exposure to ozone. Also through the Metroplan Web site, the public can subscribe to an electronic information system that provides air quality forecast and ozone alert information via email. Ozone data are posted on the ADEQ Web site; current, regional hourly and regional 8-hour ozone data are posted hourly (See *http://www.adeq.state.ar.us/techsvs/ozonemonitors.asp*). Provisions regarding public availability of emission data were also approved into the Arkansas SIP on April 12, 2007 (72 FR 18394).

(3) *PSD and Visibility Protection:* Section 110(a)(2)(J) requires states to meet applicable requirements of Part C related to prevention of significant deterioration and visibility protection. EPA approved Arkansas's Visibility Protection Plan (Protection of Visibility in Mandatory Class I Federal Areas) into the Arkansas SIP on February 10, 1986 (51 FR 4910). EPA approved revisions to the Arkansas Visibility Protection Plan and approved a Long-Term Strategy for Visibility Protection into the Arkansas SIP on July 21, 1988 (53 FR 27514). The State's SIP revision to its Regional Haze program was submitted to EPA on July 29, 2008. Arkansas is subject to federal regional haze requirements which address visibility-impairing pollutants. Arkansas's PSD program addresses visibility protection. In 2008, Arkansas submitted a Regional Haze SIP and EPA partially approved and partially disapproved it on March 12, 2012 (77 FR 14604). The State's submittal provides information to show that Arkansas has experienced considerable improvement in reductions of regional haze emissions in relation to the reasonable progress goals and uniform rate of progress established in the State's Regional Haze SIP. The most recent data from 2015 and current five-year rolling averages show that visibility impairment in Arkansas' Federal Class I areas is decreasing more rapidly than the uniform rate of progress and 2018 reasonable progress goals submitted as part of the State's 2008 Regional Haze SIP.

ADEQ has a complete EPA-approved PSD permitting program in place covering the required elements for all regulated NSR pollutants, including greenhouse gases (GHG). EPA had previously published a finding of failure to submit a PSD SIP for $PM_{2.5}$ (79 FR 29354, May 22, 2014) and imposed a Federal Implementation Plan for PSD permitting of GHGs. 75 FR 82246 (December 30, 2010). However, ADEQ submitted SIP revisions addressing 2006 $PM_{2.5}$ PSD elements, which was approved on March 4, 2015 (80 FR 11573), and GHG PSD permitting, which was approved on April 2, 2013 (78 FR 19596). The Arkansas SIP requirements relating to visibility and regional haze are not affected when EPA establishes or revises a NAAQS. Therefore, EPA believes that there are no new visibility protection requirements due to the revision of the NAAQS, and consequently there are no newly applicable visibility protection obligations pursuant to infrastructure element (J).

(K) Air quality and modeling/data: The SIP must provide for performing air quality modeling, as prescribed by EPA, to predict the effects on ambient air quality of any emissions of any NAAQS pollutant, and for submission of such data to EPA upon request. APC&EC Regulation 19, Chapter 3, requires that ADEQ conduct ambient air monitoring and computer modeling of regulated air pollutant emissions in any area that can reasonably be expected to be in excess of the NAAQS and to review the ambient air impacts of any new or modified source of federally regulated air emission that is the subject of the requirements of the SIP. See APC&EC

[22] See 72 FR 18394 (April 12, 2007).

[23] The ADEQ forecasts for 8-hour ozone are based on the 2008 ozone standard, which is 75 ppb.

[24] The 2 forecast areas for 8-hour ozone and $PM_{2.5}$ are Little Rock and Springdale. See *www.adeq.state.ar.us/techsvs/default.htm.*

[25] Ozone is a gas composed of three oxygen atoms. Ground level ozone is generally not emitted directly from a vehicle's exhaust or an industrial smokestack, but is created by a chemical reaction between NO_X and VOCs in the presence of sunlight and high ambient temperatures. Thus, ozone is known primarily as a summertime air pollutant. For Arkansas, the ozone season runs from March 1 through November 31 (see 40 CFR 58, APPENDIX D, Table D–3). The Arkansas air quality control regions are defined at 45 FR 6571 (January 29, 1980).

[26] For coordinating agencies, participating counties and other information, please see *https://www.adeq.state.ar.us/air/planning/ozone/.*

Reg.19.302(A) and (B). Under APC&EC Reg.19.302(B), all computer modeling shall be performed using EPA-approved models, and using averaging times commensurate with averaging times stated in the NAAQS. ADEQ has the ability to submit data related to air quality modeling to the EPA under Ark. Code Ann. § 8–4–311(a)(2) which gives ADEQ the power to advise, consult, and cooperate with the federal government. Modeling and emissions reductions measures have been submitted by Arkansas and approved into the SIP. For example, we reference the air modeling and emissions reductions data submitted within the Crittenden County Economic Development Zone SIP revisions, as well as the demonstration of maintenance of the 2008 8-hour ozone standard in Crittenden County. 81 FR 24030 (April 25, 2016). The measures in these SIPs were approved by EPA and adopted into the SIP.

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

The fee requirements of the APC&EC's Regulation 26, Regulations of the Arkansas Operating Air Permit Program, Chapter 11, were approved by EPA as meeting the CAA requirements and were incorporated into Arkansas's SIP. Arkansas's title V operating permit program in Chapter 11, was approved October 9, 2001. APC&EC's Chapter 11 titled ''Permit Fees,'' Reg. 26.1101, ''Fee Requirement,'' requires that in accordance with 40 CFR 70.9, as promulgated July 21, 1992, and last modified June 3, 2010 (75 FR 31607), that the owners or operators of part 70 sources shall pay initial and annual fees that are sufficient to cover the permit program costs. The Department shall ensure that any fee required by these regulations will be used solely for permit program costs. In addition, APC&EC's Reg. 26.1102, titled ''Fee schedule,'' requires that the fee schedule for part 70 permits is contained in Regulation No. 9. The APC&EC Regulation 9, Fee Regulation, Chapter 5, Air Permit Fees, contains the air permit fees applicable to non-part 70 permits, part 70 permits and general permits. Revisions to air permitting fees requirements in Chapter 5 were approved by EPA on April 30, 2015 (80 FR 24216). Reg. 9.501, ''Applicability,'' requires that air permit fees contained in this section are applicable to (1) non-part 70 permits, (2) part 70 permits, and (3) general permits.

(M) Consultation/participation by affected local entities: CAA 110(A)(2)(M) requires the SIP to provide for consultation and participation by local political subdivisions affected by the SIP. See the discussion for element (J) above for a description of the SIP's public participation process, the authority to advise and consult, and the PSD SIP's public participation requirements. The Arkansas statute at Ark. Code. Ann. Sec. 8–1–203 provides that the APC&EC shall meet regularly in publicly noticed open meetings to discuss and rule upon matters of environmental concern prior to the adoption of any rule or regulation implementing the substantive statutes charged to the ADEQ for administration. Additionally, the state noted that pursuant to APC&EC Regulation 8, Arkansas will continue to provide for consultation and participation from those affected by the SIP. Under APC&EC Regulation 8, those organizations affected by the SIP will be able to participate in developing the SIP via comments and potential public hearings. ADEQ is the sole state-level enforcer and implementer of the SIP. See APC&EC Reg. 8.205 *Public Notice of Permit Application;* APC&EC Reg. 8.206 *Request for Public Hearing on Application for Permit;* APC&EC Reg. 8.207 *Public Notice of Draft Permitting Decision;* APC&EC Reg. 8.208 *Public Comment on Draft Permitting Decision;* APC&EC Reg. 8.209 *Public Hearings;* APC&EC Reg. 8.405 *Public Notice of Notices of Violations and Consent Administrative Orders;* APC&EC Reg. 8.801 *Public Notice of Rulemaking.*

ADEQ participates in the Central State Air Resources Agencies, which is an organization of states, tribes, federal agencies and other interested parties concerned with air quality. The interactions and public participation on rule and plan development are consistent with the requirements of § 110(a)(2)(M).

III. Proposed Action

EPA is proposing to approve the majority of the March 24, 2017 Arkansas i-SIP submittal, which address the requirements of the CAA sections 110(a)(1) and (2) as applicable to 2006 $PM_{2.5}$, 2008 Pb, 2008 O_3, 2010 NO_2, 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS. Specifically, EPA is proposing to approve the following infrastructure elements for Arkansas infrastructure SIP:

For the 2006 $PM_{2.5}$ NAAQS, we are proposing to approve CAA section 110(a)(2)(D)(ii) that pertains to interstate transport (''prong 3'') for Interstate transport and international pollution abatement for Arkansas infrastructure SIP.[27]

For the 2008 Lead NAAQS, we are proposing to approve all the infrastructure elements in CAA 110(a)(2)(A–M) for the Arkansas SIP.

For the 2010 NO_2 NAAQS, we are proposing to approve the infrastructure elements of CAA 110(a)(2)(A), (B), (C), (D)(i)(I) (prongs 1, 2); CAA 110(a)(2)(D(i)(II) (prong 3: Interstate transport—prevention of significant deterioration); CAA 110(A)(2)(D)(ii), E, F, H, I, J, K, L, and M).[28]

For the 2012 $PM_{2.5}$ and 2010 SO_2 NAAQS, we are proposing to approve infrastructure elements CAA 110(a)(2)(A), (B), (C), D(i)(II) (prong 3: Interstate transport—prevention of significant deterioration), CAA 110(a)(2)(D)(ii), E, F, H, I, J, K, L, and M).[29]

For the 2008 Ozone, we are proposing to approve CAA 110(a)(2)(A), (B), (C), CAA 110(a)(2)(D)(i)(II) (prong 3: Interstate transport—prevention of significant deterioration), CAA 110(a)(2)(D(ii), E, F, H, I, J, K, L, and M).[30]

Table 1 (below) outlines the specific actions EPA is proposing to take in this action for the Arkansas March 24, 2017 i-SIP submittal.

[27] We are proposing to address 2006 $PM_{2.5}$ NAAQs 110(a)(2)(D)(i)(II) (prong 4: Interstate Transport-protection of visibility) in a future rule making.

[28] We are proposing to address Arkansas 2010 NO_2 NAAQs 110(a)(2)(D)(i)(II) (prong 4: Interstate Transport—protection of visibility) in future rule making.

[29] We are proposing to take a separate, future rulemaking action(s) on 2012 $PM_{2.5}$ and 2010 SO_2 Arkansas i-SIP elements 110(a)(2)(D(i)(I) (prong 1: Interstate Transport—significant contribution to nonattainment areas, and prong 2: Interstate Transport—Interfere with maintenance in other states), and 110(a)(2)(D)(i)(II) (prong 4: Interstate Transport—protection of visibility).

[30] We are not proposing to approve Interstate provisions in CAA section 110(a)(2)(D(i)(I) (prong 1: Interstate Transport—significant contribution to nonattainment areas, and prong 2: Interstate Transport—Interfere with maintenance in other states) which were not included in this submission. We are proposing to address CAA Section 110(a)(2)(D)(i)(II) (prong 4: Interstate Transport—protection of visibility) for 2008 Ozone NAQQS in a separate, future rulemaking.

TABLE 1—PROPOSED ACTIONS ON THE ARKANSAS INFRASTRUCTURE SIP SUBMITTAL FOR VARIOUS NAAQS

Element	2006 $PM_{2.5}$	2008 Pb	2008 Ozone	2010 NO_2	2010 SO_2	2012 $PM_{2.5}$
(A): Emission limits and other control measures	A*	A	A	A	A	A.
(B): Ambient air quality monitoring and data system	A*	A	A	A	A	A.
(C)(i): Enforcement of SIP measures	A*	A	A	A	A	A.
(C)(ii): PSD program for major sources and major modifications.	A*	A	A	A	A	A.
(C)(iii): Permitting program for minor sources and minor modifications.	A*	A	A	A	A	A.
(D)(i)(I): Contribute to nonattainment/interfere with maintenance of NAAQS (prongs 1 and 2).	A*	A	*No submittal	A	No action	No action.
(D)(i)(II): PSD (requirement 3)	A*	A	A	A	A	A.
(D)(i)(II): Visibility Protection (requirement 4)	No submittal	A	No action	No action	No action	No action.
(D)(ii): Interstate and International Pollution Abatement	A	A	A	A	A	A.
(E)(i): Adequate resources	A*	A	A	A	A	A.
(E)(ii): State boards	A*	A	A	A	A	A.
(E)(iii): Necessary assurances with respect to local agencies.	A*	A	A	A	A	A.
(F): Stationary source monitoring system	A*	A	A	A	A	A.
(G): Emergency power	A*	A	A	A	A	A.
(H): Future SIP revisions	A*	A	A	A	A	A.
(I): Nonattainment area plan or plan revisions under part D.	+	+	+	+	+	+.
(J)(i): Consultation with government officials	A*	A	A	A	A	A.
(J)(ii): Public notification	A*	A	A	A	A	A.
(J)(iii): PSD	A*	A	A	A	A	A.
(J)(iv): Visibility protection	+	+	+	+	+	+.
(K): Air quality modeling and data	A*	A	A	A	A	A.
(L): Permitting fees	A*	A	A	A	A	A.
(M): Consultation and participation by affected local entities.	A*	A	A	A	A	A.

Key to Table 1: Proposed action on AR infrastructure SIP submittals for various NAAQS.
A—Approve.
A* Previously approved for an earlier submittal.
+—Not germane to infrastructure SIPs.
No action—EPA is taking no action on these infrastructure requirements in this rulemaking. EPA may address in separate future rulemaking action(s).
No submittal—Proposed disapproval for an earlier submittal. EPA may take future action(s) in separate rule making(s).
*No submittal *FIP in place.

Based upon review of the state's infrastructure SIP submission and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in the federally-approved Arkansas SIP, EPA believes that Arkansas has the infrastructure in place to address all applicable required elements of sections 110(a)(1) and (2) (except as noted in Table 1 above) to ensure that the 2006 $PM_{2.5}$, 2008 Pb, 2008 O_3, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS are implemented in the state.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Interstate transport of pollution, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: November 9, 2017.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2017–25045 Filed 11–17–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 170816768–7768–01]

RIN 0648–BH14

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Modifications to Greater Amberjack Allowable Harvest and Rebuilding Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in a framework action to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as prepared by the Gulf of Mexico Fishery Management Council (Council). If implemented, this proposed rule would revise the commercial and recreational annual catch limits (ACLs) and annual catch targets (ACTs), and modify the recreational fixed closed season for greater amberjack in the Gulf of Mexico (Gulf) exclusive economic zone. The purpose of this proposed rule and the framework action is to adjust the rebuilding time period, to revise the sector ACLs and ACTs, and to incorporate updated stock status information to end overfishing and rebuild the greater amberjack stock in the Gulf.

DATES: Written comments must be received on or before December 5, 2017.

ADDRESSES: You may submit comments on the proposed rule, identified by ''NOAA–NMFS–2017–0116'' by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0116,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Kelli O'Donnell, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of the framework action, which includes an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2017/GAJ_Framework/gaj_framework.pdf.*

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, Southeast Regional Office, NMFS, telephone: 727–824–5305, email: *Kelli.ODonnell@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery, which includes greater amberjack, is managed under the FMP. The Council prepared the FMP and NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Steven Act) through regulations at 50 CFR part 622.

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and to achieve, on a continuing basis, the optimum yield from federally managed fish stocks to ensure that fishery resources are managed for the greatest overall benefit to the nation.

The greater amberjack resource in the Gulf was declared overfished by NMFS on February 9, 2001. Secretarial Amendment 2 established a greater amberjack rebuilding plan which started in 2003 and ended in 2012 (68 FR 39898; July 3, 2003). In 2006, a Southeast Data Assessment and Review (SEDAR) benchmark stock assessment (SEDAR 9) was completed for greater amberjack and was subsequently updated in 2010 (SEDAR 9 Update). In response to results from SEDAR 9 that showed the stock continued to be overfished and undergoing overfishing, the rebuilding plan was revised in Amendment 30A to the FMP (73 FR 38139; July 3, 2008). Results from the SEDAR 9 Update showed the stock continued to be overfished and undergoing overfishing, thereby necessitating further adjustment of the greater amberjack rebuilding plan, implemented in Amendment 35 to the FMP (77 FR 67574; December 13, 2012). However, after the time period for rebuilding the stock that was put in effect through the final rule for Secretarial Amendment 2 ended in 2012, NMFS determined in a 2014 stock assessment (SEDAR 33) that the stock was not rebuilt, and remained overfished and was undergoing overfishing. In response to the results of SEDAR 33, the rebuilding plan was revised and the catch levels were reduced in a 2015 framework action (80 FR 75432; December 2, 2015). The current rebuilding time period, established by the 2015 framework action, ends in 2019.

A 2016 update to SEDAR 33 (SEDAR 33 Update) indicated the Gulf greater amberjack stock remained overfished and was undergoing overfishing, and would not rebuild by 2019, as previously estimated. The Council's Scientific and Statistical Committee (SSC) reviewed this assessment at their March 2017 meeting and provided the Council new overfishing limits (OFL) and acceptable biological catches (ABC) for a period of 3 years beginning in 2018. The ABCs recommended by the Council's SSC are: 1,182,000 lb (536,146 kg) for 2018; 1,489,000 lb (675,399 kg) for 2019; and 1,794,000 lb (813,744 kg) for 2020. All weights described in this proposed rule are in pounds round weight. Constraining catch to the ABC (equivalent to 75 percent of the maximum fishing mortality threshold) is expected to end overfishing and rebuild the stock by 2027.

In May 2017, pursuant to paragraph (7) of section 304(e) of the Magnuson-Stevens Act (16 U.S.C. 1854(e)), NMFS notified the Council of the 2016 SEDAR 33 Update results that indicated that the greater amberjack stock continued to be overfished and undergoing overfishing. Following that notification, the Council was required under section 304(e)(3) of the Magnuson-Stevens Act to prepare regulations within 2 years to end overfishing immediately and rebuild the greater amberjack stock.

The Council decided to set the stock ACL equal to the SSC's ABC recommendation for 2018 through 2020, keeping the stock ACL for 2020 in effect for subsequent years unless changed. The Council did not consider any change to the allocation of the stock