Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0117 to read as follows:

165.T05–0117 Safety Zone, Southern Branch Elizabeth River; Chesapeake, VA.

(a) *Definitions.* For the purposes of this section:

Captain of the Port means the Commander, Sector Hampton Roads.

Participants mean individuals responsible for launching the fireworks.

Representative means any Coast Guard commissioned, warrant or petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) *Locations.* The following area is a safety zone:

(1) All waters of the Southern Branch of the Elizabeth River within a 140 foot radius of the fireworks display in approximate position 36°48′31.0818″ N, 076°17′14.2506″ W, located near the Elizabeth River Park, Chesapeake, Virginia.

(c) *Regulations.*

(1) All persons are required to comply with the general regulations governing safety zones in § 165.23 of this part.

(2) With the exception of participants, entry into or remaining in this safety zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(3) All vessels underway within this safety zone at the time it is implemented are to depart the zone immediately.

(4) The Captain of the Port, Hampton Roads or his representative can be reached at telephone number (757) 668–5555.

(5) The Coast Guard vessels enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65Mhz) and channel 16 (156.8 Mhz).

(6) This section applies to all persons or vessels wishing to transit through the safety zone except participants and vessels that are engaged in the following operations:

(i) Enforcing laws;

(ii) servicing aids to navigation, and

(iii) Emergency response vessels.

(7) The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(d) *Enforcement periods.* This rule will be enforced from 8:30 p.m. to 9 p.m. on May 30, 2015.

Dated: April 17, 2015.

Christopher S. Keane,

Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.

[FR Doc. 2015–10018 Filed 4–28–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2011–0969; FRL–9926–81–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Infrastructure SIP Requirements for the 2008 Ozone National Ambient Air Quality Standards (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve elements of a state implementation plan (SIP) submission by Indiana regarding the infrastructure requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA) for the 2008 ozone national ambient air quality standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. The proposed rulemaking associated with this final action was published on August 19, 2013, and EPA received two comment letters during the comment period, which ended on September 18, 2013. The concerns raised in these letters, as well as EPA's responses, will be addressed in this final action.

DATES: This final rule is effective on May 29, 2015.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2011–0969. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly-available only in hard copy. Publicly-available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the U.S. Environmental

Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Sarah Arra at (312) 886–9401 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Sarah Arra, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–9401, *arra.sarah@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the background of this SIP submission?

A. What does this rulemaking address?

This rulemaking addresses a December 12, 2011, submission from the Indiana Department of Environmental Management (IDEM) intended to meet the applicable infrastructure SIP requirements for the 2008 ozone NAAQS.

B. Why did the state make this SIP submission?

Under sections 110(a)(1) and (2) of the CAA, states are required to submit infrastructure SIPs to ensure that their SIPs provide for implementation, maintenance, and enforcement of the NAAQS, including the 2008 ozone NAAQS. These submissions must contain any revisions needed for meeting the applicable SIP requirements of section 110(a)(2), or certifications that their existing SIPs for ozone already meet those requirements.

EPA has highlighted this statutory requirement in multiple guidance documents, including the most recent guidance document entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under CAA Sections 110(a)(1) and (2)'' issued on September 13, 2013.

C. What is the scope of this rulemaking?

EPA is acting upon Indiana's SIP submission that addresses the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2008 ozone NAAQS. The requirement for states to make SIP submissions of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must address.

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

This rulemaking will not cover three substantive areas that are not integral to acting on a state's infrastructure SIP submission: (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction (''SSM'')at sources, that may be contrary to the CAA and EPA's policies addressing such excess emissions; (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that purport to permit revisions to SIP approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA (collectively referred to as ''director's discretion''); and, (iii) existing provisions for Prevention of Significant Deterioration (PSD) programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (''NSR Reform''). Instead, EPA has the authority to address each one of these substantive areas in separate rulemaking. A detailed rationale, history, and interpretation related to infrastructure SIP requirements can be found in our May 13, 2014, proposed rule entitled, ''Infrastructure SIP Requirements for the 2008 Lead NAAQS'' in the section, ''What is the scope of this rulemaking?'' (*see* 79 FR 27241 at 27242–27245).

In addition, EPA is not acting on section 110(a)(2)(D)(i)(I), interstate transport significant contribution and interference with maintenance, a portion of section 110(a)(2)(D)(i)(II) with respect to visibility, and 110(a)(2)(J) with respect to visibility. EPA is also not acting on section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D, in its entirety. The rationale for not acting on elements of these requirements was included in EPA's August 19, 2013, proposed rulemaking or discussed below in today's response to comments.

II. What is our response to comments received on the proposed rulemaking?

The public comment period for EPA's proposed actions with respect to Indiana's satisfaction of the infrastructure SIP requirements for the 2008 ozone NAAQS closed on September 18, 2013. EPA received two comment letters, which were from the Sierra Club and the state of Connecticut. A synopsis of the comments contained in these letters and EPA's responses are provided below.

Comment 1: The Sierra Club states that, on its face, the CAA ''requires I–SIPs to be adequate to prevent violations of the NAAQS.'' In support, the commenter quotes the language in section 110(a)(1) that requires states to adopt a plan for implementation, maintenance, and enforcement of the NAAQS and the language in section 110(a)(2)(A) which requires SIPs to include enforceable emissions limitations as may be necessary to meet the requirements of the CAA and which commenters claimed include the maintenance plan requirement. Sierra Club notes the CAA definition of ''emission limit'' and reads these provisions together to require ''enforceable emission limitations on source emissions sufficient to ensure maintenance of the NAAQS.''

Response 1: EPA disagrees that section 110 must be interpreted in the manner suggested by Sierra Club. Section 110 is only one provision that is part of the complex structure governing implementation of the NAAQS program under the CAA, as

amended in 1990, and it must be interpreted in the context of not only that structure, but also of the historical evolution of that structure. In light of the revisions to section 110 since 1970 and the later-promulgated and more specific planning requirements of the CAA, EPA interprets the requirement in section 110(a)(2)(A) that the plan provide for ''implementation, maintenance and enforcement'' to mean that the infrastructure SIP must contain enforceable emission limits that will aid in attaining and/or maintaining the NAAQS and that the state demonstrate that it has the necessary tools to implement and enforce a NAAQS, such as adequate state personnel and an enforcement program.

With regard to the requirement for emission limitations, EPA has interpreted this to mean that, for purposes of section 110, the state may rely on measures already in place to address the pollutant at issue or any new control measures that the state may choose to submit. As EPA stated in ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under CAA Sections 110(a)(1) and 110(a)(2),'' dated September 13, 2013 (Infrastructure SIP Guidance), ''[t]he conceptual purpose of an infrastructure SIP submission is to assure that the air agency's SIP contains the necessary structural requirements for the new or revised NAAQS, whether by establishing that the SIP already contains the necessary provisions, by making a substantive SIP revision to update the SIP, or both. Overall, the infrastructure SIP submission process provides an opportunity . . . to review the basic structural requirements of the air agency's air quality management program in light of each new or revised NAAQS.'' Infrastructure SIP Guidance at p. 2.

Comment 2: Sierra Club cites two excerpts from the legislative history of the CAA Amendments of 1970 asserting that they support an interpretation that SIP revisions under CAA section 110 must include emissions limitations sufficient to show maintenance of the NAAQS in all areas of Indiana. Sierra Club also contends that the legislative history of the CAA supports the interpretation that infrastructure SIPs under section 110(a)(2) must include enforceable emission limitations, citing the Senate Committee Report and the subsequent Senate Conference Report accompanying the 1970 CAA.

Response 2: The CAA, as enacted in 1970, including its legislative history, cannot be interpreted in isolation from the later amendments that refined that structure and deleted relevant language from section 110 concerning demonstrating attainment. In any event, the two excerpts of legislative history the commenter cites merely provide that states should include enforceable emission limits in their SIPs; they do not mention or otherwise address whether states are required to include maintenance plans for all areas of the state as part of the infrastructure SIP.

Comment 3: Sierra Club cites to 40 CFR 51.112(a), providing that each plan must ''demonstrate that the measures, rules, and regulations contained in it are adequate to provide for the timely attainment and maintenance of the [NAAQS].'' The commenter asserts that this regulation requires all SIPs to include emissions limits necessary to ensure attainment of the NAAQS. The commenter states that ''[a]lthough these regulations were developed before the Clean Air Act separated Infrastructure SIPs from nonattainment SIPs—a process that began with the 1977 amendments and was completed by the 1990 amendments—the regulations apply to I–SIPs.'' The commenter relies on a statement in the preamble to the 1986 action restructuring and consolidating provisions in part 51, in which EPA stated that ''[i]t is beyond the scope of th[is] rulemaking to address the provisions of Part D of the Act. . . .'' 51 FR 40656 (November 7, 1986).

Response 3: The commenter's reliance on 40 CFR 51.112 to support its argument that infrastructure SIPs must contain emission limits ''adequate to prohibit NAAQS violations'' and adequate or sufficient to ensure the maintenance of the NAAQS is not supported. As an initial matter, EPA notes and the commenter recognizes this regulatory provision was initially promulgated and ''restructured and consolidated'' prior to the CAA Amendments of 1990, in which Congress removed all references to ''attainment'' in section 110(a)(2)(A). In addition, it is clear on its face that 40 CFR 51.112 applies to plans specifically designed to attain the NAAQS. EPA interprets these provisions to apply when states are developing ''control strategy'' SIPs such as the detailed attainment and maintenance plans required under other provisions of the CAA, as amended in 1977 and again in 1990, such as section 175A and 182.

The commenter suggests that these provisions must apply to section 110 SIPs because in the preamble to EPA's action ''restructuring and consolidating'' provisions in part 51, EPA stated that the new attainment demonstration provisions in the 1977 Amendments to the CAA were ''beyond the scope'' of the rulemaking. It is important to note, however, that EPA's action in 1986 was not to establish new substantive planning requirements, but rather to consolidate and restructure provisions that had previously been promulgated. EPA noted that it had already issued guidance addressing the new ''Part D'' attainment planning obligations. Also, as to maintenance regulations, EPA expressly stated that it was not making any revisions other than to re-number those provisions. Id. at 40657.

Although EPA was explicit that it was not establishing requirements interpreting the provisions of new ''part D'' of the CAA, it is clear that the regulations being restructured and consolidated were intended to address control strategy plans. In the preamble, EPA clearly stated that 40 CFR 51.112 was replacing 40 CFR 51.13 (''Control strategy: SO_X and PM (portion)''), 51.14 (''Control strategy: CO, HC, Ox and NO_2 (portion)''), 51.80 (''Demonstration of attainment: Pb (portion)''), and 51.82 (''Air quality data (portion)''). Id. at 40660. Thus, the present-day 40 CFR 51.112 contains consolidated provisions that are focused on control strategy SIPs, and the infrastructure SIP is not such a plan.

Comment 4: Sierra Club references two prior EPA rulemaking actions where EPA disapproved or proposed to disapprove SIPs, and claimed they were actions in which EPA relied on section 110(a)(2)(A) and 40 CFR 51.112 to reject infrastructure SIPs. The commenter first points to a 2006 partial approval and partial disapproval of revisions to Missouri's existing plan addressing the sulfur dioxide (SO_2) NAAQS. In that action, EPA cited section 110(a)(2)(A) as a basis for disapproving a revision to the state plan on the basis that the state failed to demonstrate the SIP was sufficient to ensure maintenance of the SO_2 NAAQS after revision of an emission limit and cited to 40 CFR 51.112 as requiring that a plan demonstrates the rules in a SIP are adequate to attain the NAAQS. Second, commenter cites a 2013 proposed disapproval of a revision to the SO_2 SIP for Indiana, where the revision removed an emission limit that applied to a specific emissions source at a facility in the state. EPA relied on 40 CFR 51.112(a) in proposing to reject the revision, stating that the state had not demonstrated that the emission limit was ''redundant, unnecessary, or that its removal would not result in or allow an increase in actual SO_2 emissions.'' EPA further stated in that proposed disapproval that the state had not demonstrated that removal of the limit would not ''affect the validity of the

emission rates used in the existing attainment demonstration.''

Response 4: EPA does not agree that the two prior actions referenced by the commenter establish how EPA reviews infrastructure SIPs. It is clear from both the final Missouri rule and the now final Indiana rule that EPA was not reviewing initial infrastructure SIP submissions under section 110 of the CAA, but rather reviewing revisions that would make an already approved SIP designed to demonstrate attainment of the NAAQS less stringent.

EPA's partial approval and partial disapproval of revisions to restrictions on emissions of sulfur compounds for the Missouri SIP addressed a control strategy SIP and not an infrastructure SIP (71 FR 12623).

The Indiana action provides even less support for the commenter's position (78 FR 78720). The review in that rule was of a completely different requirement than the 110(a)(2)(A) SIP. Rather, in that case, the state had an approved SO_2 attainment plan and was seeking to remove from the SIP, provisions relied on as part of the modeled attainment demonstration. EPA determined that the state had failed to demonstrate under section 110(l) of the CAA that the SIP revision would not result in increased SO_2 emissions and thus not interfere with attainment of the NAAQS. Nothing in that rulemaking addresses the necessary content of the initial infrastructure SIP for a new or revised NAAQS. Rather, it is simply applying the clear statutory requirement that a state must demonstrate why a revision to an approved attainment plan will not interfere with attainment of the NAAQS.

Comment 5: Sierra Club discusses several cases applying to the CAA which it claims support its contention that courts have been clear that section 110(a)(2)(A) requires enforceable emissions limits in infrastructure SIPs to prevent violations of the NAAQS and demonstrate maintenance throughout the area. Sierra Club first cites to language in *Train* v. *NRDC,* 421 U.S. 60, 78 (1975), addressing the requirement for ''emission limitations'' and stating that emission limitations ''are specific rules to which operators of pollution sources are subject, and which if enforced should result in ambient air which meet the national standards.'' Sierra Club also cites to *Pennsylvania Dept. of Envtl. Resources* v. *EPA,* 932 F.2d 269, 272 (3d Cir. 1991) for the proposition that the CAA directs EPA to withhold approval of a SIP where it does not ensure maintenance of the NAAQS and *Mision Industrial, Inc.* v. *EPA,* 547 F.2d 123, 129 (1st Cir. 1976), which quoted section 110(a)(2)(B) of the CAA of 1970. The commenter contends that the 1990 Amendments do not alter how courts have interpreted the requirements of section 110, quoting *Alaska Dept. of Envtl. Conservation* v. *EPA,* 540 U.S. 461, 470 (2004) which in turn quoted section 110(a)(2)(A) of the CAA and also stated that ''SIPs must include certain measures Congress specified'' to ensure attainment of the NAAQS. The commenter also quotes several additional opinions in this vein. *Mont. Sulphur & Chem. Co.* v. *EPA,* 666 F.3d 1174, 1180 (9th Cir. 2012) (''The Clean Air Act directs states to develop implementation plans—SIPs—that 'assure' attainment and maintenance of [NAAQS] through enforceable emissions limitations''); *Hall* v. *EPA* 273 F.3d 1146, 1153 (9th Cir. 2001) (''Each State must submit a [SIP] that specif[ies] the manner in which [NAAQS] will be achieved and maintained within each air quality control region in the state''). The commenter also cites *Mich. Dept. of Envtl. Quality* v. *Browner,* 230 F.3d 181 (6th Cir. 2000) for the proposition that EPA may not approve a SIP revision that does not demonstrate how the rules would not interfere with attainment and maintenance of the NAAQS.

Response 5: None of the cases the commenter cites supports the commenter's contention that section 110(a)(2)(A) requires that infrastructure SIPs include detailed plans providing for attainment and maintenance of the NAAQS in all areas of the state, nor do they shed light on how section 110(a)(2)(A) may reasonably be interpreted. With the exception of *Train,* 421 U.S. 60, none of the cases the commenter cites concerned the interpretation of CAA section 110(a)(2)(A) (or section 110(a)(2)(B) of the pre-1990 Act). Rather, in the context of a challenge to an EPA action, revisions to a SIP that were required and approved as meeting other provisions of the CAA or in the context of an enforcement action, the court references section 110(a)(2)(A) (or section 110(a)(2)(B) of the pre-1990 CAA) in the background section of its decision.

In *Train,* a case that was decided almost 40 years ago, the court was addressing a state revision to an attainment plan submission made pursuant to section 110 of the CAA, the sole statutory provision at that time regulating such submissions. The issue in that case concerned whether changes to requirements that would occur before attainment was required were variances that should be addressed pursuant to the provision governing SIP revisions or were ''postponements'' that must be addressed under section 110(f) of the CAA of 1970, which contained prescriptive criteria. The court concluded that EPA reasonably interpreted section 110(f) not to restrict a state's choice of the mix of control measures needed to attain the NAAQS and that revisions to SIPs that would not impact attainment of the NAAQS by the attainment date were not subject to the limits of section 110(f). Thus, the issue was not whether a section 110 SIP needs to provide for attainment or whether emissions limits are needed as part of the SIP; rather the issue was which statutory provision governed when the state wanted to revise the emission limits in its SIP if such revision would not impact attainment or maintenance of the NAAQS. To the extent the holding in the case has any bearing on how section 110(a)(2)(A) might be interpreted, it is important to realize that in 1975, when the opinion was issued, section 110(a)(2)(B) (the predecessor to section 110(a)(2)(A)) expressly referenced the requirement to attain the NAAQS, a reference that was removed in 1990.

The decision in *Pennsylvania Dept. of Envtl. Resources* was also decided based on the pre-1990 provision of the CAA. At issue was whether EPA properly rejected a revision to an approved plan where the inventories relied on by the state for the updated submission had gaps. The court quoted section 110(a)(2)(B) of the pre-1990 CAA in support of EPA's disapproval, but did not provide any interpretation of that provision. Yet, even if the court had interpreted that provision, EPA notes that it was modified by Congress in 1990; thus, this decision has little bearing on the issue here.

At issue in *Mision Industrial,* 547 F.2d 123, was the definition of ''emissions limitation'' not whether section 110 requires the state to demonstrate how all areas of the state will attain and maintain the NAAQS as part of their infrastructure SIPs. The language from the opinion the commenter quotes does not interpret but rather merely describes section 110(a)(2)(A). The commenters do not raise any concerns about whether the measures relied on by the state in the infrastructure SIP are ''emissions limitations'' and the decision in this case has no bearing here.

In *Mont. Sulphur & Chem. Co.,* 666 F.3d 1174, the court was reviewing a Federal implementation plan that EPA promulgated after a long history of the state failing to submit an adequate state implementation plan. The court cited generally to sections 107 and 110(a)(2)(A) of the CAA for the proposition that SIPs should assure

attainment and maintenance of NAAQS through emission limitations but this language was not part of the court's holding in the case.

The commenter suggests that *Alaska Dept. of Envtl. Conservation,* 540 U.S. 461, stands for the proposition that the 1990 CAA Amendments do not alter how courts interpret section 110. This claim is inaccurate. Rather, the court quoted section 110(a)(2)(A), which, as noted previously, differs from the pre-1990 version of that provision and the court makes no mention of the changed language. Furthermore, the commenter also quotes the court's statement that ''SIPs must include certain measures Congress specified'' but that statement specifically referenced the requirement in section 110(a)(2)(C), which requires an enforcement program and a program for the regulation of the modification and construction of new sources. Notably, at issue in that case was the state's ''new source'' permitting program, not its infrastructure SIP.

Two of the cases the commenter cites, *Mich. Dept. of Envtl. Quality,* 230 F.3d 181, and *Hall,* 273 F.3d 1146, interpret CAA section 110(l), the provision governing ''revisions'' to plans, and not the initial plan submission requirement under section 110(a)(2) for a new or revised NAAQS, such as the infrastructure SIP at issue in this instance. In those cases, the courts cited to section 110(a)(2)(A) solely for the purpose of providing a brief background of the CAA.

Comment 6: Sierra Club contends that EPA cannot approve the section 110(a)(2)(A) portion of Indiana's 2008 ozone infrastructure SIP revision because an infrastructure SIP should include enforceable emission limits to prevent NAAQS violations in areas not designated nonattainment. Specifically, Sierra Club cited air monitoring reports for Clark, Floyd, and LaPorte Counties indicating violations of the NAAQS based on 2010–2012 and 2011–2013 design values and air quality monitoring reports for Greene County indicating violations based on data from 2010–2012. The commenter alleges that these violations demonstrate that the infrastructure SIP fails to ensure that air pollution levels meet or are below the level of the NAAQS and thus the infrastructure SIP must be disapproved. Sierra Club noted that the violation of the NAAQS based on data from 2010–2012 had been known for over four months, and that Indiana failed to strengthen its infrastructure SIP and address the violations by enacting enforceable limits.

Furthermore, the commenter suggests that the state adopt specific controls that they contend are cost-effective for reducing NOx, a precursor to ozone.

Response 6: We disagree with the commenter that infrastructure SIPs must include detailed attainment and maintenance plans for all areas of the state and must be disapproved if air quality data that became available late in the process or after the SIP was due and submitted changes the status of areas within the state. We believe that section 110(a)(2)(A) is reasonably interpreted to require states to submit SIPs that reflect the first step in their planning for attaining and maintaining a new or revised NAAQS and that they contain enforceable control measures and a demonstration that the state has the available tools and authority to develop and implement plans to attain and maintain the NAAQS.

The suggestion that the infrastructure SIP must include measures addressing violations of the standard that did not occur until shortly before or even after the SIP was due and submitted cannot be supported. The CAA provides states with three years to develop infrastructure SIPs and states cannot reasonably be expected to address the annual change in an area's design value for each year over that period. Moreover, the CAA recognizes and has provisions to address changes in air quality over time, such as an area slipping from attainment to nonattainment or changing from nonattainment to attainment. These include provisions providing for redesignation in section 107(d) and provisions in section 110(k)(5) allowing EPA to call on the state to revise its SIP, as appropriate.

We do not believe that section 110(a)(2)(A) requires detailed planning SIPs demonstrating either attainment or maintenance for specific geographic areas of the state. The infrastructure SIP is triggered by promulgation of the NAAQS, not designation. Moreover, infrastructure SIPs are due three years following promulgation of the NAAQS and designations are not due until two years (or in some cases three years) following promulgation of the NAAQS. Thus, during a significant portion of the period that the state has available for developing the infrastructure SIP, it does not know what the designation will be for individual areas of the state.[1] In light of the structure of the CAA, EPA's long-standing position regarding infrastructure SIPs is that they are general planning SIPs to ensure that the state has adequate resources and authority to implement a NAAQS in general throughout the state and not detailed attainment and maintenance plans for each individual area of the state.

Our interpretation that infrastructure SIPs are more general planning SIPs is consistent with the statute as understood in light of its history and structure. When Congress enacted the CAA in 1970, it did not include provisions requiring states and the EPA to label areas as attainment or nonattainment. Rather, states were required to include all areas of the state in ''air quality control regions'' (AQCRs) and section 110 set forth the core substantive planning provisions for these AQCRs. At that time, Congress anticipated that states would be able to address air pollution quickly pursuant to the very general planning provisions in section 110 and could bring all areas into compliance with the NAAQS within five years. Moreover, at that time, section 110(a)(2)(A)(i) specified that the section 110 plan provide for ''attainment'' of the NAAQS and section 110(a)(2)(B) specified that the plan must include ''emission limitations, schedules, and timetables for compliance with such limitations, and such other measures as may be necessary to insure attainment and maintenance [of the NAAQS].''

In 1977, Congress recognized that the existing structure was not sufficient and many areas were still violating the NAAQS. At that time, Congress for the first time added provisions requiring states and EPA to identify whether areas of the state were violating the NAAQS (*i.e.,* were nonattainment) or were meeting the NAAQS (*i.e.,* were attainment) and established specific planning requirements in section 172 for areas not meeting the NAAQS.

In 1990, many areas still had air quality not meeting the NAAQS and Congress again amended the CAA and added yet another layer of more prescriptive planning requirements for each of the NAAQS, with the primary provisions for ozone in section 182. At that same time, Congress modified section 110 to remove references to the section 110 SIP providing for attainment, including removing pre-existing section 110(a)(2)(A) in its entirety and renumbering subparagraph (B) as section 110(a)(2)(A).

Additionally, Congress replaced the clause ''as may be necessary to insure attainment and maintenance [of the NAAQS]'' with ''as may be necessary or appropriate to meet the applicable

[1] While it is true that there may be some monitors within a state with values so high as to make a nonattainment designation of the county with that monitor almost a certainty, the geographic boundaries of the nonattainment area associated with that monitor would not be known until EPA issues final designations.

requirements of this chapter.'' Thus, the CAA has significantly evolved in the more than 40 years since it was originally enacted. While at one time section 110 did provide the only detailed SIP planning provisions for states and specified that such plans must provide for attainment of the NAAQS, under the structure of the current CAA, section 110 is only the initial stepping-stone in the planning process for a specific NAAQS. And, more detailed, later-enacted provisions govern the substantive planning process, including planning for attainment of the NAAQS.

For all of the above reasons, we disagree with the commenter that EPA must disapprove an infrastructure SIP revision if there are monitored violations of the standard in the state and the section 110(a)(2)(A) revision does not have detailed plans for demonstrating how the state will bring that area into attainment. Rather, EPA believes that the proper inquiry at this juncture is whether the state has met the basic structural SIP requirements appropriate when EPA is acting upon the submittal.

Moreover, Indiana's SIP contains existing emission reduction measures that control emissions of VOCs and NO_X found in 326 IAC 8 and 326 IAC 10, respectively. Indiana's SIP revision reflects several provisions that have the ability to reduce ground level ozone and its precursors. The Indiana SIP relies on measures and programs used to implement previous ozone NAAQS. Because there is no substantive difference between the previous ozone NAAQS and the more recent ozone NAAQS, other than the level of the standard, the provisions relied on by Indiana will provide benefits for the new NAAQS; in other words, the measures reduce *overall* ground-level ozone and its precursors and are not limited to reducing ozone levels to meet one specific NAAQS. Further, in approving Indiana's infrastructure SIP revision, EPA is affirming that Indiana has sufficient authority to take the types of actions required by the CAA in order to bring such areas back into attainment.

Comment 7: Sierra Club asserted that Indiana's infrastructure SIP fails to meet the requirements of section 110(a)(2)(A) and section 110(a)(2)(E) because IC 13–14–8–8 contains provisions that would allow the board to grant variances to rules when the rules would impose ''undue hardships or burden.'' The commenter noted that EPA had cited IC 13–14–8 as one of IDEM's mechanisms for satisfying the requirements of section 110(a)(2)(A) and section 110(a)(2)(E), but contended that the variance provisions in IC 13–14–8–8 are too broad and vague to ensure that emission limits and controls are properly enforced, or to ensure that adequate legal authority is provided to carry out Indiana's SIP. Therefore, EPA cannot approve IC 13–14–8 to meet any requirements of section 110.

Response 7: EPA disagrees the commenter's claim that Indiana's infrastructure SIP fails to meet the requirements of section 110(a)(2)(A) and section 110(a)(2)(E). As an initial matter, IC 13–14–8–8 is not a regulation that has been approved into the SIP. Thus, any variance granted by the state pursuant to this provision would not modify the requirements of the SIP. Furthermore, for a variance from the state to be approved into the SIP, a demonstration must be made under CAA section 110(l) showing that the revision does not interfere with any requirements of the act including attainment or maintenance of a NAAQS. We disagree that the existence of this provision as solely a matter of state law means that the state does not have adequate authority to carry out the implementation plan.

Comment 8: Sierra Club asserted that EPA must disapprove Indiana's infrastructure SIP because it does not address the visibility provisions under section 110(a)(2)(D)(i)(II). The commenter noted that EPA's basis for proposing approval for the visibility protection provisions of section 110(a)(2)(D)(i)(II) was contingent upon EPA's claim that Indiana has an approved regional haze SIP. The commenter contended that Indiana's regional haze SIP was only partially approved and no action has been taken on issues addressing the Best Available Retrofit Technology requirements for EGUs. Therefore, the commenter believes that EPA must disapprove the visibility protection requirements found in section 110(a)(2)(D)(i)(II) for Indiana's infrastructure SIP.

Response 8: The commenter is correct that EPA issued a limited disapproval of Indiana's regional haze SIP. Our limited disapproval was based on Indiana's reliance on the Clean Air Interstate Rule (CAIR) to satisfy certain requirements for controlling emissions of SO_2 and NO_X from EGUs. EPA also issued a limited approval of the remaining portion of the regional haze plan. However, in response to this comment, EPA is not taking final action today on the portion of Indiana's infrastructure SIP addressing the requirements of section 110(a)(2)(D)(i)(II) with respect to visibility.

Comment 9: Sierra Club asserted that EPA must disapprove Indiana's infrastructure SIP because it does not address the visibility protection provisions, as described above, for section 110(a)(2)(J). The commenter contended that EPA did not provide a rationale for why the visibility provisions in section 110(a)(2)(J) are not applicable to the 2008 Pb and 2008 ozone NAAQS.

Response 9: The visibility requirements in part C of the CAA that are referenced in section 110(a)(2)(J) are not affected by the establishment or revision of a NAAQS. As a result, there are no ''applicable'' visibility protection obligations associated with the promulgation of a new or revised NAAQS. Because there are no applicable requirements, states are not required to address section 110(a)(2)(J) in their infrastructure SIP.

Comment 10: Sierra Club stated that EPA cannot approve Indiana's infrastructure SIP, specifically the infrastructure element under section 110(a)(2)(A), for the 2008 ozone NAAQS because the state has not incorporated this NAAQS into the SIP. Instead, the commenter noted that the SIP at the time of proposed rulemaking, specifically at 326 Indiana Administrative Code (IAC) 1–3–4(b)(4)(B), contained the older 8-hour ozone NAAQS promulgated in 1997.

Response 10: In a rulemaking published on December 18, 2014 (79 FR 75527), EPA approved revisions to Indiana's SIP incorporating the 2008 ozone NAAQS.

Comment 11: Sierra Club asserted that EPA must clarify two repealed regulations that were cited in the proposed rulemaking. Specifically, the commenter observed that EPA cited 326 IAC 11–5 as helping Indiana satisfy the requirements of section 110(a)(2)(G) ''Emergency Powers'' and IC 13–4–8 which was cited to satisfy section 110(a)(2)(H), ''Future SIP Revisions.''

Response 11: EPA did not intend to engender any confusion with these citations. The commenter is correct in noting that 326 IAC 11–5 has been repealed. That rule was of little relevance to section 110(a)(2)(G) and was incorrectly cited; the correct citation that was provided by IDEM is SIP-approved IAC 1–5, ''Alert Levels.'' In a similar manner, IDEM provided IC 13–14–8 as helping to meet the requirements under section 110(a)(2)(H), but EPA incorrectly cited IC 13–4–8.

Comment 12: Sierra Club asserted that EPA must disapprove portions of Indiana's infrastructure SIP for the 2008 ozone NAAQS addressing certain $PM_{2.5}$ requirements under section 110(a)(2)(C). In particular, the commenter objected to the fact that Indiana has not codified the

increments for areas designated as class I or class III for $PM_{2.5.}$ The commenter noted that while Indiana does not have class I or class III areas, the increments for class I and class III areas are still a requirement to satisfy section 110(a)(2)(C). The commenter contends it is insufficient for EPA to ''hope'' that the state will adopt the increments if areas in the state are later redesignated to class I or class III, and therefore EPA must disapprove this section of Indiana's infrastructure SIP.

Response 12: EPA disagrees with the commenter's view that Indiana's infrastructure SIP related to section 110(a)(2)(C) must be disapproved because the state has not codified the $PM_{2.5}$ increments for class I and class III areas as provided at 40 CFR 52.166(c) and 40 CFR 52.21(c). As explained in the August 19, 2013, proposed approval, Indiana does not currently have any areas designated class I or class III for $PM_{2.5.}$ Accordingly, EPA does not consider the $PM_{2.5}$ increments for class I and class III areas to be necessary for the implementation of PSD permitting in Indiana at this time. In the event that areas in Indiana are one day classified as class I or class III, EPA expects IDEM to adopt these increments and submit them for incorporation into the SIP (*see* 78 FR 50360 at 50364). Federal regulations at 40 CFR 51.166(g)(1) and 52.21(g)(1) specify that if a state seeks to have an area reclassified to either class I or class III, it must submit such a request as a revision to its SIP for approval by the EPA Administrator. Thus, no areas in Indiana can be reclassified to class I or class III without EPA approval, and the process of evaluating such a request for approval requires a notice-and-comment rulemaking process. The EPA and other interested parties can evaluate the adequacy of Indiana's PSD regulations as they apply to the proposed reclassified area at that time and, if necessary, initiate a process to cure any identified deficiency. However, at this time, EPA does not believe there to be an applicability gap for the $PM_{2.5}$ increments as they apply in the state of Indiana.

Comment 13: The State of Connecticut asserts that its ability to attain the 2008 ozone NAAQS is substantially compromised by the transport of pollution from upwind states. Specifically, modeling conducted by both the Ozone Transport Commission and EPA as part of the Cross-State Air Pollution Rule (CSAPR) shows emissions from Indiana contributing to the nonattainment problem in Connecticut. The State of Connecticut states that it has done its share to reduce in-state emissions, and EPA should ensure that each upwind state addresses contribution to another downwind state's nonattainment. With regard to the ''good neighbor provision'' in Section 1109(a)(1) of the CAA, Connecticut characterizes Indiana's 2008 ozone submission as relying on state regulations which implement the Clean Air Interstate Rule and CSAPR, and that such programs were intended by EPA to address the 1997 ozone NAAQS and not the more stringent 2008 standard. Connecticut asserts EPA should therefore disapprove the Indiana submission. Connecticut also states that, under section 110(a)(2), Indiana was required to submit a complete SIP that demonstrated compliance with the good neighbor provision of section 110(a)(2)(D)(i)(I). Connecticut further suggests that the CAA does not give EPA discretion to take no action on the submitted good neighbor provisions on the grounds of taking a separate action. Instead, it asserts that the only action available to EPA is to determine the approvability of the good neighbor provision of Indiana's 2008 ozone NAAQS infrastructure SIP submission, or promulgate a FIP under section 110(c)(1) within two years.

Response 13: As explained in the notice of proposed rulemaking (NPR), this action does not address, for the 2008 ozone NAAQS, the good neighbor provision in section 110(a)(2)(D)(i)(I), which prohibits emissions that significantly contribute to nonattainment or interfere with maintenance of the NAAQS in another state. Thus, to the extent the comment relates to the substance or approvability of the good neighbor provision in Indiana's 2008 ozone infrastructure SIP submission, the comment is not relevant to the present rulemaking. As stated herein and in the NPR, EPA will take later, separate action to address section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS.

EPA disagrees with the commenter's argument that EPA cannot approve a SIP without the good neighbor provision. Section 110(k)(3) of the CAA authorizes EPA to approve a plan in full, disapprove it in full, or approve it in part and disapprove it in part, depending on the extent to which such plan meets the requirements of the CAA. This authority to approve the states' SIP revisions in separable parts was included in the 1990 Amendments to the CAA to overrule a decision in the Court of Appeals for the Ninth Circuit holding that EPA could not approve individual measures in a plan submission without either approving or disapproving the plan as a whole. See S. Rep. No. 101–228, at 22, 1990 U.S.C.C.A.N. 3385, 3408 (discussing the express overruling of *Abramowitz* v. *EPA,* 832 F.2d 1071 (9th Cir. 1987)).

The Agency interprets its authority under section 110(k)(3) as affording it the discretion to approve or conditionally approve individual elements of Indiana's infrastructure submission for the 2008 ozone NAAQS, separate and apart from any action with respect to the requirements of section 110(a)(2)(D)(i)(I) with respect to that NAAQS. EPA views discrete infrastructure SIP requirements, such as the requirements of 110(a)(2)(D)(i)(I), as severable from the other infrastructure elements, and interprets section 110(k)(3) as allowing EPA to act on individual severable measures in a plan submission. In short, EPA has discretion under section 110(k) to act upon the various individual elements of the state's infrastructure SIP submission, separately or together, as appropriate. The commenter raises no compelling legal or environmental rationale for an alternate interpretation.

EPA notes, however, that it is working with state partners to assess next steps to address air pollution that crosses state boundaries and will later take a separate action to address section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS. EPA's approval of the Indiana infrastructure SIP submission for the 2008 ozone NAAQS for the portions described in the NPR is, therefore, appropriate.

III. What action is EPA taking?

For the reasons discussed in our August 19, 2013, proposed rulemaking and in the above responses to public comments, EPA is taking final action to approve Indiana's infrastructure SIP for the 2008 ozone NAAQS as proposed with the exception of not taking final action on section 110(a)(2)(D)(i)(II) with respect to visibility. In EPA's August 19, 2013, proposed rulemaking for these infrastructure SIPs, EPA also proposed to approve Indiana's satisfaction of the state board requirements contained in section 128 of the CAA, as well as certain PSD requirements obligated by EPA's October 20, 2010, final rule on the ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs), Significant Monitoring Concentration (SMC)'' (2010 NSR Rule), and the infrastructure requirements for the 2008 lead NAAQS. The final approvals for each of the above requirements were published in the **Federal Register** on December 24, 2013 (*see* 78 FR 77599, state board

requirements), July 2, 2014 (*see* 79 FR 37646, 2010 NSR Rule requirements), August 11, 2013 (see 78 FR 46709, 2010 NSR Rule requirements, continued), and October 16, 2014 (see 79 FR 62035, 2008 Lead Infrastructure requirements). In today's rulemaking, we are taking final action on only the infrastructure SIP requirements for the 2008 ozone NAAQS. Our final actions by element of section 110(a)(2) and NAAQS, are contained in the table below.

Element	2008 Ozone NAAQS
(A): Emission limits and other control measures	A
(B): Ambient air quality monitoring and data system	A
(C)1: Enforcement of SIP measures	A
(C)2: PSD	A
(D)1: Contribute to nonattainment/interfere with maintenance of NAAQS	NA
(D)2: PSD	A
(D)3: Visibility Protection	NA
(D)4: Interstate Pollution Abatement	A
(D)5: International Pollution Abatement	A
(E)1: Adequate resources	A
(E)2: State boards	A
(F): Stationary source monitoring system	A
(G): Emergency power	A
(H): Future SIP revisions	A
(I): Nonattainment area plan or plan revisions under part D	NA
(J)1: Consultation with government officials	A
(J)2: Public notification	A
(J)3: PSD	A
(J)4: Visibility protection (Regional Haze)	NA
(K): Air quality modeling and data	A
(L): Permitting fees	A
(M): Consultation and participation by affected local entities	A

In the table above, the key is as follows:

A	Approve.
NA	No Action/Separate Rulemaking.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves 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 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, 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 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).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 29, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: April 16, 2015.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

■ 2. In § 52.770, the table in paragraph (e) is amended by adding an entry in alphabetical order for ''Section 110(a)(2) Infrastructure Requirements for the 2008 Ozone NAAQS'' to read as follows:

§ 52.770 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Indiana date	EPA Approval	Explanation
* *	*	* *	* * *
Section 110(a)(2) Infrastructure Requirements for the 2008 Ozone NAAQS.	12/12/2011	4/29/2015, [insert **Federal Register** citation].	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II) except visibility, (D)(ii), (E), (F), (G), (H), (J) except visibility, (K), (L), and (M).
* *	*	* *	* * *

[FR Doc. 2015–09883 Filed 4–28–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2014–0755; FRL–9926–95–Region 10]

Approval and Promulgation of Implementation Plans; Washington: Prevention of Significant Deterioration and Visibility Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Washington State Implementation Plan (SIP) that were submitted by the Department of Ecology (Ecology) on January 27, 2014. These revisions implement the preconstruction permitting regulations for large industrial (major source) facilities in attainment and unclassifiable areas, called the Prevention of Significant Deterioration (PSD) program. The PSD program in Washington has been historically operated under a Federal Implementation Plan (FIP). This approval of Ecology's PSD program narrows the FIP to include only those few facilities, emission sources, geographic areas, and permits for which Ecology does not have PSD permitting jurisdiction or authority. The EPA is also approving Ecology's visibility protection permitting program which overlaps significantly with the PSD program.

DATES: This final rule is effective on May 29, 2015.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2014–0755. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information the disclosure of which 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 through *www.regulations.gov* or in hard copy at the Air Planning Unit, Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at (206) 553–0256, *hunt.jeff@epa.gov,* or by using the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials ''Act'' or ''CAA'' mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words ''EPA'', ''we'', ''us'' or ''our'' mean or refer to the Environmental Protection Agency.

(iii) The initials ''SIP'' mean or refer to State Implementation Plan.

(iv) The words ''Washington'' and ''State'' mean the State of Washington.

Table of Contents

I. Background Information

On January 27, 2014, Ecology submitted revisions to update the general air quality regulations contained in Chapter 173–400 of the Washington Administrative Code (WAC) that apply to sources within Ecology's jurisdiction, including minor new source review, major source nonattainment new source review (major NNSR), PSD, and the visibility protection (visibility) program. On October 3, 2014, the EPA finalized approval of provisions contained in Chapter 173–400 WAC that apply generally to all sources under Ecology's jurisdiction, but stated that we would act separately on the major source-specific permitting programs in a phased approach (79 FR 59653). On November 7, 2014, the EPA finalized the second phase in the series, approving the major NNSR regulations contained in WAC 173–400–800 through 173–400–860, as well as other parts of Chapter 173–400 WAC that support major NNSR (79 FR 66291).

On January 7, 2015, the EPA proposed approval of the remainder of Ecology's January 27, 2014 submittal, covering the PSD and visibility requirements for