to several label disclosures are unlikely to materially affect consumers' understanding of the labels at the pump. Accordingly, the Commission proposes granting the requested exemption. The Commission requests comment on this proposal and whether the requested changes would materially affect the legibility of required fuel labels.

IV. Request for Comment

The Commission seeks comment on the proposed exemption in this Notice. You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before August 15, 2022. Write ''Gilbarco Exemption; Matter No. R811005'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the website *https://www.regulations.gov*.

Because of the public health emergency in response to the COVID–19 outbreak and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the *https://www.regulations.gov* website. To ensure the Commission considers your online comment, please follow the instructions on the web-based form.

If you file your comment on paper, write ''Gilbarco Exemption; Matter No. R811005'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, Org 0825, Mail Stop H–144, 600 Pennsylvania Avenue NW, Washington, DC 20580.

Because your comment will be placed on the public record, you are solely responsible for making sure your comment does not include any sensitive or confidential information. Your comment should not contain sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential''—as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov*—as legally required by FTC Rule 4.9(b), 16 CFR 4.9(b)—we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this document and the news release describing it. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments it receives on or before August 15, 2022. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/siteinformation/privacypolicy*.

Because written comments appear adequate to present the views of all interested parties, the Commission has not scheduled an opportunity for presentation of oral comments regarding these proposed amendments. Interested parties may request an opportunity to present views orally. If such a request is made, the Commission will publish a document in the **Federal Register** stating the time and place for such oral presentation(s) and describing the procedures that will be followed. Interested parties who wish to present oral views must submit a request, on or before August 15, 2022, in the form of a written comment that describes the issues on which the party wishes to speak. If no oral presentations are scheduled, the Commission will base its decision on the written rulemaking record.

V. Paperwork Reduction Act

The Fuel Rating Rule contains recordkeeping, disclosure, testing, and reporting requirements that constitute information collection requirements as defined by 5 CFR 1320.3(c), the definitional provision within the Office of Management and Budget (OMB) regulations that implement the Paperwork Reduction Act (PRA). OMB has approved the Rule's existing information collection requirements through September 30, 2023 (OMB Control No. 3084–0068). The proposed partial exemption would not amend the Rule or change the substance or frequency of the Rule's disclosure requirements and, therefore, does not require OMB clearance.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, requires that the Commission conduct an analysis of the anticipated economic impact of the proposed partial exemption on small entities. The RFA requires that the Commission provide an Initial Regulatory Flexibility Analysis (''IRFA'') with a rule unless the Commission certifies that the rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605. The proposed exemption does not amend the Rule or alter the substance or frequency of the Rule's disclosure requirements. Thus, the Commission has concluded that a regulatory flexibility analysis is not necessary, and certifies, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the proposed exemption will not have a significant economic impact on a substantial number of small entities.

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2022–13795 Filed 6–28–22; 8:45 am]

BILLING CODE 6750–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2018–0788; EPA–R05–OAR–2020–0353; FRL–9879–01–R5]

Air Plan Approval; Indiana; Infrastructure SIP Requirements for the 2015 Ozone NAAQS and References to the Code of Federal Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of a State Implementation Plan (SIP) submission from Indiana regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2015 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. EPA is also proposing to approve revisions to the Indiana SIP that would incorporate by reference a more recent edition of the Code of Federal Regulations (CFR).

DATES: Comments must be received on or before July 29, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2018–0788 or EPA–R05–OAR–2020–0353 at *https://www.regulations.gov,* or via email to *arra.sarah@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, 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. 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 the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Andrew Lee, Physical Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)-353–7645, *lee.andrew.c@epa.gov.* The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19.

SUPPLEMENTARY INFORMATION: This supplementary information section is arranged as follows:

I. What is the background of these SIP submissions?

Whenever EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires states to make SIP submissions to provide for the implementation, maintenance, and enforcement of the NAAQS. This particular type of SIP submission is commonly referred to as an ''infrastructure SIP.'' These submissions must meet the various requirements of CAA section 110(a)(2), as applicable. Due to ambiguity in some of the language of CAA section 110(a)(2), EPA believes that it is appropriate to interpret these provisions in the specific context of acting on infrastructure SIP submissions. EPA has previously provided comprehensive guidance on the application of these provisions through its September 13, 2013, Infrastructure SIP Guidance (EPA's 2013 Guidance) [1] and through regional actions on infrastructure submissions. Unless otherwise noted below, EPA is following that existing approach in acting on this submission. In addition, in the context of acting on such infrastructure submissions, EPA evaluates the submitting state's SIP for facial compliance with statutory and regulatory requirements, not for the state's implementation of its SIP.[2] EPA has other authority to address any issues concerning a state's implementation of the rules, regulations, consent orders, *etc.* that comprise its SIP.

Pursuant to section 110(a), states must provide reasonable notice and opportunity for public hearing for all infrastructure SIP submissions. On August 24, 2018, the Indiana Department of Environmental Management (IDEM) opened a 30-day comment period and provided the opportunity for public hearing. No requests for public hearing were received. Indiana received four separate comments pertaining to the transport requirements of section 110(a)(2)(D)(i)(I). EPA has proposed action on the transport portion of Indiana's submission in a separate rulemaking, therefore those comments are not germane to this action. *See* 87 FR 9838, February 22, 2022.

IDEM submitted these rules to EPA on November 2, 2018. In this rulemaking, EPA is proposing to approve most elements of this submission, which is intended to address all applicable infrastructure requirements for the 2015 ozone NAAQS.

Additionally, in this rulemaking EPA is proposing to approve a June 24, 2020, submission from IDEM that seeks to revise the Indiana SIP by incorporating by reference a more recent edition of the CFR.

II. What is EPA's analysis of the November 2, 2018, SIP submission?

Indiana has provided a detailed synopsis of how various components of its SIP meet each of the applicable requirements in section 110(a)(2) for the 2015 ozone NAAQS, as applicable. The following review evaluates the state's submission.

A. Section 110(a)(2)(A)—Emission Limits and Other Control Measures

This section requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance, and other related matters. EPA has long interpreted emission limits and control measures for attaining the standards as being due when nonattainment planning requirements are due.[3] 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.

EPA's 2013 Guidance states that to satisfy section 110(a)(2)(A) requirements, ''an air agency's submission should identify existing EPA-approved SIP provisions or new SIP provisions that the air agency has adopted and submitted for EPA approval that limit emissions of pollutants relevant to the subject

[1] EPA explains and elaborates on these ambiguities and its approach to address them in its September 13, 2013, Infrastructure SIP Guidance (available at *https://www3.epa.gov/airquality/urbanair/sipstatus/docs/Guidance_on_Infrastructure_SIP_Elements_Multipollutant_FINAL_Sept_2013.pdf*), as well as in numerous agency actions, including EPA's prior action on Indiana's infrastructure SIP to address the 2012 $PM_{2.5}$ NAAQS (August 31, 2017, 82 FR 41379, proposed rule and February 1, 2018, 83 FR 4595, final rule).

[2] *See* U.S. Court of Appeals for the Ninth Circuit decision in *Montana Environmental Information Center* v. *EPA,* 902 F.3d 971.

[3] *E.g.,* EPA's final rule on ''National Ambient Air Quality Standards for Lead.'' 73 FR 66964 at 67034.

NAAQS, including precursors of the relevant NAAQS pollutant where applicable.'' IDEM's authority to adopt emissions standards and compliance schedules is found in the Indiana Code (IC) at IC 13–14–8, IC 13–17–3–4, IC 13–17–3–11, and IC 13–17–3–14. IDEM identified existing controls and emission limits in the IC. These regulations include controls and emission limits for volatile organic compounds (VOC) and nitrogen oxides (NO_X), which are precursors to ozone. VOC as an ozone precursor is regulated at 326 Indiana Administrative Code (IAC) 8, and NO_X as an ozone precursor is regulated by 326 IAC 10.

Furthermore, in Rules 326 IAC 8 and 326 IAC 10, respectively, Indiana provides category-specific and source-specific VOC and NO_X emission limits in addition to general VOC emission limits for Boone, Clark, Dearborn, Elkhart, Floyd, Hamilton, Hancock, Harrison, Hendricks, Johnson, Lake, Marion, Morgan, Porter, St. Joseph, and Shelby counties, and general NO_X emission limits for Clark, Floyd and Warrick counties.

In this rulemaking, EPA is not proposing to take any action on any new provisions currently in the IAC. EPA is also not proposing to take any action on any existing state provisions or rules related to start-up, shutdown or malfunction or director's discretion in the context of section 110(a)(2)(A). EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2015 ozone NAAQS.

B. Section 110(a)(2)(B)—Ambient Air Quality Monitoring/Data System

This section requires SIPs to provide for establishing and operating ambient air quality monitors, collecting and analyzing ambient air quality data, and, upon request, to make these data available to EPA. EPA's 2013 Guidance states that submission of annual monitoring network plans consistent with EPA's ambient air monitoring regulations at 40 CFR 58.10 is one way of satisfying requirements to provide EPA information regarding air quality monitoring activities. EPA's review of a state's annual monitoring plan includes EPA's determination that the state: (i) monitors air quality at appropriate locations throughout the state using EPA-approved Federal Reference Methods or Federal Equivalent Method monitors; (ii) submits data to EPA's Air Quality System (AQS) in a timely manner; and, (iii) provides EPA Regional Offices with prior notification of any planned changes to monitoring sites or the network plan.

In accordance with 40 CFR part 53 and 40 CFR part 58, IDEM continues to operate an air monitoring network that is used to determine compliance with the NAAQS. IDEM enters air monitoring data into AQS and provides EPA with prior notification when changes to its monitoring network or plan are being considered. Further, Indiana submits annual monitoring network plans to EPA. EPA approved Indiana's 2020 Annual Air Monitoring Network Plan on November 21, 2019, including the plan for ozone. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2015 ozone NAAQS.

C. Section 110(a)(2)(C)—Program for Enforcement of Emission Limitations and Control Measures; Minor NSR; PSD

This section requires SIPs to set forth a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to meet New Source Review (NSR) requirements under Prevention of Significant Deterioration (PSD) and Nonattainment NSR (NNSR) programs. Part C of the CAA (sections 160–169B) addresses PSD, while part D of the CAA (sections 171–193) addresses NNSR requirements. EPA's 2013 Guidance states that the NNSR requirements of section 110(a)(2)(C) are generally outside the scope of infrastructure SIPs; however, a state must provide for regulation of minor sources and minor modifications (minor NSR).

1. Program for Enforcement of Emission Limitations and Control Measures

A state's infrastructure SIP submission should identify the statutes, regulations, or other provisions in the SIP that provide for enforcement of emission limits and control measures.

IDEM maintains an enforcement program to ensure compliance with SIP requirements. Specifically, IC 13–14–1–12 provides the Commissioner with the authority to enforce rules ''consistent with the purpose of the air pollution control laws.'' Additionally, IC 13–14–2–6, IC 13–14–2–7, IC 13–17–3–3 and 13–30–3 provide the Commissioner with the authority to assess civil penalties and obtain compliance with any applicable rule a board has adopted in order to enforce air pollution control laws. Lastly, IC 13–14–10–2 allows for an emergency restraining order that prevents any person from causing, or introducing contaminants, that cause or contribute to air pollution. EPA proposes that Indiana has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

2. Minor NSR

An infrastructure SIP submission should identify the existing EPA-approved SIP provisions that govern the minor source pre-construction program that regulates emissions of the relevant NAAQS pollutant.

EPA approved Indiana's minor NSR program on March 16, 2015 (80 FR 13493); since that date, IDEM and EPA have relied on the existing minor NSR program to ensure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the NAAQS. As stated in EPA's 2013 Guidance, the CAA allows EPA to approve infrastructure SIP submissions that do not implement the 2002 NSR Reform Rules. Therefore, EPA is not proposing action on existing NSR Reform regulations for Indiana. EPA proposes that Indiana has met the minor NSR requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

3. PSD

The evaluation of each state's submission addressing the infrastructure SIP requirements of section 110(a)(2)(C) covers: (i) PSD provisions that explicitly identify NO_X as a precursor to ozone in the PSD program; (ii) identification of precursors to $PM_{2.5}$ [4] and the identification of $PM_{2.5}$ and PM_{10} [5] condensibles in the PSD program; (iii) $PM_{2.5}$ increments in the PSD program; and (iv) greenhouse gas (GHG) permitting and the ''Tailoring Rule'' in the PSD program.[6]

Some PSD requirements under section 110(a)(2)(C) overlap with elements of section 110(a)(2)(D)(i), section 110(a)(2)(E), and section 110(a)(2)(J).

[4] $PM_{2.5}$ refers to particles with an aerodynamic diameter of less than or equal to 2.5 micrometers, also referred to as ''fine'' particles.

[5] PM_{10} refers to particulate matter particles with an aerodynamic diameter of less than or equal to 10 micrometers.

[6] In EPA's April 28, 2011, proposed rulemaking for infrastructure SIPS for the 1997 ozone and $PM_{2.5}$ NAAQS, EPA stated that each state's PSD program must meet applicable requirements for evaluation of all regulated NSR pollutants in PSD permits (76 FR 23757 at 23760). This view was reiterated in EPA's August 2, 2012, proposed rulemaking for infrastructure SIPs for the 2006 $PM_{2.5}$ NAAQS (77 FR 45992 at 45998). In other words, if a state lacks provisions needed to adequately address NO_X as a precursor to ozone, $PM_{2.5}$ precursors, $PM_{2.5}$ and PM_{10} condensibles, $PM_{2.5}$ increments, or the Federal GHG permitting thresholds, the provisions of Section 110(a)(2)(C) requiring a suitable PSD permitting program must be considered not to be met irrespective of the NAAQS that triggered the requirement to submit an infrastructure SIP, including the 2012 $PM_{2.5}$ NAAQS.

These links are discussed in the appropriate areas below.

a. PSD Provisions That Explicitly Identify NO_X as a Precursor to Ozone in the PSD Program

EPA's ''Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; Final Rule for Reformulated Gasoline'' (Phase 2 Rule) was published on November 29, 2005 (70 FR 71612). Among other requirements, the Phase 2 Rule obligated states to revise their PSD programs to explicitly identify NO_X as a precursor to ozone (70 FR 71612 at 71679, 71699–71700). This requirement was codified in 40 CFR 51.166.[7]

The Phase 2 Rule required that states submit SIP revisions incorporating the requirements of the rule, including provisions specifically identifying NO_X as a precursor to ozone, by June 15, 2007 (*see* 70 FR 71612 at 71683, November 29, 2005).

EPA approved revisions to Indiana's PSD SIP reflecting these requirements on July 2, 2014 (79 FR 37646), and therefore proposes that Indiana has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

b. Identification of Precursors to $PM_{2.5}$ and the Identification of $PM_{2.5}$ and PM_{10} Condensibles in the PSD Program

On May 16, 2008 (73 FR 28321), EPA issued the Final Rule on the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' (2008 NSR Rule). The 2008 NSR Rule finalized several new requirements for SIPs to address sources that emit direct $PM_{2.5}$ and other pollutants that contribute to secondary $PM_{2.5}$ formation. One of these requirements is for NSR permits to address pollutants responsible for the secondary formation of $PM_{2.5}$, otherwise known as precursors. In the 2008 rule, EPA identified precursors to $PM_{2.5}$ for the PSD program to be sulfur dioxide (SO_2) and NO_X (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO_X emissions in an area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations). The 2008 NSR Rule also specifies that VOCs are not considered to be precursors to $PM_{2.5}$ in the PSD program unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of VOCs in an area are significant contributors to that area's ambient $PM_{2.5}$ concentrations.

The explicit references to SO_2, NO_X, and VOCs as they pertain to secondary $PM_{2.5}$ formation are codified at 40 CFR 51.166(b)(49)(i)(*b*) and 40 CFR 52.21(b)(50)(i)(*b*). As part of identifying pollutants that are precursors to $PM_{2.5}$, the 2008 NSR Rule also required states to revise the definition of ''significant'' as it relates to a net emissions increase or the potential of a source to emit pollutants. Specifically, 40 CFR 51.166(b)(23)(i) and 40 CFR 52.21(b)(23)(i) define ''significant'' for $PM_{2.5}$ to mean the following emissions rates: 10 tons per year (tpy) of direct $PM_{2.5}$; 40 tpy of SO_2; and 40 tpy of NO_X (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO_X emissions in an area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations). The deadline for states to submit SIP revisions to their PSD programs incorporating these changes was May 16, 2011 (*see* 73 FR 28321 at 28341, May 16, 2008).[8]

The 2008 NSR Rule did not require states to immediately account for gases that could condense to form particulate matter, known as condensibles, in $PM_{2.5}$ and PM_{10} emission limits in NSR permits. Instead, EPA determined that states had to account for $PM_{2.5}$ and PM_{10} condensibles for applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in PSD permits beginning on or after January 1, 2011. This requirement is codified in 40 CFR 751.166(b)(49)(i)(*a*) and 40 CFR 52.21(b)(50)(i)(*a*). Revisions to states' PSD programs incorporating the inclusion of condensibles were due to EPA by May 16, 2011 (*see* 73 FR 28321 at 28341, May 16, 2008).

EPA approved revisions to Indiana's PSD SIP reflecting these requirements on July 2, 2014 (79 FR 37646), and therefore proposes that Indiana has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

c. $PM_{2.5}$ Increments in the PSD Program

On October 20, 2010, EPA issued the 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) and Significant Monitoring Concentration (SMC)'' (2010 NSR Rule). This rule established several components for making PSD permitting determinations for $PM_{2.5}$, including a system of ''increments'' which is the mechanism used to estimate significant deterioration of ambient air quality for a pollutant. These increments are codified in 40 CFR 51.166(c) and 40 CFR 52.21(c), and are included in Table 1 below.

TABLE 1—$PM_{2.5}$ INCREMENTS ESTABLISHED BY THE 2010 NSR RULE IN MICROGRAMS PER CUBIC METER

	Annual arithmetic mean	24-hour max
Class I	1	2
Class II	4	9
Class III	8	18

The 2010 NSR Rule also established a new ''major source baseline date'' for $PM_{2.5}$ as October 20, 2010, and a new trigger date for $PM_{2.5}$ as October 20, 2011. These revisions are codified in 40 CFR 51.166(b)(14)(i)(*c*) and (b)(14)(ii)(*c*), and 40 CFR 52.21(b)(14)(i)(*c*) and (b)(14)(ii)(*c*). Lastly, the 2010 NSR Rule revised the definition of ''baseline area'' to include a level of significance of 0.3 micrograms per cubic meter, annual average, for $PM_{2.5}$. This change is codified in 40 CFR 51.166(b)(15)(i) and 40 CFR 52.21(b)(15)(i).

On July 12, 2012, and supplemented on December 12, 2012, IDEM submitted

[7] Similar changes were codified in 40 CFR 52.21.

[8] EPA notes that on January 4, 2013, the U.S. Court of Appeals for the D.C. Circuit, in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir.), held that EPA should have issued the 2008 NSR Rule in accordance with the CAA's requirements for PM_{10} nonattainment areas (Title I, Part D, subpart 4), and not the general requirements for nonattainment areas under subpart 1 (*Natural Resources Defense Council* v. *EPA,* No. 08–1250). As the subpart 4 provisions apply only to nonattainment areas, EPA does not consider the portions of the 2008 rule that address requirements for $PM_{2.5}$ attainment and unclassifiable areas to be affected by the court's opinion. Moreover, EPA does not anticipate the need to revise any PSD requirements promulgated by the 2008 NSR rule in order to comply with the court's decision. Accordingly, EPA's approval of Indiana's infrastructure SIP as to elements (C), (D)(i)(II), or (J) with respect to the PSD requirements promulgated by the 2008 implementation rule does not conflict with the court's opinion.

The Court's decision with respect to the nonattainment NSR requirements promulgated by the 2008 implementation rule also does not affect EPA's action on the present infrastructure action. EPA interprets the CAA to exclude nonattainment area requirements, including requirements associated with a nonattainment NSR program, from infrastructure SIP submissions due three years after adoption or revision of a NAAQS. Instead, these elements are typically referred to as nonattainment SIP or attainment plan elements, which would be due by the dates statutorily prescribed under subpart 2 through 5 under part D, extending as far as 10 years following designations for some elements.

revisions intended to address the increments established by the 2010 NSR Rule for incorporation into the SIP, as well as the revised major source baseline date, trigger date, and baseline area level of significance for $PM_{2.5}$. IDEM also requested that these revisions satisfy any applicable infrastructure SIP requirements related to PSD. Specifically, revisions to 326 IAC 2–2–6(b) contain the Federal increments for $PM_{2.5}$, 326 IAC 2–2–1(ee)(3) contains the new major source baseline date for $PM_{2.5}$ of October 20, 2010, 326 IAC 2–2–1(gg)(1)(C) contains the new trigger date for $PM_{2.5}$ of October 20, 2011, and 326 IAC 2–2–1(f)(1) contains the new baseline area level of significance for $PM_{2.5}$. It should be noted that Indiana's submitted revisions explicitly include only the $PM_{2.5}$ increments as they apply to Class II areas, and not the $PM_{2.5}$ increments as they apply to Class I or Class III areas.

On August 11, 2014 (79 FR 46709), EPA finalized approval of the applicable infrastructure SIP PSD revisions in the Indiana SIP; therefore, EPA is proposing that Indiana has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

d. GHG Permitting and the ''Tailoring Rule'' in the PSD Program

With respect to the requirements of section 110(a)(2)(C) as well as section 110(a)(2)(J), EPA interprets the CAA to require each state to make an infrastructure SIP submission for a new or revised NAAQS that demonstrates that the air agency has a complete PSD permitting program meeting the current requirements for all regulated NSR pollutants. The requirements of section 110(a)(2)(D)(i)(II) may also be satisfied by demonstrating the air agency has a complete PSD permitting program correctly addressing all regulated NSR pollutants. Indiana has shown that it currently has a PSD program in place that covers all regulated NSR pollutants, including GHGs. EPA finalized approval of a revision to Indiana's SIP on September 15, 2011 (76 FR 59899), which included revisions to 326 IAC 2–2–1 and 326 IAC 2–2–4 of Indiana's PSD regulations. These revisions established appropriate emissions thresholds for determining PSD applicability with respect to new or modified GHG-emitting stationary sources in accordance with EPA's GHG Tailoring Rule.

On June 23, 2014, the United States Supreme Court issued a decision addressing the application of PSD permitting requirements to GHG emissions. *Utility Air Regulatory Group* v. *Environmental Protection Agency,* 134 S.Ct. 2427 (the UARG case). The Supreme Court said that EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD permit. The Court also said that EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of Best Available Control Technology (BACT).

In accordance with the Supreme Court decision, on April 10, 2015, the U.S. Court of Appeals for the District of Columbia Circuit (the D.C. Circuit) issued an amended judgment vacating the regulations that implemented Step 2 of the EPA's PSD and Title V Greenhouse Gas Tailoring Rule, but not the regulations that implement Step 1 of that rule. *See Coalition for Responsible Regulation, Inc.* v. *EPA,* No. 09–1322. Step 1 of the Tailoring Rule covers sources that are required to obtain a PSD permit based on emissions of pollutants other than GHGs. Step 2 applied to sources that emitted only GHGs above the thresholds triggering the requirement to obtain a PSD permit. The amended judgment preserves, without the need for additional rulemaking by the EPA, the application of the BACT requirement to GHG emissions from Step 1 or ''anyway'' sources. With respect to Step 2 sources, the D.C. Circuit's amended judgment vacated the regulations at issue in the litigation, including 40 CFR 51.166(b)(48)(v), ''to the extent they require a stationary source to obtain a PSD permit if greenhouse gases are the only pollutant (i) that the source emits or has the potential to emit above the applicable major source thresholds, or (ii) for which there is a significant emission increase from a modification.''

EPA is planning to take additional steps to revise federal PSD rules in light of the Supreme Court opinion and subsequent D.C. Circuit judgment. Some states have begun to revise their existing SIP-approved PSD programs to address these court decisions, and some states may prefer not to initiate this process until they have more information about the planned revisions to EPA's PSD regulations. EPA is not expecting states to have revised their PSD programs in anticipation of EPA's planned actions to revise its PSD program rules in response to the court decisions or purposes of infrastructure SIP submissions. For purposes of infrastructure SIP submissions, EPA is only evaluating such submissions to assure that the state's program addresses GHGs consistent with both court decisions.

Under IC 13–14–9–8(h) Indiana's rules that implement Step 2 of the Tailoring Rule were automatically invalidated in the UARG case discussed above. Therefore, Indiana only implements Step 1 for ''anyway'' sources. The Indiana Environmental Rules Board adopted the GHG regulations required by EPA at 326 IAC 2–2–1(zz), pursuant to IC 13–14–9–8(h) (a section 8 rulemaking). While the Step 2 provisions still appear at 326 IAC 2–2–1(zz)(5), as a result of IC 13–14–9–8(h), a rule, or part of a rule, adopted under section 8 is automatically invalidated when the corresponding federal rule, or part of the rule, is invalidated. Due to the ruling in *UARG* v. *EPA*, the Step 2 portion of the Indiana's rule was automatically invalidated, and IDEM cannot consider GHG emissions to determine operating permit applicability or PSD applicability to a source or modification. Therefore, EPA is proposing that Indiana's SIP is sufficient to satisfy Elements (C), (D)(i)(II), and (J) with respect to GHGs because the PSD permitting program previously approved by the EPA into the Indiana SIP continues to require that PSD permits issued to ''anyway sources'' contain limitations on GHG emissions based on the application of BACT.

EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

3. Minor NSR

An infrastructure SIP submission should identify the existing EPA-approved SIP provisions that govern the minor source pre-construction program that regulates emissions of the relevant NAAQS pollutant.

EPA approved Indiana's minor construction permit rule (326 IAC 2–1) on October 7, 1994 (59 FR 51108). On March 16, 2015, EPA approved revisions to 326 IAC 2–1 (*see* 80 FR 13493). Since October 7, 1994 and March 16, 2015, respectively, IDEM and EPA have relied on the existing minor NSR program to ensure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the NAAQS. As stated in EPA's 2013 Guidance, the CAA allows EPA to approve infrastructure SIP submissions that do not implement the 2002 NSR Reform Rules. Therefore, EPA is not proposing action on existing NSR Reform regulations for Indiana. EPA proposes that Indiana has met the minor NSR requirements of section

110(a)(2)(C) with respect to the 2015 ozone NAAQS.

D. Section 110(a)(2)(D)—Interstate Transport

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

Section 110(a)(2)(D)(i)(I) requires SIPs to include provisions prohibiting any source or other type of emission activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of the NAAQS in another state. Section 110(a)(2)(D)(i)(II) requires SIPs to include provisions prohibiting any source of other type of emission 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. Section 110(a)(2)(D)(ii) requires each SIP to contain adequate provisions requiring compliance with the applicable requirements of section 126 and section 115 (relating to interstate and international pollution abatement, respectively).

1. Significant Contribution to Nonattainment

In this rulemaking, EPA is not evaluating section 110(a)(2)(D)(i)(I) requirements relating to significant contribution to nonattainment for the 2015 ozone NAAQS. Instead, EPA has evaluated these requirements in a separate rulemaking. *See* 87 FR 9838, February 22, 2022.

2. Interference With Maintenance

In this rulemaking, EPA is not evaluating section 110(a)(2)(D)(i)(I) requirements relating to interference with maintenance for the 2015 ozone NAAQS. Instead, EPA has evaluated these requirements in a separate rulemaking. *See* 87 FR 9838, February 22, 2022.

3. Interference With PSD

EPA notes that Indiana's satisfaction of the applicable infrastructure SIP PSD requirements for the 2015 ozone NAAQS has been detailed in the section addressing section 110(a)(2)(C). EPA further notes that the proposed actions in that section related to PSD are consistent with the proposed actions related to PSD for section 110(a)(2)(D)(i)(II), and they are reiterated below.

EPA has previously approved revisions to Indiana's SIP that meet certain requirements obligated by the Phase 2 Rule and the 2008 NSR Rule. These revisions included provisions that explicitly identify NO_X as a precursor to ozone, explicitly identify SO_2 and NO_X as precursors to $PM_{2.5}$ and regulate condensable $PM_{2.5}$ and PM_{10} in applicability determinations for purposes of establishing emission limits. EPA has also previously approved revisions to Indiana's SIP that incorporate the $PM_{2.5}$ increments and the associated implementation regulations including the major source baseline date, trigger date, and level of significance for $PM_{2.5}$ per the 2010 NSR Rule. EPA is proposing that Indiana's SIP contains provisions that adequately address the 2015 ozone NAAQS.

States also have an obligation to ensure that sources located in nonattainment areas do not interfere with a neighboring state's PSD program. One way that this requirement can be satisfied is through an NNSR program consistent with the CAA that addresses any pollutants for which there is a designated nonattainment area within the state.

Indiana's EPA–approved NNSR regulations are contained in 326 IAC 2–3, approved on July 8, 2011 (76 FR 40242), and are consistent with 40 CFR 51.165 and 40 CFR part 51, appendix S. Therefore, EPA proposes that Indiana has met all of the applicable section 110(a)(2)(D)(i)(II) requirements relating to interference with PSD for the 2015 ozone NAAQS.

4. Interference With Visibility Protection

In this rulemaking, EPA is not approving or disapproving Indiana's satisfaction of the visibility protection requirements of section 110(a)(2)(D)(i)(II), transport prong 4, for the 2015 ozone NAAQS. Instead, EPA will evaluate Indiana's compliance with these requirements in a separate rulemaking.

5. Interstate and International Pollution Abatement

Section 110(a)(2)(D)(ii) requires each SIP to contain adequate provisions requiring compliance with the applicable requirements of section 126 and section 115 (relating to interstate and international pollution abatement, respectively). section 126(a) requires new or modified sources to notify neighboring states of potential impacts from the source. The statute does not specify the method by which the source should provide the notification. States with SIP-approved PSD programs must have a provision requiring such notification by new or modified sources. A lack of such a requirement in state rules would be grounds for disapproval of this element.

Indiana's EPA-approved PSD portion of its program in 326 IAC 2–2–15 (b)(3) contains provisions requiring new or modified sources to notify neighboring states of potential negative air quality impacts. EPA is proposing that Indiana has met the infrastructure SIP requirements of section 126(a) with respect to the 2015 ozone NAAQS. Indiana does not have any obligations under any other subsection of section 126, nor does it have any pending obligations under section 115. Therefore, EPA proposes that Indiana has met all of the applicable section 110(a)(2)(D)(ii) requirements for the 2015 ozone NAAQS.

E. Section 110(a)(2)(E)—Adequate Resources; State Board Requirements

This section requires each state to provide for adequate personnel, funding, and legal authority under state law to carry out its SIP, and related issues. Section 110(a)(2)(E)(ii) also requires each state to comply with the requirements respecting state boards under section 128.

1. Adequate Resources

To satisfy the adequate resources requirements of section 110(a)(2)(E), the state should provide assurances that its air agency has adequate resources, personnel, and legal authority to implement the relevant NAAQS.

Indiana's biennial budget and its environmental performance partnership agreement with EPA document funding and personnel levels for IDEM every two years. As discussed in earlier sections, IC 13–14–1–12 provides the Commissioner of IDEM with the authority to enforce air pollution control laws. Furthermore, IC 13–14–8, IC 13–17–3–11, and IC 13–17–3–14 contain the authority for IDEM to adopt air emissions standards and compliance

schedules. EPA proposes that Indiana has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E) with respect to the 2015 ozone NAAQS.

2. State Board Requirements

Section 110(a)(2)(E) also requires each SIP to set forth provisions that comply with the state board requirements of section 128 of the CAA. Specifically, this section contains two explicit requirements: (i) That any board or body which approves permits or enforcement orders under this chapter shall 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 under this chapter, and (ii) that any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

On November 29, 2012, IDEM submitted rules regarding its Environmental Rules Board at IC 13–13–8 for incorporation into the SIP, pursuant to section 128 of the CAA. On December 12, 2012, IDEM provided a supplemental submission clarifying that the Environmental Rules Board established by IC 13–13–8, which has the authority to adopt environmental regulations under IC 4–22–2 and IC 13–14–9, does not have the authority to approve enforcement orders or permitting actions as outlined in section 128(a)(1) of the CAA. Therefore, section 128(a)(1) of the CAA is not applicable in Indiana.

Under section 128(a)(2), the head of the executive agency with the power to approve enforcement orders or permits must adequately disclose any potential conflicts of interest. IC 13–13–8–11 ''Disclosure of conflicts of interest'' contains provisions that adequately satisfy the requirements of section 128(a)(2). This section requires that each member of the board shall fully disclose any potential conflicts of interest relating to permits or enforcement orders. IC 13–13–8–4 defines the membership of the board, and the commissioner (of IDEM) or his/her designee is explicitly included as a member of the board. Therefore, when evaluated together in the context of section 128(a)(2), the commissioner (of IDEM) or his/her designee must fully disclose any potential conflicts of interest relating to permits or enforcement orders under the CAA. EPA concludes that IDEM's submission as it relates to the state board requirements under section 128 is consistent with applicable CAA requirements. EPA approved these rules on December 24, 2013 (78 FR 77599). Therefore, EPA is proposing that IDEM has satisfied the applicable infrastructure SIP requirements of section 110(a)(2)(E) for the 2015 ozone NAAQS.

F. Section 110(a)(2)(F)—Stationary Source Monitoring System

Section 110(a)(2)(F) contains several requirements, each of which are described below.

1. Installation, Maintenance, Replacement of Equipment, and Other Necessary Steps by Owners or Operators of Stationary Sources To Monitor Emissions From Such Sources

EPA's rules regarding how SIPs need to address requirements for source monitoring are contained in 40 CFR 51.212 (''Testing, inspection, enforcement, and compliance''). This regulation requires SIPs to provide for a program of periodic testing and inspection of stationary sources, to provide for the identification of allowable test methods, and to exclude any provision that would prevent the use of any credible evidence of noncompliance. IDEM's rules for monitoring requirements are contained in 326 IAC 3, which includes provisions specific to the continuous monitoring of emissions at 326 IAC 3–5–1, approved on June 25, 2021 (86 FR 33525), and minimum performance and operating specifications at 326 IAC 3–5–2, quality assurance requirements at 326 IAC 3–5–5, recordkeeping requirements at 326 IAC 3–5–6, source sampling procedures at 326 IAC 3–6–1, and fuel sampling and analysis procedures at 326 IAC 7, approved on October 23, 2013 (78 FR 63093). Therefore, EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(F)(i) with respect to the 2015 ozone standard.

2. Periodic Reports on the Nature and Amounts of Emissions and Emissions-Related Data From Stationary Sources

To address periodic reporting requirements, the infrastructure SIP submission should include air agency requirements providing for periodic reporting of emissions and emissions-related data by sources to the air agency, as required by the following emissions reporting requirements: 40 CFR 51.211 (''Emissions reports and recordkeeping''); 40 CFR 51.321 through 51.323 (''Source Emissions and State Action Reporting''); and the EPA's Air Emissions Reporting Rule, 40 CFR part 51, subpart A (''Air Emissions Reporting Requirements'').[9] The section 51.321 requirement that emission reports from states be made through the appropriate EPA Regional Office has been superseded in practice, as these data are now to be reported electronically through a centralized data portal pursuant to 40 CFR 51.45(b), which refers to the website *http://www.epa.gov/ttn/chief,* which was moved to *https://www.epa.gov/*. All states have existing periodic source reporting of emissions and emission inventory reporting practices. Thus, for any new or revised NAAQS, the infrastructure SIP may be able to certify existing authority and commitments and provide any additional assurance needed to meet changes in reporting and inventory requirements associated with the new or revised NAAQS.

Indiana sets forth reporting requirements in 326 IAC 2–6–4, approved on March 29, 2007 (72 FR 14678), that are consistent with 40 CFR 51.211, 40 CFR 51.321 to 323, and 40 CFR part 51, subpart A. Therefore, EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(F)(ii) with respect to the 2015 ozone standard.

3. Correlation of Emissions Reports by the State Agency With Any Applicable Emission Limitations or Standards, Reports Shall Be Available at Reasonable Times for Public Inspection

For this sub-element, the infrastructure SIP submission should reference and describe existing air agency requirements that have been approved into the SIP by the EPA, or include air agency requirements being newly submitted, that provide for the following: (1) correlation [10] by the air agency of emissions reports by sources with applicable emission limitations or standards; and (2) the public availability of emission reports by sources. Under 40 CFR part 51 Subpart G, 40 CFR 51.116 (''Data availability''), contains the requirements for correlating data. Correlation with applicable emissions limitations or standards is relevant only for those reports of source emissions that reflect the test method(s) and averaging period(s) specified in applicable emission limitations or standards. Thus, source reports of annual, ozone season, or summer day

[9] 40 CFR 51.321 through 51.323 nominally address emission reporting but merely cross-reference to 40 CFR part 51, subpart A.

[10] As defined in 40 CFR 51.116(c), the term ''correlate'' means ''present in such a manner as to show the relationship between measured or estimated amounts of emissions and the amounts of such emissions allowable under the applicable emission limitations or other measures.''

emissions used by the air agency to create the annual and triennial emission inventory submission to the EPA under 40 CFR part 51 subpart A in general would not need to be correlated with specific emission limitations or standards, as many sources do not have applicable emission limitations defined for those averaging periods. However, if the sources have applicable emissions limitations that are defined for these averaging periods, then they would need to be correlated.

Emission reports are available from IDEM upon request by EPA or other interested parties. Additionally, IDEM emissions data can be downloaded from the IDEM website at *https://www.in.gov/idem/airquality/2507.htm*. This site provides summaries of emissions of air pollutants reported by companies throughout the state of Indiana. The pollutants in these summaries include NO_X and VOC. Therefore, EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(F)(iii) with respect to the 2015 ozone standard.

G. Section 110(a)(2)(G)—Emergency Powers

Section 110(a)(2)(G) requires the SIP to provide for authority analogous to that in section 303 of the CAA and adequate contingency plans to implement such authority. EPA's 2013 Guidance states that infrastructure SIP submissions should specify authority, vested in an appropriate official, to restrain any source from causing or contributing to emissions which present an imminent and substantial endangerment to public health or welfare, or the environment.

326 IAC 1–5–2, approved on May 31, 1972 (37 FR 10842), establishes air pollution episode alert levels based on concentrations of criteria pollutants. This rule requires that emergency reduction plans be submitted to the Commissioner of IDEM by major air pollution sources, and these plans must include actions that will be taken when each episode level is declared, to reduce or eliminate emissions of the appropriate air pollutants. Similarly, under IC 13–17–4, Indiana also retains the ability to declare an air pollution emergency and order all persons causing or contributing to the conditions warranting the air pollution emergency to immediately reduce or discontinue emission of air contaminants. EPA proposes that Indiana has met the applicable infrastructure SIP requirements of section 110(a)(2)(G) related to authority to implement measures to restrain sources from causing or contributing to emissions which present an imminent and substantial endangerment to public health, welfare or the environment with respect to the 2015 ozone NAAQS.

H. Section 110(a)(2)(H)—Future SIP Revisions

This section requires states to provide for the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or to an EPA finding that the SIP is substantially inadequate.

IDEM continues to update and implement needed revisions to Indiana's SIP as necessary to meet ambient air quality standards. As discussed in previous sections, authority to adopt emissions standards and compliance schedules is found at IC 13–4–8, IC 13–17–3–4, IC 13–17–3–11, and IC 13–17–3–14. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to the 2015 ozone NAAQS.

I. Section 110(a)(2)(I)—Nonattainment Planning Requirements of Part D

The CAA requires that each plan or plan revision for an area designated as a nonattainment area meet the applicable requirements of Part D of the CAA. Part D relates to nonattainment areas.

EPA has determined that section 110(a)(2)(I) is not applicable to the infrastructure SIP process. Instead, EPA takes action on Part D attainment plans through separate processes.

J. Section 110(a)(2)(J)—Consultation With Government Officials; Public Notifications; PSD; Visibility Protection

The evaluation of the submission from Indiana with respect to the requirements of section 110(a)(2)(J) are described below.

1. Consultation With Government Officials

States must provide a process for consultation with local governments and Federal Land Managers (FLMs) carrying out NAAQS implementation requirements.

IDEM actively participates in the regional planning efforts that include state rule developers, representatives from the FLMs, and other affected stakeholders. Additionally, Indiana is an active member of the Lake Michigan Air Director's Consortium (LADCO), which consists of collaboration with the States of Illinois, Wisconsin, Michigan, Minnesota, and Ohio. EPA proposes that Indiana has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2015 ozone NAAQS.

2. Public Notification

Section 110(a)(2)(J) also requires states to notify the public if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances.

IDEM monitors air quality data daily and reports the air quality index to the interested public and media, if necessary. IDEM also participates in and submits information to EPA's AIRNOW program, and maintains SmogWatch, which is an informational tool created by IDEM to share air quality forecasts for each day. SmogWatch provides daily information about ground-level ozone, particulate matter concentration levels, health information, and monitoring data for seven regions in Indiana. In addition, IDEM maintains a publicly available website that allows interested members of the community and other stakeholders to view current monitoring data summaries, including those for ozone.[11] EPA proposes that Indiana has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2015 ozone NAAQS.

3. PSD

States must meet applicable requirements of section 110(a)(2)(C) related to PSD. IDEM's PSD program in the context of infrastructure SIPs has already been discussed above in the paragraphs addressing sections 110(a)(2)(C) and 110(a)(2)(D)(i)(II), and EPA notes that the proposed actions for those sections are consistent with the proposed actions for this portion of section 110(a)(2)(J).

Therefore, EPA proposes that Indiana has met all of the infrastructure SIP requirements for PSD associated with section 110(a)(2)(D)(J) for the 2015 ozone NAAQS.

4. Visibility Protection

States are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, EPA finds that there is no new visibility obligation ''triggered'' under section 110(a)(2)(J) when a new NAAQS becomes effective. In other words, the visibility protection requirements of section 110(a)(2)(J) are not germane to infrastructure SIPs for the 2015 ozone NAAQS.

[11] *http://www.in.gov/idem/airquality/2489.htm.*

K. Section 110(a)(2)(K)—Air Quality Modeling/Data

SIPs must provide for performance of air quality modeling to predict the effects on air quality of emissions from any NAAQS pollutant and the submission of such data to EPA upon request.

IDEM maintains the capability of performing computer modeling of the air quality impacts of all criteria pollutants, including both source-oriented and more regionally directed complex photochemical grid models. IDEM collaborates with LADCO, EPA, and other Lake Michigan states in performing modeling. These modeling data are available to EPA or other interested parties upon request. Indiana's rules regarding air quality modeling are contained in 326 IAC 2–2–4, 326 IAC 2–2–5, 326 IAC 2–2–6, and 326 IAC 2–2–7. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2015 ozone NAAQS.

L. Section 110(a)(2)(L)—Permitting Fees

This section requires SIPs to mandate each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing, and enforcing a permit.

IDEM's EPA-approved permit fee program, specifically contained in 326 IAC 2–1.1–7, contains the provisions, requirements, and structures associated with the costs for reviewing, approving, implementing, and enforcing various types of permits. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(L) with respect to the 2015 ozone NAAQS.

M. Section 110(a)(2)(M)—Consultation/ Participation by Affected Local Entities

States must consult with and allow participation from local political subdivisions affected by the SIP. Any IDEM rulemaking procedure contained in IC 13–14–9 requires public participation in the SIP development process. In addition, IDEM ensures that the public hearing requirements of 40 CFR 51.102 are satisfied during the SIP development process. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2015 ozone NAAQS.

III. What is EPA's analysis of the June 24, 2020, SIP submission?

On June 24, 2020, IDEM submitted a separate SIP revision request that EPA approve into the Indiana SIP updated rules at 326 IAC 1–1–3 (References to the Code of Federal Regulations) with an effective date April 4, 2020.

IDEM periodically revises its rules to reference updated versions of the CFR. Most recently, on June 25, 2017, EPA approved into the Indiana SIP revised rules at 326 IAC 1–1–3, which removed a reference to the July 1, 2013, edition of the CFR and added a reference to the July 1, 2015, edition of the CFR (82 FR 28775).

IDEM's June 24, 2020, submittal includes a further revised version of 326 IAC 1–1–3, which removes the reference to the to the July 1, 2015, edition of the CFR and adds a reference to the July 1, 2018, edition of the CFR. Following approval of these revisions into the Indiana SIP, unless otherwise indicated, any reference within 326 IAC to a provision of the CFR shall mean the July 1, 2018, edition. By updating the reference date to July 1, 2018, the Indiana SIP will be consistent with those regulations that the Federal government promulgated between July 1, 2015, and June 30, 2018. EPA is therefore proposing to approve the revisions at 326 IAC 1–1–3 into the Indiana SIP.

Indiana's June 24, 2020, submission also includes a summary of several changes to the CFR, which upon EPA's approval will be incorporated into the Indiana SIP. These include revisions applicable to appendix W to 40 CFR part 51, which contains updates to the *Guideline on Air Quality Models* finalized by EPA on January 17, 2017 (82 FR 5182). In the context of infrastructure SIP requirements for the 2015 ozone NAAQS, EPA must demonstrate that a state provides for the performance of air quality modeling as prescribed by the Administrator, which means the 2017 revision to appendix W. If a state's SIP includes incorporation by reference to an outdated version of appendix W and the state lacks other authority to conduct modeling according to the 2017 revision to appendix W, EPA cannot approve the state's infrastructure SIP elements at section 110(a)(2)(C), ''prong 3'' of section 110(a)(2)(D)(i)(II), section 110(a)(2)(J), and section 110(a)(2)(K). Upon approval into the Indiana SIP of the revisions at 326 IAC 1–1–3, the Indiana SIP will include incorporation by reference of the current 2017 version of appendix W. In EPA's analysis, above, of Indiana's November 2, 2018, submittal regarding the infrastructure SIP requirements for the 2015 ozone NAAQS, EPA has evaluated the Indiana SIP together with the revisions at 326 IAC 1–1–3, which EPA is proposing to approve in this rulemaking, and which provide IDEM with the authority to conduct modeling according to the 2017 revision to appendix W.

IV. What action is EPA taking?

EPA is proposing to approve most elements of the November 2, 2018, submission from Indiana certifying that its current SIP is sufficient to meet the required infrastructure elements under sections 110(a)(1) and (2) for the 2015 ozone NAAQS. EPA has proposed action in a separate rulemaking on the portion of the submission pertaining to the interstate transport requirements of section 110(a)(2)(D)(i)(I) with respect to the 2015 ozone NAAQS. *See* 87 FR 9838. EPA is not taking action on the visibility protection requirements of section 110(a)(2)(D)(i)(II), transport prong 4, and will address this requirement in a future rulemaking.

EPA's proposed actions for the State's satisfaction of infrastructure SIP requirements pursuant to section 110(a)(2) and the NAAQS are contained in the table below.

Element	2015 ozone
(A)—Emission limits and other control measures	A
(B)—Ambient air quality monitoring/data system	A
(C)1—Program for enforcement of control measures	A
(C)2—PSD	A
(D)1—I Prong 1: Interstate transport—significant contribution	NA
(D)2—I Prong 2: Interstate transport—interfere with maintenance	NA
(D)3—II Prong 3: Interstate transport—prevention of significant deterioration	A
(D)4—II Prong 4: Interstate transport—protect visibility	NA
(D)5—Interstate and international pollution abatement	A
(E)1—Adequate resources	A
(E)2—State board requirements	A
(F)—Stationary source monitoring system	A
(G)—Emergency power	A

Element	2015 ozone
(H)—Future SIP revisions	A
(I)—Nonattainment planning requirements of part D	*
(J)1—Consultation with government officials	A
(J)2—Public notification	A
(J)3—PSD	A
(J)4—Visibility protection	*
(K)—Air quality modeling/data	A
(L)—Permitting fees	A
(M)—Consultation and participation by affected local entities	A

In the above table, the key is as follows:

A	Approve.
NA ...	No Action/Separate Rulemaking.
*	Not germane to infrastructure SIPs.

EPA is also proposing to approve the June 24, 2020, submission from Indiana, which revises the Indiana SIP by incorporating by reference the more recent July 1, 2018, edition of the CFR.

V. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 40 CFR 51.5, EPA is proposing to incorporate by reference Indiana rule 326 IAC 1–1–3, effective April 4, 2020, as discussed in Section III of this preamble. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, nitrogen oxides, ozone, Reporting and recordkeeping requirements, volatile organic compounds.

Dated: June 21, 2022.

Debra Shore,

Regional Administrator, Region 5.

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