National Technology Transfer Advancement Act

In reviewing state submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

List of Subjects in 40 CFR Part 52

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

Dated: August 28, 2015.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2015–22863 Filed 9–9–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2015–0198; FRL–9933–38–Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Infrastructure State Implementation Plan Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of State Implementation Plan (SIP) submissions from Connecticut regarding the infrastructure requirements of Clean Air Act (CAA or Act) for the 2008 lead (Pb), 2008 8-hr ozone, 2010 nitrogen dioxide (NO_2), and 2010 sulfur dioxide (SO_2) National Ambient Air Quality Standards (NAAQS). EPA is also proposing to convert conditional approvals for several infrastructure requirements for the 1997 8-hour ozone NAAQS and for the 1997 and 2006 fine particle ($PM_{2.5}$) NAAQS to full approval under the CAA. Furthermore, we are proposing to newly conditionally approve elements of Connecticut's infrastructure requirements of the Clean Air Act regarding prevention of significant deterioration requirements to treat nitrogen oxides as a precursor to ozone and to establish a minor source baseline date for $PM_{2.5}$ emissions. Lastly, EPA is proposing to approve three statutes submitted by Connecticut in support of their demonstration that the infrastructure requirements of the CAA have been met.

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.

DATES: Comments must be received on or before October 13, 2015.

ADDRESSES: Submit your comments, identified by the appropriate Docket ID number as indicated in the instructions section below, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: arnold.anne@epa.gov.*
3. *Fax:* (617) 918–0047.
4. *Mail:* Anne Arnold, Manager, Air Quality Planning Unit, Air Programs Branch, Mail Code OEP05–2, U.S. Environmental Protection Agency, 5 Post Office Square, Suite 100, Boston, Massachusetts 02109–3912.
5. *Hand Delivery:* Anne Arnold, Manager, Air Quality Planning Unit, Air Programs Branch, Mail Code OEP05–2, U.S. Environmental Protection Agency, 5 Post Office Square, Suite 100, Boston, Massachusetts 02109–3912. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID. EPA–R01–OAR–2015–0198. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: 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.,* CBI 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 at *http://www.regulations.gov* or in hard copy at U.S. Environmental Protection Agency, EPA New England Regional Office, Air Programs Branch, 5 Post Office Square, Boston, Massachusetts. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Alison Simcox, Environmental Scientist, Air Quality Planning Unit, Air Programs Branch (Mail Code OEP05–02), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts 02109–3912; (617) 918–1684; *simcox.alison@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 should I consider as I prepare my comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).
2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

II. What is the background of these State Implementation Plan submissions?

A. What Connecticut SIP submissions does this rulemaking address?

This rulemaking addresses submissions from the Connecticut Department of Energy and Environmental Protection (CT DEEP). The state submitted its infrastructure SIP for each NAAQS on the following dates: 2008 Pb—October 13, 2011; 2008 ozone—December 28, 2012; 2010 NO_2—January 2, 2013; and, 2010 SO_2—May 30, 2013. This rulemaking also addresses certain infrastructure SIP elements for the 1997 and 2006 $PM_{2.5}$[1] NAAQS for which EPA previously issued a conditional approval. See 77 FR 63228 (October 16, 2012). The state submitted these infrastructure SIPs on September 4, 2008, and September 18, 2009, respectively. Lastly, this rulemaking addresses one infrastructure SIP element for the 1997 8-hour ozone NAAQS for which EPA previously issued a conditional approval. See 76 FR 40248 (July 8, 2011). The state submitted this infrastructure SIP on December 28, 2007.

B. Why did the state make these SIP submissions?

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 1997 and 2006 $PM_{2.5}$, 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 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 the NAAQS already meet those requirements.

EPA highlighted this statutory requirement in an October 2, 2007, guidance document entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards'' (2007 Memo). On September 25, 2009, EPA issued an additional guidance document pertaining to the 2006 $PM_{2.5}$ NAAQS entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS)'' (2009 Memo), followed by the October 14, 2011, ''Guidance on infrastructure SIP Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS)'' (2011 Memo). Most recently, EPA issued ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)'' on September 13, 2013 (2013 Memo). The SIP submissions referenced in this rulemaking pertain to the applicable requirements of section 110(a)(1) and (2) and address the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS, and to elements of Connecticut's infrastructure SIP submittals for the 1997 $PM_{2.5}$ and 2006 $PM_{2.5}$ NAAQS which we previously conditionally approved. See 77 FR 63228 (October 16, 2012). To the extent that the PSD program is comprehensive and non-NAAQS specific, a narrow evaluation of other NAAQS, such as the 1997 8-hour ozone NAAQS, will be included in the appropriate sections.

C. What is the scope of this rulemaking?

EPA is acting upon the SIP submissions from Connecticut that address the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS. Additionally, we are proposing to convert conditional approvals for several infrastructure requirements for the 1997 8-hour ozone NAAQS (see 76 FR 40248 (July 8, 2011)) and for the 1997 and 2006 $PM_{2.5}$ NAAQS (see 77 FR 63228 (October 16, 2012)) to full approval, proposing approval of three statutes submitted by Connecticut that support the infrastructure SIP submittals, and proposing to conditionally approve certain aspects of the infrastructure SIP which pertain to the State's PSD program.

The requirement for states to make a SIP submission of this type arises out of CAA sections 110(a)(1) and 110(a)(2).

[1] $PM_{2.5}$ refers to particulate matter of 2.5 microns or less in diameter, oftentimes referred to as ''fine'' particles.

Pursuant to these sections, each state must submit a SIP that provides for the implementation, maintenance, and enforcement of each primary or secondary NAAQS. States must make such SIP submission ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a new or revised NAAQS.'' This requirement is triggered by the promulgation of a new or revised NAAQS and is not conditioned upon EPA's taking any other action. Section 110(a)(2) includes the specific elements that ''each such plan'' must address.

EPA commonly refers to such 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 planning requirements of part D of title I of the CAA.

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 at sources (''SSM'' emissions) 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 (''director's discretion''); and, (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final New Source Review (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 separately. A detailed history, interpretation, and rationale for EPA's approach to infrastructure SIP requirements can be found in EPA's 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 (May 13, 2014).

III. What guidance is EPA using to evaluate these SIP submissions?

EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate. Historically, EPA has elected to use non-binding guidance documents to make recommendations for states' development and EPA review of infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements. EPA guidance applicable to these infrastructure SIP submissions is embodied in several documents. Specifically, attachment A of the 2007 Memo (Required Section 110 SIP Elements) identifies the statutory elements that states need to submit in order to satisfy the requirements for an infrastructure SIP submission. The 2009 Memo provides additional guidance for certain elements regarding the 2006 $PM_{2.5}$ NAAQS, and the 2011 Memo provides guidance specific to the 2008 Pb NAAQS. Lastly, the 2013 Memo identifies and further clarifies aspects of infrastructure SIPs that are not NAAQS specific.

IV. What is the result of EPA's review of these SIP submissions?

Pursuant to section 110(a), and as noted in the 2011 Memo and the 2013 Memo, states must provide reasonable notice and opportunity for public hearing for all infrastructure SIP submissions. CT DEEP held public hearings for each infrastructure SIP on the following dates: 2008 Pb—September 20, 2011; 2008 ozone—December 20, 2012; 2010 NO_2—December 20, 2012; and, 2010 SO_2—May 1, 2013. Connecticut received comments from EPA on each of its proposed infrastructure SIPs, and also received comments from a U.S. Army Regulatory Affairs Specialist on its proposed ozone and NO_2 infrastructure SIPs, and from a consultant with Enhesa in Washington, DC on its proposed SO_2 infrastructure SIP. EPA is also soliciting comment on our evaluation of the state's infrastructure SIP submissions in this notice of proposed rulemaking. Connecticut provided detailed synopses of how various components of its SIP meet each of the requirements in section 110(a)(2) for the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS, as applicable. The following review evaluates the state's submissions in light of section 110(a)(2) requirements and relevant EPA guidance. The review also evaluates certain infrastructure requirements for the 1997 8-hour ozone NAAQS and the 1997 and 2006 $PM_{2.5}$ NAAQS for which EPA previously issued conditional approvals. See 76 FR 40248 (July 8, 2011) and 77 FR 63228 (October 16, 2012.)

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. However, EPA has long interpreted emission limits and control measures for attaining the standards as being due when nonattainment planning requirements are due.[2] 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.

Connecticut Public Act No. 11–80 established the Connecticut Department of Energy and Environmental Protection (CT DEEP), and Connecticut General Statutes (CGS) Section 22a–6(a)(1) provides the Commissioner of CT DEEP authority to adopt, amend or repeal environmental standards, criteria and regulations. It is under this general grant of authority that the Commissioner has adopted emissions standards and control measures for a variety of sources and pollutants. Connecticut also has SIP-approved provisions for specific pollutants. For example, CT DEEP has adopted primary and secondary ambient air quality standards for each of these pollutants in Regulations of Connecticut State Agencies (RCSA) Section 22a–174–24 as follows: For SO_2, Section 22a–174–24(d); for $PM_{2.5}$, Section 22a–174–24(f); for ozone, Section 22a–174–24(i); for NO_2, 22a–174–24(k); and for lead, Section 22a–174–24(*l*). As noted in EPA's approval of Connecticut's Section 22a–174–24, *Ambient Air Quality Standards,* on June 24, 2015 (80 FR 36242), Connecticut's standards are consistent with the current federal NAAQS. Therefore, EPA proposes that Connecticut meets the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

In addition, we previously issued a conditional approval for Connecticut's infrastructure SIP submittal made for the 1997 and 2006 $PM_{2.5}$ NAAQS because portions of Connecticut's

[2] See, *e.g.,* EPA's final rule on ''National Ambient Air Quality Standards for Lead.'' 73 FR 66964, 67034 (Nov. 12, 2008).

section 22a–174–24, Ambient Air Quality Standards were outdated. See 77 FR 63228 (October 16, 2012). However, as noted in our June 24, 2014 action mentioned above, Connecticut has revised their standards and they are now consistent with the federal NAAQS. In light of this, we propose to convert the conditional approval for this infrastructure requirement for the 1997 and 2006 $PM_{2.5}$ NAAQS (see 77 FR 63228 (October 16, 2012)) to full approval. As previously noted, EPA is not proposing to approve or disapprove any existing state provisions or rules related to SSM or director's discretion in the context of section 110(a)(2)(A).

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

This section requires SIPs to include provisions to provide for establishing and operating ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to EPA upon request. Each year, states submit annual air monitoring network plans to EPA for review and approval. EPA's review of these annual monitoring plans includes our evaluation of whether 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.

CT DEEP continues to operate a monitoring network, and EPA approved the state's 2015 Annual Air Monitoring Network Plan for $PM_{2.5}$, Pb, ozone, NO_2, and SO_2 on July 10, 2015. Furthermore, CT DEEP populates AQS with air quality monitoring data in a timely manner, and provides EPA with prior notification when considering a change to its monitoring network or plan. EPA proposes that CT DEEP has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

C. Section 110(a)(2)(C)—Program for Enforcement of Control Measures and for Construction or Modification of Stationary Sources

States are required to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to meet NSR requirements under PSD and nonattainment new source review (NNSR) programs. Part C of the CAA (sections 160–169B) addresses PSD, while part D of the CAA (sections 171–193) addresses NNSR requirements.

The evaluation of each state's submission addressing the infrastructure SIP requirements of section 110(a)(2)(C) covers the following: (i) Enforcement of SIP measures; (ii) PSD program for major sources and major modifications; and, (iii) permitting program for minor sources and minor modifications. A discussion of GHG permitting and the ''Tailoring Rule'' [3] is included within our evaluation of the PSD provisions of Connecticut's submittals.

i. Sub-Element 1: Enforcement of SIP Measures

CT DEEP staffs and implements an enforcement program pursuant to CGS section 22a. Specifically, CGS section 22a–6 authorizes the Commissioner of CT DEEP to inspect and investigate to ascertain whether violations of any statute, regulation, or permit may have occurred and to impose civil penalties. CGS section 22a–171 requires the Commissioner to ''adopt, amend, repeal, and enforce regulations . . . and do any other act necessary to enforce the provisions of'' CGS sections 22a–170 through 22a–206, which provide CT DEEP with the authority to, among other things, enforce its regulations, issue orders to correct violations of regulations or permits, impose state administrative penalties, and seek judicial relief. EPA proposes that Connecticut has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

ii. Sub-Element 2: Prevention of Significant Deterioration Program for Major Sources and Major Modifications

Prevention of significant deterioration (PSD) permitting requirements apply to new major sources or major modifications made to major sources, for pollutants where the area in which the source is located is in attainment with, or unclassifiable with regard to, the relevant NAAQS. CT DEEP's EPA-approved PSD rules in RCSA sections 22a–174–1, 22a–174–2a, and 22a–174–3a contain provisions that address the majority of the applicable infrastructure SIP requirements related to the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

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 (see 70 FR 71612 at 71679, 71699–71700 (November 29, 2005)). This requirement was codified in 40 CFR 51.166, and requires that states submit SIP revisions incorporating the requirements of the rule, including provisions that would treat nitrogen oxides (NO_X) as a precursor to ozone. These SIP revisions were to have been submitted to EPA by states by June 15, 2007. See 70 FR 71612 at 71683 (November 29, 2005).

Connecticut's PSD rules do not currently contain the provisions needed to ensure that NO_X be treated as a precursor to ozone, and the State's PSD rules must be changed in the future to meet this requirement. To correct this deficiency, the CT DEEP has committed, by letter dated August 5, 2015, to submit for EPA approval into the SIP provisions that meet the requirements at 40 CFR 51.166(b)(1) and (b)(2) relating to the requirement to treat NO_X as a precursor pollutant to ozone. Accordingly, as we articulate further on in our discussion of this sub-element, while the majority of Connecticut's submittals pertaining to section 110(a)(2)(C) with respect to the 2008 Pb, 2008 ozone, 2010 NO_2, 2010 SO_2, 1997 $PM_{2.5}$, and 2006 $PM_{2.5}$ NAAQS are consistent with the federal requirements, we are proposing to conditionally approve Connecticut's PSD regulations as to those specific regulatory provisions that will need to be amended by Connecticut in order to treat NO_X emissions as precursor emissions to ozone formation.

On October 20, 2010 (75 FR 64864), EPA issued a final rule entitled ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments,

[3] In EPA's April 28, 2011 proposed rulemaking for infrastructure SIPs for the 1997 ozone and $PM_{2.5}$ NAAQS, we stated that each state's PSD program must meet applicable requirements for evaluation of all regulated NSR pollutants in PSD permits (see 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 (see 77 FR 45992 at 45998). In other words, if a state lacks provisions needed to adequately address Pb, NO_X as a precursor to ozone, $PM_{2.5}$ precursors, $PM_{2.5}$ and PM_{10} condensables, $PM_{2.5}$ 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 2008 Pb NAAQS.

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 adding the required elements for $PM_{2.5}$ into a state's existing system of ''increment analysis,'' which is the mechanism used in the PSD permitting program to estimate significant deterioration of ambient air quality for a pollutant in relation to new source construction or modification. The maximum allowable increment increases for different pollutants are codified in 40 CFR 51.166(c) and 40 CFR 52.21(c).

The 2010 NSR Rule described in the preceding paragraph revised the existing system for determining increment consumption by establishing a new ''major source baseline date'' for $PM_{2.5}$ of October 20, 2010, and by establishing a trigger date for $PM_{2.5}$ in relation to the definition of ''minor source baseline date.'' These revisions to the federal PSD rules are codified in 40 CFR 51.166(b)(14)(i)(*c*) and (b)(14)(ii)(*c*), and 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 52.21(b)(15)(i). States were required to revise their SIPs consistent with these changes to the federal regulations.

On October 9, 2012, Connecticut submitted revisions to its PSD program incorporating two of the four changes addressed by the 2010 NSR Rule. The two changes were 1) a revised definition of ''Major source baseline date'' that included a date for $PM_{2.5}$ specifically; and 2) the addition of the maximum allowable increment for $PM_{2.5}$. EPA approved Connecticut's October 9, 2012 SIP revision on July 24, 2015 (80 FR 43960). Therefore, we propose to convert to a full approval the earlier conditional approval as it applies to these two elements of the EPA's 2010 rulemaking in the context of the infrastructure requirements for the 1997 and 2006 $PM_{2.5}$ NAAQS. See 77 FR 63228 (October 16, 2012).

CT DEEP's October 9, 2012 SIP revision did not specifically address the two other changes EPA made to the PSD rules in 2010, and for the following reasons EPA did not intend for those two issues to be part of the conditional approval described in our October 16, 2012 notice. One of those changes is the requirement that a State's definition of ''minor source baseline date'' be amended to include a trigger date for $PM_{2.5}$ emissions (see EPA's definition for ''minor source baseline date'' at 40 CFR 51.166(b)(14)(ii)). Instead of using a specific date, EPA's definition for minor source baseline date provides that the minor source baseline date is triggered by a state's receipt of its first complete PSD application. At the time CT DEEP made its October 9, 2012 SIP revision, it would not have been possible for the State to have amended its regulation to include a specific minor source baseline date because no source had submitted a complete PSD application for $PM_{2.5}$. This is also true for CT DEEP's other infrastructure SIPs addressed in this action. This is so because CT DEEP's PSD regulations are structured in a way that uses actual specific dates based on submission of a first complete PSD application for a particular pollutant. (The approach contained in EPA's regulations is somewhat different in the sense that instead of using actual specific dates, EPA articulates the concept of a first complete PSD application as the minor source baseline date trigger.) EPA understands that CT DEEP did not receive a complete PSD application for a source subject to PSD for $PM_{2.5}$ emissions until September 24, 2014. Consequently, the State could not have included an actual date in its definition of ''minor source baseline date'' within its October 9, 2012 SIP revision.

Although Connecticut could not establish an actual date for $PM_{2.5}$ in its definition of ''minor source baseline date,'' at the time of its October 9, 2012 SIP revision, Connecticut is now able to revise this definition to include a specific date that is consistent with EPA's definition because a complete PSD application has been submitted to CT DEEP for a major new source of $PM_{2.5}$ emissions. Accordingly, the CT DEEP has committed by letter dated August 5, 2015, to submit for EPA approval into the SIP a minor source baseline date for $PM_{2.5}$ that meets the requirements at 40 CFR 51.166(b)(14)(ii)(c). Consequently, we propose to conditionally approve Connecticut's submittals for this sub-element pertaining to section 110(a)(2)(C) with respect to the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS. Consistent with our reasoning above, we are also proposing to newly conditionally approve Connecticut's submittals for this sub-element with respect to the 1997 and 2006 $PM_{2.5}$ NAAQS.

The fourth change to the PSD regulations that EPA made in 2010 was to add ''equal or greater than 0.3 $\mu g/m^3$ (annual average) for $PM_{2.5}$'' to the definition of ''baseline area.'' This requires states to determine whether another baseline area, other than the baseline area where the PSD subject source is locating, needs to be analyzed based on the air quality impact predicted from the new PSD source. The impact on another baseline area is limited to any impacts above the defined thresholds contained within the definition of ''baseline area'' on another area within Connecticut. In other words, under EPA's PSD requirements the baseline area evaluation does not include within it analysis of a new source's impacts in another state.

Connecticut's current SIP and State PSD rules do not contain a definition of ''baseline area.'' EPA has confirmed in communications with CT DEEP that it treats the entire state as a single baseline area, which obviates the need to have a definition for this term. EPA agrees that the language EPA added to the federal definition of ''baseline area'' in the federal PSD requirements is not necessary in Connecticut because there is no other baseline area within the State.

Moreover, EPA has concluded that the lack of such a specific definition of ''baseline area'' does not in theory, and has not in fact over many years, preclude CT DEEP from ensuring that emissions from a major new source or major modification will not consume more increment than would be available or allowable even had CT DEEP adopted a definition that was exactly the same as EPA's definition of baseline area. In other words, CT DEEP has a regulatory structure that it has used over many years to ensure that increment consumption arising from new construction comports as a practical matter with federal PSD requirements and is functionally equivalent. EPA last approved CT DEEP's increment calculation methodology on February 27, 2003 (68 FR 9009).

Based on actual emissions data from the most recent National Emission Inventory emissions data base (2011), there are only 15 existing major stationary sources in Connecticut, all of which are major due to NO_X emissions. None of these sources emitted 100 tons per year or more of PM_{10}, $PM_{2.5}$, or VOC emissions. Further, 10 of these NO_X sources are the only such source in their city or town, two are located in Middletown, and three are located in Bridgeport. Typically, the determination of whether a new or modified source's emissions could potentially consume more than the available increment in an area depends on whether other significant sources of air emissions impact the same area. The facts described above show how unlikely this would be, even if theoretically possible.

EPA has determined that the differences between Connecticut's mechanism for determining if emissions from the new or modified source will exceed the available increment and EPA's mechanism is negligible, if different at all, in terms of emissions. Connecticut's and EPAs mechanisms both take into account, in a manner sufficiently protective of air quality, consumption of available increment from nearby sources.

In addition to the above, once CT DEEP addresses the conditional approval discussed earlier regarding the State's definition of ''minor source baseline date,'' the impact of Connecticut's approved mechanism for determining available increment most likely will result in a *more* conservative or protective approach than EPA's increment structure. This is because all growth within Connecticut after September 24, 2014, that would result in any increase in $PM_{2.5}$ emissions will be consuming the available increment for a new or modified source required to obtain a PSD permit for $PM_{2.5}$ emissions *anywhere within the State.* Under EPA's mechanism for determining available increment, because there has, to date, only been a PSD application submitted for a new source that constructed in New Haven County, changes to the available increment would only be evaluated from sources in New Haven County. Put differently, EPA's mechanism would allow some of the future growth in $PM_{2.5}$ emissions *outside* of New Haven County to be considered part of the baseline concentration and, therefore, would not consume increment elsewhere in Connecticut.

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 directly emit $PM_{2.5}$ emissions and sources that emit 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 precursor pollutants. In the 2008 rule, EPA identified precursors to $PM_{2.5}$ for the PSD program to be 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 volatile organic compounds (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 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).[4]

The 2008 NSR Rule did not require states to immediately account for gases that could condense to form particulate matter, known as ''condensables'', 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} condensables 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. See 73 FR 28321 at 28334. This requirement is codified in 40 CFR 51.166(b)(49)(i)(*a*) and 52.21(b)(50)(i)(*a*). Revisions to states' PSD programs incorporating the inclusion of condensables were required be submitted to EPA by May 16, 2011 (see 73 FR 28321 at 28341).

On October 9, 2012, Connecticut submitted revisions to its PSD program incorporating the necessary changes required by the 2008 NSR Rule with respect to provisions that explicitly identify precursors to $PM_{2.5}$. EPA approved Connecticut's October 9, 2012 SIP revision on July 24, 2015 (80 FR 43960).

Connecticut's SIP-approved PSD program does not contain a specific provision that explicitly contains the language in 40 CFR 51.166(b)(49)(i) addressing the inclusion of the gaseous, condensable fraction of $PM_{2.5}$ and PM_{10} for the purpose of PSD applicability or establishing permit emissions limits conditions.

However, by letter submitted to EPA Region 1 and dated August 5, 2015 Connecticut explained that its major stationary source preconstruction permitting program does, in fact, require inclusion of the condensable portion of PM_{10} and $PM_{2.5}$ for PSD applicable purposes and establishing permit emissions limits and conditions, because Section 22a–174–1 of the State's regulations defines those two pollutants in terms of an amount measured at *ambient air conditions.* Consequently, because the gaseous, condensable portions of PM_{10} and $PM_{2.5}$ are, in fact, condensed at ambient air conditions, Connecticut's requirements meet the corresponding federal requirements.

Therefore, we are proposing that Connecticut has met this set of requirements of section 110(a)(2)(C) for the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS regarding the requirements of EPA's 2008 NSR Rule. Additionally, we are also proposing to convert our prior conditional approval for this infrastructure requirement for the 1997 and 2006 $PM_{2.5}$ NAAQS (see 77 FR 63228 (October 16, 2012)) to a full approval.

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*

[4] 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, the 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, the EPA's approval of Connecticut'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.

v. *Environmental Protection Agency,* 134 S.Ct. 2427. The Supreme Court said that the 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 the 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. 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.''

The 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 in light of 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. The EPA is not expecting states to have revised their PSD programs in anticipation of the EPA's planned actions to revise its PSD program rules in response to the court decisions. For purposes of infrastructure SIP submissions, the EPA is only evaluating such submissions to assure that the state's program addresses GHGs consistent with both court decisions.

At present, the EPA has determined that Connecticut's SIP is sufficient to satisfy this sub-element of section 110(a)(2)(C) (as well as sub-elements (D)(i)(II) and (J)(iii)) with respect to GHGs. This is because the PSD permitting program previously approved by the EPA into the SIP continues to require that PSD permits issued to ''anyway sources'' contain limitations on GHG emissions based on the application of BACT.

The approved Connecticut PSD permitting program still contains some provisions regarding Step 2 sources that are no longer necessary in light of the Supreme Court decision and D.C. Circuit amended judgment. Nevertheless, the presence of these provisions in the previously-approved plan does not render the infrastructure SIP submission inadequate to satisfy Elements C, D (sub-element (i)(II)), and J. The SIP contains the PSD requirements for applying the BACT requirement to greenhouse gas emissions from ''anyway sources'' that are necessary at this time. The application of those requirements is not impeded by the presence of other previously-approved provisions regarding the permitting of Step 2 sources. Accordingly, the Supreme Court decision and subsequent D.C. Circuit judgment do not prevent the EPA's approval of Connecticut's infrastructure SIP as to the requirements of Element C (as well as sub-elements (D)(i)(II) and (J)(iii)).

For the purposes of the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS infrastructure SIPs, EPA reiterates that NSR Reform is not in the scope of these actions. Therefore, we are not taking action on existing NSR Reform regulations for Connecticut.

In summary, we are proposing to approve the majority of Connecticut's submittals for this sub-element pertaining to section 110(a)(2)(C) with respect to the 2008 Pb, 2008 ozone, 2010 NO_X, and 2010 SO_2 NAAQS, but to conditionally approve the aspects pertaining to treating NO_X as a precursor to ozone and to establishing a minor source baseline date for $PM_{2.5}$. We are also proposing to newly conditionally approve Connecticut's submittals for this sub-element with respect to the 1997 and 2006 $PM_{2.5}$ NAAQS for these same PSD requirements.

iii. Sub-Element 3: Preconstruction Permitting for Minor Sources and Minor Modifications

To address the pre-construction regulation of the modification and construction of minor stationary sources and minor modifications of major stationary sources, an infrastructure SIP submission should identify the existing EPA-approved SIP provisions and/or include new provisions that govern the minor source pre-construction program that regulates emissions of the relevant NAAQS pollutants. EPA approved Connecticut's minor NSR program, as well as updates to that program, with the most recent approval occurring on February 28, 2003 (68 FR 9009). Since this date, Connecticut 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 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

We are proposing to find that Connecticut has met the requirement to have a SIP approved minor new source review permit program as required under Section 110(a)(2)(C) for the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

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

This section contains a comprehensive set of air quality management elements pertaining to the transport of air pollution that states must comply with. It covers the following 5 topics, categorized as sub-elements: Sub-element 1, Contribute to nonattainment, and interference with maintenance of a NAAQS; Sub-element 2, PSD; Sub-element 3, Visibility protection; Sub-element 4, Interstate pollution abatement; and Sub-element 5, International pollution abatement. Sub-elements 1 through 3 above are found under section 110(a)(2)(D)(i) of the Act, and these items are further categorized into the 4 prongs discussed below, 2 of which are found within sub-element 1. Sub-elements 4 and 5 are found under section 110(a)(2)(D)(ii) of the Act and include provisions insuring compliance with sections 115 and 126 of the Act relating to interstate and international pollution abatement.

i. Sub-Element 1: Section 110(a)(2)(D)(i)(I)—Contribute to Nonattainment (Prong 1) and Interfere With Maintenance of the NAAQS (Prong 2)

With respect to the 2008 Pb NAAQS, the 2011 Memo notes that the physical properties of Pb prevent it from experiencing the same travel or formation phenomena as $PM_{2.5}$ or ozone. Specifically, there is a sharp decrease in Pb concentrations as the distance from a Pb source increases. Accordingly, although it may be possible for a source in a state to emit

Pb at a location and in such quantities that contribute significantly to nonattainment in, or interference with maintenance by, any other state, EPA anticipates that this would be a rare situation (*e.g.,* sources emitting large quantities of Pb in close proximity to state boundaries). The 2011 Memo suggests that the applicable interstate transport requirements of section 110(a)(2)(D)(i)(I) with respect to Pb can be met through a state's assessment as to whether or not emissions from Pb sources located in close proximity to its borders have emissions that impact a neighboring state such that they contribute significantly to nonattainment or interfere with maintenance in that state.

Connecticut's infrastructure SIP submission for the 2008 Pb NAAQS notes that there are no sources of Pb emissions located in close proximity to any of the state's borders with neighboring states. Additionally, Connecticut's submittal and the emissions data the state collects from its sources indicate that there is no single source of Pb, or group of sources, anywhere within the state that emits enough Pb to cause ambient concentrations to approach the Pb NAAQS. Our review of data within our National Emissions Inventory (NEI) database confirms this, and, therefore, we propose that Connecticut has met this set of requirements related to section 110(a)(2)(D)(i)(I) for the 2008 Pb NAAQS.

With respect to the 2010 NO_2 NAAQS, on February 17, 2012, EPA designated the entire country as ''unclassifiable/attainment'' for this standard, explaining that this designation means that ''available information does not indicate that the air quality in these areas exceeds the 2010 NO_2 NAAQS.'' See 77 FR 9532 (February 17, 2012). In other words, Connecticut and all neighboring states are currently designated as ''unclassifiable/attainment'' for the 2010 NO_2 NAAQS.

NO_X emissions in Fairfield and New Haven Counties in Connecticut are projected to decrease by more than 50 percent between 2007 and 2025, further reducing any impacts from Connecticut on other states. Similar reductions are expected throughout the rest of the state (see Connecticut's $PM_{2.5}$ Redesignation Request and Maintenance Plan, Technical Support Document, June 22, 2012 included in the docket for this notice). Furthermore, EPA examined the design values from NO_2 monitors in Connecticut and neighboring states based on data collected between 2011 and 2013. In Connecticut, the highest design value was 55 parts per billion (ppb) (versus the NO_2 standard of 100 ppb) at a monitor in New Haven. The highest design values in neighboring states were 60 ppb in New York (Bronx site 360050133), 52 ppb in Massachusetts (Worcester site 250270023), and 43 ppb in Rhode Island (Providence site 440070012). EPA believes that, with the continued implementation of Connecticut's SIP-approved PSD and NNSR regulations found in RCSA section 22a–174–3a, the state's low monitored values of NO_2 will continue. In other words, the NO_2 emissions from Connecticut are not expected to cause or contribute to a violation of the 2010 NO_2 NAAQS in another state,[5] and these emissions are not likely to interfere with the maintenance of the 2010 NO_2 NAAQS in another state. Therefore, EPA proposes that Connecticut has met this set of requirements related to section 110(a)(2)(D)(i)(I) for the 2010 NO_2 NAAQS.

In summary, we are proposing that Connecticut has met section 110(a)(2)(D)(i)(I) for the 2008 Pb and 2010 NO_2 NAAQS. Connecticut made a SIP submission with respect to section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS on June 15, 2015 and the 2010 SO_2 NAAQS on May 30, 2013. EPA is reviewing these SIP submissions and will take actions on this infrastructure requirement for both the 2008 ozone NAAQS and the 2010 SO_2 NAAQS at a later date.

ii. Sub-Element 2: Section 110(a)(2)(D)(i)(II)—PSD (Prong 3)

One aspect of section 110(a)(2)(D)(i)(II) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state. One way for a state to meet this requirement is through a comprehensive PSD permitting program that applies to all regulated NSR pollutants and that satisfies the requirements of EPA's PSD implementation rules. As has already been discussed in the paragraphs addressing the PSD sub-element of Element C, Connecticut has satisfied the majority, though not all, of the applicable PSD implementation rule requirements.

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. EPA approved Connecticut's NNSR regulations on February 27, 2003 (68 FR 9009). These regulations contain provisions for how the state must treat and control sources in nonattainment areas, consistent with 40 CFR 51.165, or appendix S to 40 CFR part 51.

As noted above and in Element C, Connecticut's PSD program does not fully satisfy the requirements of EPA's PSD implementation rules, although Connecticut has committed to submit the required provisions for EPA approval by a date no later than one year from conditional approval of Connecticut's infrastructure submissions. Consequently, we are proposing to conditionally approve this sub-element for the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS. Additionally, we are proposing to convert our prior conditional approval of this sub-element as it relates to certain PSD implementation rules described under Element C above for the 1997 and 2006 $PM_{2.5}$ NAAQS (see 77 FR 63228 (October 16, 2012)) to a full approval. We are also proposing to newly conditionally approve this sub-element for the 1997 and 2006 $PM_{2.5}$ NAAQS for certain other implementation rule requirements for the reasons discussed under Element C above.

iii. Sub-Element 3: Section 110(a)(2)(D)(i)(II)—Visibility Protection (Prong 4)

With regard to the applicable requirements for visibility protection of section 110(a)(2)(D)(i)(II), states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). The 2009 Memo, the 2011 Memo, and 2013 Memo state that these requirements can be satisfied by an approved SIP addressing reasonably attributable visibility impairment, if required, or an approved SIP addressing regional haze.

Connecticut's Regional Haze SIP was approved by EPA on July, 10, 2014 (79 FR 39322). Accordingly, EPA proposes that Connecticut has met the visibility protection requirements of 110(a)(2)(D)(i)(II) for the 2008 Pb NAAQS, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

[5] The highest design value for the 1 hr NO_2 standard for a monitor in an adjacent state and is located nearby Connecticut is 60 ppb at a monitor in Bronx, New York.

iv. Sub-Element 4: Section 110(a)(2)(D)(ii)—Interstate Pollution Abatement

One aspect of section 110(a)(2)(D)(ii) requires each SIP to contain adequate provisions requiring compliance with the applicable requirements of section 126 relating to interstate pollution abatement.

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.

EPA approved revisions to Connecticut's PSD program on July 24, 2015 (80 FR 43960), including the element pertaining to notification to neighboring states of the issuance of PSD permits. Therefore, we propose to approve Connecticut's compliance with the infrastructure SIP requirements of section 126(a) with respect to the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS. EPA also proposes to convert the previous conditional approvals for this infrastructure requirement for the 1997 and 2006 $PM_{2.5}$ NAAQS (see 77 FR 63228 (October 16, 2012)) and the 1997 ozone NAAQS (see 76 FR 40255 (July 8, 2011)) to full approval. Connecticut has no obligations under any other provision of section 126.

v. Sub-Element 5: Section 110(a)(2)(D)(ii)—International Pollution Abatement

One portion of section 110(a)(2)(D)(ii) requires each SIP to contain adequate provisions requiring compliance with the applicable requirements of section 115 relating to international pollution abatement. Connecticut does not have any pending obligations under section 115 for the 2008 Pb, 2008 ozone, 2010 NO_2, or 2010 SO_2 NAAQS. Therefore, EPA is proposing that Connecticut has met the applicable infrastructure SIP requirements of section 110(a)(2)(D)(ii) related to section 115 of the CAA (international pollution abatement) for the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

E. Section 110(a)(2)(E)—Adequate Resources

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. Additionally, Section 110(a)(2)(E)(ii) requires each state to comply with the requirements with respect to state boards under section 128. Finally, section 110(a)(2)(E)(iii) requires that, where a state relies upon local or regional governments or agencies for the implementation of its SIP provisions, the state retain responsibility for ensuring adequate implementation of SIP obligations with respect to relevant NAAQS. This sub-element, however, is inapplicable to this action, because Connecticut does not rely upon local or regional governments or agencies for the implementation of its SIP provisions.

Sub-Element 1: Adequate Personnel, Funding, and Legal Authority Under State Law To Carry Out Its SIP, and Related Issues

Connecticut, through its infrastructure SIP submittals, has documented that its air agency has the requisite authority and resources to carry out its SIP obligations. CGS section 22a–171 authorizes the Commissioner of the CT DEEP to enforce the state's air laws, accept and administer grants, and exercise incidental powers necessary to carry out the law. The Connecticut SIP, as originally submitted on March 3, 1972, and subsequently amended, provides additional descriptions of the organizations, staffing, funding and physical resources necessary to carry out the plan. EPA proposes that Connecticut has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E) with respect to the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

Sub-element 2: State Board Requirements Under Section 128 of the CAA

Section 110(a)(2)(E) also requires each SIP to contain provisions that comply with the state board requirements of section 128 of the CAA. That provision 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.

In Connecticut, no board or body approves permits or enforcement orders; these are approved by the Commissioner of CT DEEP. Thus, Connecticut is subject only to the requirements of paragraph (a)(2) of section 128 of the CAA. Infrastructure SIPs submitted by Connecticut include descriptions of conflict-of-interest provisions in CGS section 1–85, which applies to all state employees and public officials. Section 1–85 prevents the Commissioner from acting on a matter in which the Commissioner has an interest that is ''in substantial conflict with the proper discharge of his duties or employment in the public interest and of his responsibilities as prescribed in the laws of'' Connecticut. Connecticut submitted CGS section 1–85 for incorporation into the SIP on December 28, 2012 with its infrastructure SIP for the 2008 ozone NAAQS,[6] and we are herein proposing to approve this statute into the Connecticut SIP.

Upon approval of CGS section 1–85 into the SIP, EPA proposes that Connecticut has met the applicable infrastructure SIP requirements for this section of 110(a)(2)(E) for the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS. In addition, EPA previously issued a conditional approval to Connecticut for this infrastructure requirement for the 1997 and 2006 $PM_{2.5}$ NAAQS. See 77 FR 63228 (October 16, 2012). Given that Connecticut has now addressed this issue, we are also proposing to convert the prior conditional approval for this infrastructure requirement for the 1997 and 2006 $PM_{2.5}$ NAAQS to full approval.

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

States must establish a system to monitor emissions from stationary sources and submit periodic emissions reports. Each plan shall also require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources. The state plan shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and correlation of such reports by each state agency with any emission limitations or standards established pursuant to this chapter. Lastly, the reports shall be available at reasonable times for public inspection.

CGS section 22a–6(a)(5) authorizes the Commissioner to enter at all reasonable times, any public or private property (except a private residence) to investigate possible violations of any

[6] CT DEEP also requested approval into the SIP of CGS section 1–85 in its January 2, 2013 infrastructure SIP for the 2002 NO_2 NAAQS.

statute, regulation, order or permit. Additionally, CGS section 22a–174 authorizes the Commissioner to require periodic inspection of sources of air pollution and to require any person to maintain, and to submit to CT DEEP, certain records relating to air pollution or to the operation of facilities designed to abate air pollution. For monitoring possible air violations, CT DEEP implements RCSA section 22a–174–4, ''*Source monitoring, record keeping and reporting,*'' to require the installation, maintenance, and use of emissions monitoring devices and to require periodic reporting to the Commissioner of the nature and extent of the emissions. Section 22a–174–4 has been approved into the SIP (see 79 FR 41427 (July 16, 2014). Additionally, CT DEEP implements RCSA section 22a–175–5, ''*Methods for sampling, emissions testing, sample analysis, and reporting,*'' which provides, among other things, specific test methods to be used to demonstrate compliance with various aspects of Connecticut's air regulations, and this rule has also been approved into the SIP (see 46 FR 43418 (December 19, 1980)). Furthermore, under RCSA section 22a–174–10, emissions data are to be available to the public and are not entitled to protection as a trade secret (see 37 FR 23085 (October 28, 1972)). EPA recognizes that Connecticut routinely collects information on air emissions from its industrial sources and makes this information available to the public. EPA, therefore, proposes that Connecticut has met the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

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

This section requires that a plan provide for authority that is analogous to what is provided in section 303 of the CAA, and adequate contingency plans to implement such authority. Section 303 of the CAA provides authority to the EPA Administrator to seek a court order to restrain any source from causing or contributing to emissions that present an ''imminent and substantial endangerment to public health or welfare, or the environment.'' Section 303 further authorizes the Administrator to issue ''such orders as may be necessary to protect public health or welfare or the environment'' in the event that ''it is not practicable to assure prompt protection . . . by commencement of such civil action.''

We propose to find that Connecticut's submittals and certain state statutes provide for authority comparable to that in section 303. Connecticut's submittals specify that CGS section 22a–181, *Emergency Action,* authorizes the Commissioner of the CT DEEP to issue an order requiring any person to immediately reduce or discontinue air pollution as required to protect the public health or safety. In a letter dated August 5, 2015, Connecticut also specified that CGS section 22a–7 grants the Commissioner the authority, whenever he finds ''that any person is causing, engaging in or maintaining, or is about to cause, engage in or maintain, any condition or activity which, in his judgment, will result in or is likely to result in imminent and substantial damage to the environment, or to public health within the jurisdiction of the commissioner under the provisions of chapter[ ] . . . 446c [Air Pollution Control] . . . [to] issue a cease and desist order in writing to such person to discontinue, abate or alleviate such condition or activity.'' This section further provides the Commissioner with the authority to seek a court ''to enjoin any person from violating a cease and desist order issued pursuant to [sec. 22a–7] and to compel compliance with such order.''

Section 110(a)(2)(G) also requires that, for any NAAQS, except Pb, Connecticut have an approved contingency plan for any Air Quality Control Region (AQCR) within the state that is classified as Priority I, IA, or II. A contingency plan is not required if the entire state is classified as Priority III for a particular pollutant. See 40 CFR part 51 subpart H. Classifications for the four AQCRs in Connecticut can be found at 40 CFR 52.371. Connecticut's portion of the New Jersey–New York–Connecticut Interstate AQCR is classified as a Priority I area for SO_X, NO_2, and ozone. In addition, Connecticut's portion of the Hartford–New Haven–Springfield Interstate AQCR is classified as a Priority I area for SO_X and ozone. Consequently, Connecticut's SIP must contain an emergency contingency plan meeting the specific requirements of 40 CFR 51.151 and 51.152, as appropriate, with respect to these pollutants. As noted in Connecticut's infrastructure SIP submittals for ozone, NO_2, and SO_2, Connecticut has adopted ''*Air pollution emergency episode procedures''* at RCSA section 22a–174–6. This regulation, originally numbered RCSA 19–508–6, was initially approved into the Connecticut SIP on May 31, 1972 (37 FR 23085), with amendments to the rule approved on December 23, 1980 (45 FR 84769).

As stated in Connecticut's infrastructure SIP submittals under the discussion of public notification (Element J), Connecticut also, as a matter of practice, posts on the internet daily forecasted ozone and fine particle levels through the EPA AirNow and EPA EnviroFlash systems. Information regarding these two systems is available on EPA's Web site at *www.airnow.gov.* Notices are sent out to EnviroFlash participants when levels are forecast to exceed the current 8-hour ozone or 24-hour $PM_{2.5}$ standard. In addition, when levels are expected to exceed the ozone or $PM_{2.5}$ standard in Connecticut, the media are alerted via a press release, and the National Weather Service (NWS) is alerted to issue an Air Quality Advisory through the normal NWS weather alert system.

Connecticut's participation in the AirNow and EnviroFlash programs addresses several of the public announcement and communications procedures and coordination with the National Weather Service included in the discussion of contingency plans in subpart H. See 40 CFR 51.152(a)(2), (b)(1), and (b)(3).

In addition, Connecticut's infrastructure SIP submittals reference CGS section 22a–174(c) under Element F, regarding the inspection of sources. This statute, which provides the Commissioner of CT DEEP with the authority to require periodic inspection of sources of air pollution, is also relevant under Element G, since 40 CFR 51.152(b)(2) requires each contingency plan to provide for the inspection of sources to be sure they are complying with any required emergency control actions.

Finally, with respect to Pb, we note that Pb is not explicitly included in the contingency plan requirements of subpart H. In addition, we note that there are no large sources of Pb in Connecticut. Specifically, a review of the National Emission Inventory shows that there are no sources of Pb in Connecticut that exceed EPA's reporting threshold of 0.5 tons per year. Although not expected, if that situation were to change, as noted previously, Connecticut does have general authority (*e.g.,* CGS sections 22a–7 and 22a–181) to restrain any source from causing imminent and substantial endangerment.

Therefore, EPA proposes that Connecticut through the combination of statutes, regulations, and participation in EPA's AirNow program discussed above, has met the applicable infrastructure SIP requirements of section 110(a)(2)(G) with respect to the 2008 Pb NAAQS, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

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

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

Connecticut certifies that its SIP may be revised should EPA find that it is substantially inadequate to attain a standard or to comply with any additional requirements under the CAA and notes that CGS section 22a–174(d) grants the Commissioner all incidental powers necessary to control and prohibit air pollution. EPA proposes that Connecticut has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

I. Section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under 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 submissions from Connecticut with respect to the requirements of CAA section 110(a)(2)(J) are described below.

i. Sub-Element 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.

CGS section 22a–171, *Duties of Commissioner of Energy and Environmental Protection,* directs the Commissioner to consult with agencies of the United States, agencies of the state, political subdivisions and industries and any other affected groups in matters relating to air quality. Additionally, CGS section 22a–171 directs the Commissioner to initiate and supervise state-wide programs of air pollution control education and to adopt, amend, repeal and enforce air regulations. Furthermore, RCSA section 22a–174–2a, which has been approved into Connecticut's SIP (see 80 FR 43960 (July 24, 2015)), directs CT DEEP to notify relevant municipal officials and FLMs, among others, of tentative determinations by CT DEEP with respect to certain permits. In its SO_2 infrastructure SIP submittal, CT DEEP submits CGS section 22a–171 for inclusion into the SIP. EPA proposes to approve this statute into the SIP and proposes that Connecticut has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

ii. Sub-Element 2: Public Notification

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

As part of the fulfillment of CGS section 22a–171, *Duties of Commissioner of Energy and Environmental Protection,* Connecticut issues press releases and posts warnings on its Web site advising people what they can do to help prevent NAAQS exceedances and avoid adverse health effects on poor air quality days. Connecticut is also an active partner in EPA's AirNow and Enviroflash air quality alert programs. EPA proposes that Connecticut has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

iii. Sub-Element 3: PSD

States must meet applicable requirements of section 110(a)(2)(C) related to PSD. Connecticut's PSD program in the context of infrastructure SIPs has already been discussed in the paragraphs above addressing section 110(a)(2)(C), 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). Our proposed actions are reiterated below.

As noted above in Element C, Connecticut's PSD program does not fully satisfy the requirements of EPA's PSD implementation rules, although Connecticut has committed to submit the required provisions for EPA approval by a date no later than one year from conditional approval of Connecticut's infrastructure submissions. Consequently, we are proposing to conditionally approve this sub-element for the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS. Additionally, we are proposing to convert our prior conditional approval of this sub-element as it relates to certain PSD implementation rules described under Element C above for the 1997 and 2006 $PM_{2.5}$ NAAQS (see 77 FR 63228 (October 16, 2012)) to a full approval. We are also proposing to newly conditionally approve this sub-element for the 1997 and 2006 $PM_{2.5}$ NAAQS for certain other implementation rule requirements for the reasons discussed under Element C above.

iv. Sub-Element 4: Visibility Protection

With regard to the applicable requirements for 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, we find 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 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

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

To satisfy element K, the state air agency must demonstrate that it has the authority to perform air quality modeling to predict effects on air quality of emissions of any NAAQS pollutant and submission of such data to EPA upon request.

Connecticut reviews the potential impact of major sources consistent with 40 CFR part 51, appendix W, ''Guidelines on Air Quality Models.'' The modeling data are sent to EPA along with the draft major permit. Pursuant to CGS section 22a–5, the Commissioner is directed to ''promote and coordinate management of . . . air resources to assure their protection, enhancement and proper allocation and utilization'' and to ''provide for the prevention and abatement of all . . . air pollution including, but not limited to, that related to particulates, gases, dust, vapors, [and] odors.'' Under RCSA section 22a–174–3a(i), *Ambient Air Quality Analysis,* which has been approved into the Connecticut SIP on February 27, 2003 (68 FR 3009), the Commissioner is authorized to request any owner or operator to submit an ambient air quality impact analysis using CT DEEP approved air quality models and modeling protocols. The state also collaborates with the Ozone Transport Commission (OTC), and the Mid-Atlantic Regional Air Management Association and EPA in order to perform large-scale urban airshed

modeling. EPA proposes that Connecticut has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

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

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

EPA's full approval of Connecticut's Title V program became effective on May 31, 2002. See 67 FR 31966 (May 13, 2002). Before EPA can grant full approval, a state must demonstrate the ability to collect adequate fees. CGS section 22a–174(g) directs the Commissioner of CT DEEP to require the payment of a fee sufficient to cover the reasonable cost of reviewing and acting upon an application for, and monitoring compliance with, any state or federal permit, license, registration, order, or certificate. CT DEEP implements this directive through state regulations at RCSA sections 22a–174–26 and 22a–174–33, which contain specific requirements related to permit fees, including fees for Title V sources. EPA proposes that Connecticut has met the infrastructure SIP requirements of section 110(a)(2)(L) for the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

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

Pursuant to element M, states must consult with, and allow participation from, local political subdivisions affected by the SIP.

CGS section 4–168, *Notice prior to action on regulations,* provides a public participation process for all stakeholders that includes a minimum of a 30-day comment period and an opportunity for public hearing for all SIP-related actions. EPA proposes that Connecticut has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS.

N. Connecticut Statutes for Inclusion Into the Connecticut SIP

As noted above in the discussion of elements E and J, Connecticut submitted, and EPA is proposing to approve, CGS sections 1–85 and 22a–171 for approval into the SIP. In addition, in its May 30, 2013 infrastructure SIP for the 2010 SO_2 NAAQS, Connecticut submitted CGS section 16a–21a ''*Sulfur content of home heating oil and off-road diesel fuel. Suspension of requirements for emergency,*'' effective July 1, 2011. EPA previously approved a prior version of this statute, which had been included as a component of Connecticut's Regional Haze SIP, into the Connecticut SIP on July 10, 2014 (79 FR 39322). The updated version of the statute includes an additional provision limiting the sulfur content of number two heating oil. The sulfur content restrictions in the updated statute are more stringent than those in the previously approved version, thus meeting the anti-backsliding requirements of CAA section 110(*l*). Therefore, EPA is proposing to approve the updated statute into the Connecticut SIP.

V. What action is EPA taking?

EPA is proposing to approve SIP submissions from Connecticut certifying that its current SIP is sufficient to meet the required infrastructure elements under sections 110(a)(1) and (2) for the 2008 Pb, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS, with the exception of certain aspects relating to PSD which we are proposing to conditionally approve. EPA's proposed actions regarding these infrastructure SIP requirements are contained in Table 1 below.

TABLE 1—PROPOSED ACTION ON CT INFRASTRUCTURE SIP SUBMITTALS FOR VARIOUS NAAQS

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

Key to Table 1: Proposed action on CT infrastructure SIP submittals for various NAAQS:
A—Approve.
A*—Approve, but conditionally approve aspect of PSD program relating to NO_X as a precursor to ozone and minor source baseline date for $PM_{2.5}$.
+—Not germane to infrastructure SIPs.
No action—EPA is taking no action on this infrastructure requirement.[7]
NA—Not applicable.

With respect to the 1997 and 2006 $PM_{2.5}$ NAAQS, EPA is proposing to convert conditional approvals for infrastructure requirements pertaining to Elements A, D(ii) (interstate pollution abatement), and E(ii) (state boards) to full approval. Also with respect to the 1997 and 2006 $PM_{2.5}$ NAAQS, EPA is proposing to newly conditionally approve Connecticut's submittals pertaining to Elements C(ii), D(i)(II), and J(iii) for the requirements to treat NO_X as a precursor to ozone and to establish a minor source baseline date for $PM_{2.5}$ in the PSD program.

With respect to the 1997 8-hour ozone NAAQS, EPA is proposing to convert the conditional approval for the infrastructure SIP requirements of 110(a)(2)(D)(ii) pertaining to interstate pollution abatement to a full approval.

In addition, EPA is proposing to approve, and incorporate into the Connecticut SIP, the following Connecticut statutes which were included for approval in Connecticut's infrastructure SIP submittals:

CGS Section 1–85 (Formerly Sec. 1–68), Interest in conflict with discharge of duties, effective in 1979.

CGS Section 22a–171, Duties of Commissioner of Energy and Environmental Protection, effective in 1971; and

CGS Section 16a–21a, Sulfur content of home heating oil and off-road diesel fuel, effective July 1, 2011.

As noted in Table 1, we are proposing to conditionally approve portions of Connecticut's infrastructure SIP submittals pertaining to the state's PSD program. The outstanding issues with the PSD program concern properly treating NO_X as a precursor to ozone and establishing a minor source baseline date for $PM_{2.5}$ emissions.

Under section 110(k)(4) of the Act, EPA may conditionally approve a plan based on a commitment from the State to adopt specific enforceable measures by a date certain, but not later than 1 year from the date of approval. If EPA conditionally approves the commitment in a final rulemaking action, the State must meet its commitment to submit an update to its PSD program that fully remedies the requirements mentioned above. If the State fails to do so, this action will become a disapproval one year from the date of final approval. EPA will notify the State by letter that this action has occurred. At that time, this commitment will no longer be a part of the approved Connecticut SIP. EPA subsequently will publish a document in the **Federal Register** notifying the public that the conditional approval converted to a disapproval. If the State meets its commitment, within the applicable time frame, the conditionally approved submission will remain a part of the SIP until EPA takes final action approving or disapproving the new submittal. If EPA disapproves the new submittal, the conditionally approved infrastructure SIP elements will also be disapproved at that time. In addition, a final disapproval would trigger the Federal Implementation Plan (FIP) requirement under section 110(c). If EPA approves the new submittal, the PSD program and relevant infrastructure SIP elements will be fully approved and replace the conditionally approved program in the SIP.

EPA is soliciting public comments on the issues discussed in this proposal or on other relevant matters. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this **Federal Register**, or by submitting comments electronically, by mail, or through hand delivery/courier following the directions in the **ADDRESSES** section of this **Federal Register**.

VI. Incorporation by Reference

In this rulemaking, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference into the Connecticut SIP the three Connecticut statutes referenced in Section V above. The EPA has made, and will continue to make, these documents generally available through *http://www.regulations.gov* and at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

VII. Statutory and Executive Order Reviews

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

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

In addition, the 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 (see 65 FR 67249 (November 9, 2000)).

List of Subjects in 40 CFR Part 52

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

Dated: August 13, 2015.

H. Curtis Spalding,

Regional Administrator, EPA New England.

[FR Doc. 2015–22027 Filed 9–9–15; 8:45 am]

BILLING CODE 6560–50–P