

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R09-OAR-2012-0398; FRL-9707-4]

**Approval of Air Quality Implementation Plans; Arizona; Interstate Transport of Fine Particulate Matter****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Arizona on October 14, 2009 and to determine that the existing SIP is adequate to address the requirements of section 110(a)(2)(D)(i)(I) of the Clean Air Act (CAA) for the 2006 National Ambient Air Quality Standard (NAAQS or standard) for fine particulate matter (PM<sub>2.5</sub>). Section 110(a)(2)(D)(i)(I) of the CAA requires that each SIP contain adequate provisions to prohibit air emissions from adversely affecting air quality in other states through interstate transport. EPA is proposing to approve the SIP revision submitted by Arizona and to conclude that additional control measures in Arizona are not necessary under CAA section 110(a)(2)(D)(i)(I) because emissions from Arizona sources do not contribute significantly to nonattainment or interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in any other state. We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Written comments must be received on or before August 29, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R09-OAR-2012-0398, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. *Email:* [vagenas.ginger@epa.gov](mailto:vagenas.ginger@epa.gov).

3. *Fax:* 415-942-3964.

4. *Mail or deliver:* Ginger Vagenas (AIR-2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901. Deliveries are only accepted during the Regional Office's normal hours of operation.

*Instructions:* All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that

you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or email. <http://www.regulations.gov> is an anonymous access system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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.

*Docket:* Generally, documents in the docket for this action are available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov), some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Ginger Vagenas, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, (415) 972-3964 [vagenas.ginger@epa.gov](mailto:vagenas.ginger@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the terms “we,” “us,” and “our” refer to EPA.

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**I. Background****A. 2006 24-Hour PM<sub>2.5</sub> NAAQS Infrastructure Requirements**

On September 21, 2006, EPA promulgated a final rule revising the 1997 24-hour primary and secondary NAAQS for PM<sub>2.5</sub> from 65 micrograms per cubic meter (µg/m<sup>3</sup>) to 35 µg/m<sup>3</sup>. 71 FR 61144 (October 17, 2006).

Section 110(a)(1) of the CAA requires each state to submit to EPA, within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a primary or secondary NAAQS or any revision thereof, a SIP that provides for the “implementation, maintenance, and enforcement” of such NAAQS. EPA refers to these specific

submissions as “infrastructure” SIPs because they are intended to address basic structural SIP requirements for new or revised NAAQS. For the 2006 24-hour PM<sub>2.5</sub> NAAQS, these infrastructure SIPs were due on September 21, 2009.<sup>1</sup> Section 110(a)(2) includes a list of specific elements that each such plan submission must meet, including section 110(a)(2)(D)(i), which pertains to interstate transport of certain emissions.

The transport SIP provisions in section 110(a)(2)(D)(i) (also called “good neighbor” provisions) require each state to submit a SIP that prohibits emissions that adversely affect another state in the ways contemplated in the statute. Section 110(a)(2)(D)(i) identifies four distinct elements related to the evaluation of impacts of interstate transport of air pollutants. In this action, EPA is addressing the first two elements of this section (*i.e.*, the requirements in section 110(a)(2)(D)(i)(I) to prohibit emissions activity within a state that will significantly contribute to nonattainment or interfere with maintenance of the NAAQS in any other state) for the 2006 24-hour PM<sub>2.5</sub> NAAQS.<sup>2</sup>

The first element of section 110(a)(2)(D)(i) requires that each SIP for a new or revised NAAQS contain adequate measures to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will “contribute significantly to nonattainment” of the NAAQS in another state. The second element of CAA section 110(a)(2)(D)(i) requires that each SIP prohibit any source or other type of emissions activity in the state from emitting pollutants that will “interfere with maintenance” of the applicable NAAQS in any other state.

<sup>1</sup> The rule establishing the revised PM<sub>2.5</sub> NAAQS was signed by the Administrator and publicly disseminated on September 21, 2006. Because EPA did not prescribe a shorter period for section 110(a) “infrastructure” SIP submittals for these NAAQS, these submittals were due on September 21, 2009, three years from the September 21, 2006 signature date pursuant to section 110(a)(1) of the CAA. See 42 U.S.C. 7410(a)(1).

<sup>2</sup> This proposed action does not address the remaining two elements of the transport SIP provision (in CAA section 110(a)(2)(D)(i)(II)) regarding interference with measures required to prevent significant deterioration of air quality or to protect visibility in another state. We intend to evaluate and act upon Arizona's SIP submissions addressing these additional requirements of CAA section 110(a)(2)(D)(i) in separate rulemakings. We proposed action on Arizona's provisions regarding interference with other states' measures to prevent significant deterioration of air quality on June 27, 2012. See 77 FR 38239.

*B. NO<sub>x</sub> SIP Call, Clean Air Interstate Rule (CAIR) and the Transport Rule*

EPA has previously addressed the requirements of section 110(a)(2)(D)(i)(I) in past regulatory actions such as the 1998 NO<sub>x</sub> SIP call,<sup>3</sup> the 2005 Clean Air Interstate Rule (“CAIR”),<sup>4</sup> and the 2011 Transport Rule (also known as the “Cross-State Air Pollution Rule” or “CSAPR”).<sup>5</sup> In the NO<sub>x</sub> SIP call, EPA took action to remediate emissions of nitrogen oxides (NO<sub>x</sub>) that significantly contributed to nonattainment of, or interfered with maintenance of, the then applicable ozone NAAQS through interstate transport of NO<sub>x</sub> and the resulting ozone.<sup>6</sup> Through this rule, EPA evaluated whether or not the ozone-season NO<sub>x</sub> emissions in certain states had prohibited interstate impacts, and if they had such impacts, required the states to adopt substantive SIP revisions to eliminate the NO<sub>x</sub> emissions, whether through participation in a regional cap and trade program or by other means.<sup>7</sup>

After promulgation of the 1997 8-hour ozone NAAQS and the 1997 PM<sub>2.5</sub> NAAQS, EPA again recognized that regional transport was a serious concern throughout the eastern United States and therefore developed CAIR to address emissions of sulfur dioxide (SO<sub>2</sub>) and NO<sub>x</sub> that exacerbate ambient ozone and PM<sub>2.5</sub> levels in many downwind areas through interstate transport.<sup>8</sup> Within CAIR, EPA interpreted the term “interfere with maintenance” as part of the evaluation of whether or not the emissions of sources in certain states had such impacts on areas that EPA projected would be in violation of the NAAQS unless actions were taken by upwind states to reduce SO<sub>2</sub> and NO<sub>x</sub> emissions. Through CAIR, EPA again required states that had such interstate impacts to

adopt substantive SIP revisions to eliminate the SO<sub>2</sub> and NO<sub>x</sub> emissions, whether through participation in a regional cap and trade program or by other means.

In 2008, the U.S. Court of Appeals for the D.C. Circuit found that CAIR and the related CAIR federal implementation plans were unlawful. *North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir. 2008), modified on rehearing, *North Carolina v. EPA*, 550 F.3d 1176, 1178 (D.C. Cir. 2008). Among other issues, the court held that EPA had not correctly addressed the second element of section 110(a)(2)(D)(i)(I) in CAIR and noted that “EPA gave no independent significance to the ‘interfere with maintenance’ prong of section 110(a)(2)(D)(i)(I) to separately identify upwind sources interfering with downwind maintenance.” 531 F.3d at 909. EPA’s approach, the court reasoned, would leave areas that are “barely meeting attainment” with “no recourse” to address upwind emissions sources. *Id.* The court therefore concluded that a plain language reading of the statute requires EPA to give independent meaning to the interfere with maintenance requirement of section 110(a)(2)(D)(i) and that the approach used by EPA in CAIR failed to do so.

To address the judicial remand of CAIR and to replace it, on August 8, 2011, EPA published the final Transport Rule. 76 FR 48208. The Transport Rule addresses interstate transport pursuant to CAA section 110(a)(2)(D)(i)(I) in the eastern United States with respect to the 1997 8-hour ozone NAAQS, the 1997 PM<sub>2.5</sub> NAAQS, and the 2006 24-hour PM<sub>2.5</sub> NAAQS.<sup>9</sup> As part of this rulemaking, EPA specifically reexamined the section 110(a)(2)(D)(i)(I) requirements to prohibit emissions from sources in a state that “contribute significantly to nonattainment” or “interfere with maintenance” of the NAAQS in other states and developed an approach to identify (1) areas that it predicts to be violating the NAAQS, and (2) areas that it predicts to be close to the level of these NAAQS and therefore at risk to become nonattainment unless emissions from sources in other states are appropriately controlled. This approach starts by identifying those specific geographic areas for which further evaluation is appropriate and differentiates between areas where the concern is significant contribution to nonattainment as opposed to interference with maintenance. EPA then conducts state-specific analyses of multiple factors related to pollution

levels at the identified “receptors” (monitoring sites) of concern to evaluate significant contribution to nonattainment and interference with maintenance of the NAAQS in other states.

On December 30, 2011, the U.S. Court of Appeals for the D.C. Circuit issued an order addressing the status of the Transport Rule and CAIR in response to motions filed by numerous parties seeking a stay of the Transport Rule pending judicial review.<sup>10</sup> In that order, the court stayed the Transport Rule pending resolution of these petitions for review of the rule. The court also stated that EPA is expected to continue to administer CAIR in the interim until the court rules on these petitions for review of the Transport Rule.

*C. EPA Guidance*

On September 25, 2009, after the court remanded CAIR and while EPA was working on its replacement, EPA issued a guidance memorandum that provides recommendations to states for making submissions to meet the requirements of CAA section 110(a)(2)(D)(i) for the 2006 PM<sub>2.5</sub> standards (“2006 PM<sub>2.5</sub> NAAQS Infrastructure Guidance” or “Guidance”).<sup>11</sup> With respect to the requirement in section 110(a)(2)(D)(i)(I) to prohibit emissions that would contribute significantly to nonattainment of the NAAQS in any other state, the 2006 PM<sub>2.5</sub> NAAQS Infrastructure Guidance essentially reiterated the recommendations for western states made by EPA in previous guidance addressing the 110(a)(2)(D)(i) requirements for the 1997 8-hour Ozone and 1997 PM<sub>2.5</sub> NAAQS.<sup>12</sup> The 2006 PM<sub>2.5</sub> NAAQS Infrastructure Guidance advised states outside of the CAIR region to include in their section 110(a)(2)(D)(i)(I) SIPs adequate technical analyses to support their conclusions regarding interstate pollution transport, *e.g.*, information concerning emissions in the state, meteorological conditions in the state and in potentially impacted states, monitored ambient pollutant concentrations in the state and in potentially impacted states, distances to

<sup>3</sup> See “Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone,” 63 FR 57356 (October 27, 1998) (“NO<sub>x</sub> SIP Call”).

<sup>4</sup> See “Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO<sub>x</sub> SIP Call,” 70 FR 25162 (May 12, 2005) (“CAIR”).

<sup>5</sup> See “Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals; Final Rule,” 76 FR 48208 (August 8, 2011) (“Transport Rule”).

<sup>6</sup> See 63 FR 57356 (October 27, 1998). EPA’s general approach to section 110(a)(2)(D) in the NO<sub>x</sub> SIP Call was upheld in *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000), cert denied, 532 U.S. 904 (2001). However, EPA’s approach to interference with maintenance in the NO<sub>x</sub> SIP Call was not explicitly reviewed by the court. See *North Carolina v. EPA*, 531 F.3d 896, 907–09 (D.C. Cir. 2008).

<sup>7</sup> *Ibid.*

<sup>8</sup> See 70 FR 25162 at 25263–69 (May 12, 2005).

<sup>9</sup> CAIR did not address the 2006 24-hour PM<sub>2.5</sub> NAAQS.

<sup>10</sup> See Order dated December 30, 2011, *EME Homer City Generation, L.P. v. EPA* (No. 11–1302 and consolidated cases) (D.C. Circuit).

<sup>11</sup> See Memorandum from William T. Harnett entitled “Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS),” September 25, 2009.

<sup>12</sup> See Memorandum from William T. Harnett entitled “Guidance for State Implementation Plan (SIP) Submission to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-hour ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards,” August 15, 2006.

the nearest areas not attaining the NAAQS in other states, and air quality modeling. See 2006 PM<sub>2.5</sub> NAAQS Infrastructure Guidance at 3.<sup>13</sup> With respect to the requirement in section 110(a)(2)(D)(i)(I) to prohibit emissions that would interfere with maintenance of the NAAQS by any other state, the Guidance stated that SIP submissions must address this independent requirement of the statute and provide technical information appropriate to support the state's conclusions, such as information concerning emissions in the state, meteorological conditions in the state and in potentially impacted states, monitored ambient concentrations in the state and in potentially impacted states, and air quality modeling. See 2006 PM<sub>2.5</sub> NAAQS Infrastructure Guidance at 3, 4.

In this action, EPA is maintaining the conceptual approach to evaluating interstate pollution transport under CAA section 110(a)(2)(D)(i)(I) that the Agency provided in the 2006 PM<sub>2.5</sub> NAAQS Infrastructure Guidance and the Transport Rule.

As described more fully in our Technical Support Document (TSD), EPA evaluated data from existing monitors over three overlapping 3-year periods (i.e., 2006–2008, 2007–2009, and 2008–2010) to determine which areas are expected to be violating the 2006 24-hour PM<sub>2.5</sub> NAAQS and which areas are predicted to potentially have difficulty maintaining attainment. In essence, if a monitoring site shows a violation of the 2006 24-hour PM<sub>2.5</sub> NAAQS during the most recent 3-year period (2008–2010), then this monitor location is appropriate for evaluation for purposes of the significant contribution to nonattainment element of section 110(a)(2)(D)(i)(I). If, on the other hand, a monitoring site shows attainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS during the most recent 3-year period (2008–2010) but a violation in at least one of the previous two 3-year periods (2006–2008 or 2007–2009), then this monitor location is appropriate for evaluation for purposes of the interfere with maintenance element of the statute.

By this method, EPA has identified those areas with monitors that are

appropriate “nonattainment receptors” or “maintenance receptors” for evaluating whether the emissions from sources in another state could significantly contribute to nonattainment in, or interfere with maintenance in, that particular area. EPA believes that this approach for identifying areas that are predicted to be nonattainment and significantly impacted by other states, or have difficulty maintaining the NAAQS, is appropriate to evaluate a state's submission in relation to the elements of CAA section 110(a)(2)(D)(i)(I) pertaining to significant contribution to nonattainment and interference with maintenance.

EPA continues to believe that the more widespread and serious transport problems in the eastern United States are analytically distinct.<sup>14</sup> For the 2006 PM<sub>2.5</sub> NAAQS, EPA believes that nonattainment and maintenance problems in the western United States are relatively local in nature with only limited impacts from interstate transport. In the Transport Rule, EPA did not calculate the portion of any downwind state's predicted PM<sub>2.5</sub> concentrations that would result from emissions from individual western states, such as Arizona. Accordingly, EPA believes that section 110(a)(2)(D)(i)(I) SIP submissions for states outside the geographic area analyzed to develop the Transport Rule may be evaluated using a “weight of the evidence” approach that takes into account available relevant information, such as that recommended by EPA in the 2006 PM<sub>2.5</sub> NAAQS Infrastructure Guidance. Such information may include, but is not limited to, the amount of emissions in the state relevant to the NAAQS in question, the meteorological conditions in the area, the distance from the state to the nearest monitors in other states that are appropriate receptors, or such other information as may be probative to consider whether sources in the state may contribute significantly to nonattainment or interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in other states. These submissions can rely on modeling when acceptable modeling technical analyses are available, but EPA does not believe that modeling is necessarily required if other available information is sufficient to evaluate the presence or degree of interstate transport in a given situation.

<sup>14</sup> See Transport Rule Proposal, 75 FR 45210 at 45227 (August 2, 2010).

## II. The State's Submittal

CAA sections 110(a) and 110(l) require that revisions to a SIP be adopted by the State after reasonable notice and public hearing. EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of notices, by prominent advertisement in the relevant geographic area, of a public hearing on the proposed revisions, a public comment period of at least 30 days, and an opportunity for a public hearing.

On October 14, 2009, the Arizona Department of Environmental Quality (ADEQ) submitted the “Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2); 2006 PM<sub>2.5</sub> NAAQS, 1997 PM<sub>2.5</sub> NAAQS and 1997 8-hour Ozone NAAQS,” to address the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 PM<sub>2.5</sub> NAAQS, among other requirements (“2009 Infrastructure Analysis”).<sup>15</sup> Within that submittal, Appendix B, “Clean Air Act Section 110(a)(2)(D)(i)—Interstate Transport Analysis for the 2006 PM<sub>2.5</sub> National Ambient Air Quality Standards” (referred to herein as “PM<sub>2.5</sub> Transport Analysis”) addresses the CAA section 110(a)(2)(D)(i)(I) interstate transport requirements that are the subject of this proposed rule.

ADEQ's October 14, 2009 submittal includes public process documentation for the 2009 Infrastructure Analysis, including the PM<sub>2.5</sub> Transport Analysis. In addition, the SIP revision includes documentation of a duly noticed public hearing held on September 16, 2009, on the proposed 2009 Infrastructure Analysis.

We find that the process followed by ADEQ in adopting the PM<sub>2.5</sub> Transport Analysis complies with the procedural requirements for SIP revisions under CAA section 110 and EPA's implementing regulations.

## III. EPA's Evaluation

To determine whether the CAA section 110(a)(2)(D)(i)(I) requirement is satisfied, EPA must determine whether a state's emissions contribute significantly to nonattainment or

<sup>15</sup> ADEQ intended for this SIP submittal to also address all other requirements of CAA section 110(a), excepting section 110(a)(2)(G), for the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS and the 2006 PM<sub>2.5</sub> NAAQS. See letter dated October 14, 2009, from Eric C. Massey, Air Quality Director, ADEQ, to Laura Yoshii, Acting Regional Administrator, EPA Region 9, with enclosures. EPA has proposed to act on this submittal for purposes of addressing the other “infrastructure” requirements of CAA section 110(a) in a separate proposed rule published on June 27, 2012 (77 FR 38239).

<sup>13</sup> The 2006 PM<sub>2.5</sub> NAAQS Infrastructure Guidance stated that EPA was working on a new rule to replace CAIR that would address issues raised by the court in the *North Carolina* case and that would provide guidance to states in addressing the requirements related to interstate transport in CAA section 110(a)(2)(D)(i)(I) for the 2006 PM<sub>2.5</sub> NAAQS. It also noted that states could not rely on the CAIR rule for section 110(a)(2)(D)(i)(I) submissions for the 2006 24-hour PM<sub>2.5</sub> NAAQS because the CAIR rule did not address this NAAQS. See 2006 PM<sub>2.5</sub> NAAQS Infrastructure Guidance at 3.

interfere with maintenance in downwind areas. If this factual finding is in the negative, then section 110(a)(2)(D)(i)(I) does not require any changes to a state's SIP. If, however, the evaluation reveals that emissions from sources within the state do contribute significantly to nonattainment or interfere with maintenance in other states, then the state must adopt substantive provisions to eliminate those emissions. The state could achieve any required reductions through traditional command and control programs, or at its own election, through participation in a cap and trade program. Consistent with EPA's approach in the 1998 NO<sub>x</sub> SIP call, the 2005 CAIR, and the 2011 Transport Rule,<sup>16</sup> EPA is evaluating these impacts with respect to specific monitors identified as having nonattainment and/or maintenance problems, which we refer to as "receptors." EPA notes that no single piece of information is by itself dispositive of the issue. Instead, the total weight of all the evidence taken together is used to evaluate significant contributions to nonattainment or interference with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in another state.

This proposed approval addresses the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour PM<sub>2.5</sub> NAAQS in several ways. It takes into account Arizona's PM<sub>2.5</sub> Transport Analysis, which explains that meteorological and other characteristics in Arizona and in the surrounding areas reduce the likelihood that Arizona's emissions contribute significantly to nonattainment or interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in any downwind state. In addition, EPA has supplemented its evaluation of Arizona's submittal with a review of the monitors in other states that are appropriate "nonattainment receptors" or "maintenance receptors," consistent with EPA's approach in the Transport Rule, and additional technical information to consider whether sources in Arizona contribute significantly to nonattainment or interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in other states.

Our Technical Support Document (TSD) contains a more detailed evaluation and is available in the public docket for this rulemaking, which may be accessed online at <http://www.regulations.gov>, docket number

<sup>16</sup> See NO<sub>x</sub> SIP Call, 63 FR 57371 (October 27, 1998); CAIR, 70 FR 25172 (May 12, 2005); and Transport Rule or Cross-State Air Pollution Rule, 76 FR 48208 (August 8, 2011).

EPA-R09-OAR-2012-0398. We provide below a summary of our analysis.

#### A. Evaluation of Significant Contribution to Nonattainment

EPA reviewed the State of Arizona's PM<sub>2.5</sub> Transport Analysis and additional technical information to evaluate the potential for Arizona emissions to contribute significantly to nonattainment of the 2006 PM<sub>2.5</sub> NAAQS at specified monitoring sites in the western United States.<sup>17</sup> EPA first identified as "nonattainment receptors" all monitoring sites in the western states that had recorded PM<sub>2.5</sub> design values above the level of the 2006 24-hour PM<sub>2.5</sub> NAAQS (35 µg/m<sup>3</sup>) during the years 2008–2010.<sup>18</sup> See Section III of the TSD for more a more detailed description of EPA's methodology for selection of nonattainment receptors. Because geographic distance is a relevant factor in the assessment of potential pollution transport, EPA focused its review on information related to potential transport of PM<sub>2.5</sub> pollution from Arizona to nonattainment receptors in the states bordering Arizona: Utah, Nevada, and California.<sup>19</sup> With respect to Utah and Nevada, as detailed in the TSD, EPA believes that the following factors support a finding that emissions from Arizona do not significantly contribute to nonattainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS in either of these states: (1) Technical information indicating that elevated PM<sub>2.5</sub> levels at nonattainment receptors are predominantly caused by local emission sources, (2) air quality data indicating that regional background levels of PM<sub>2.5</sub>

<sup>17</sup> EPA has also considered potential PM<sub>2.5</sub> transport from Arizona to the nearest nonattainment and maintenance receptors located in the eastern, midwestern and southern states covered by the Transport Rule and believes it is reasonable to conclude that, given the significant distance from Arizona to the nearest such receptor (in Illinois) and the relatively insignificant amount of emissions from Arizona that could potentially be transported such a distance, emissions from Arizona sources do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS at this location. These same factors also support a finding that emissions from Arizona sources neither contribute significantly to nonattainment nor interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS at any location further east. See TSD at Section I.B.3.

<sup>18</sup> Because CAIR did not cover states in the western United States, these data are not significantly impacted by the remanded CAIR and thus could be considered in this analysis. In contrast, recent air quality data in the eastern, midwestern and southern states are significantly impacted by reductions associated with CAIR and because the Transport Rule was developed to replace CAIR, EPA could not consider reductions associated with the CAIR in the base case transport analysis for those states. See 76 FR at 48223–24.

<sup>19</sup> EPA did not identify any nonattainment receptors in New Mexico or Colorado.

are generally low during the time periods of elevated PM<sub>2.5</sub> at these receptors, and (3) the presence of significant terrain, which creates a physical impediment to pollution transport. Similarly and again as detailed in the TSD, with respect to California, technical information indicating that elevated PM<sub>2.5</sub> levels at the nonattainment receptors are predominantly caused by local emission sources and that the dominant air flows across California are from the west to the east support a finding that emissions from the state of Arizona do not significantly contribute to nonattainment of the 2006 24-hour PM<sub>2.5</sub> standards in California.

EPA also evaluated potential PM<sub>2.5</sub> transport to nonattainment receptors in the more distant western states of Oregon, Washington, Idaho, and Montana.<sup>20</sup> EPA believes that the following factors support a finding that emissions from Arizona do not significantly contribute to nonattainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS in any of these states: (1) The significant distance from the State of Arizona to the nonattainment receptors in these states, (2) technical information indicating that elevated PM<sub>2.5</sub> levels at nonattainment receptors in these states are predominantly caused by local emission sources, (3) air quality data indicating that regional background levels of PM<sub>2.5</sub> are generally low during the time periods of elevated PM<sub>2.5</sub> at these receptors, and (4) the presence of significant terrain, which creates a physical impediment to pollution transport.

Based on this evaluation of Arizona's PM<sub>2.5</sub> Transport Analysis and additional technical information, EPA proposes to conclude that emissions of direct PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors from sources in the State of Arizona do not significantly contribute to nonattainment of the 2006 24-hour PM<sub>2.5</sub> standards in any other state and that CAA section 110(a)(2)(D)(i)(I) therefore does not require Arizona to adopt additional controls for purposes of implementing the 2006 24-hour PM<sub>2.5</sub> standards.

#### B. Evaluation of Interference With Maintenance

EPA reviewed the State of Arizona's PM<sub>2.5</sub> Transport Analysis and additional technical information to evaluate the potential for Arizona emissions to interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> standards at specified monitoring sites in the western U.S. EPA first identified as "maintenance

<sup>20</sup> EPA did not identify any nonattainment receptors in Wyoming.

receptors” all monitoring sites in the western states that had recorded PM<sub>2.5</sub> design values above the level of the 2006 24-hour PM<sub>2.5</sub> NAAQS (35 µg/m<sup>3</sup>) during the 2006–2008 and/or 2007–2009 periods but below this standard during the 2008–2010 period. See section IV of the TSD for more information regarding EPA’s methodology for selection of maintenance receptors. All of the maintenance receptors in the western states are located in California, Utah, and Arizona. EPA therefore evaluated the potential for transport of Arizona emissions to the maintenance receptors located in California and Utah.<sup>21</sup> As detailed in the TSD, EPA believes that the following factors support a finding that emissions from Arizona do not interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in either state: (1) Technical information indicating that elevated PM<sub>2.5</sub> levels at these maintenance receptors are predominantly caused by local emission sources, and (2) technical information indicating that the dominant air flows across California are from the west to the east.

Based on this evaluation of Arizona’s PM<sub>2.5</sub> Transport Analysis and additional technical information, EPA proposes to conclude that emissions of direct PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors from sources in the State of Arizona do not interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> standards in any other state and that CAA section 110(a)(2)(D)(i)(I) therefore does not require Arizona to adopt additional controls for purposes of implementing the 2006 24-hour PM<sub>2.5</sub> standards.

### C. Section 110(l) of the Act

Section 110(l) of the Act prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the Act. The PM<sub>2.5</sub> Transport Analysis contains no regulatory provisions and does not affect any requirement in Arizona’s applicable implementation plan. We propose to determine that our approval of the PM<sub>2.5</sub> Transport Analysis would comply with CAA section 110(l) because the proposed SIP revision would not interfere with the on-going process for ensuring that requirements for RFP and attainment of the NAAQS are met. The SIP revision does not alter any provisions in the SIP as EPA has concluded, based on its supplemental

<sup>21</sup> As this analysis focused on *interstate* transport, EPA did not evaluate the impact of Arizona emissions on maintenance receptors within Arizona. (EPA has not identified any nonattainment receptors in Arizona.)

analysis, that the existing SIP is sufficient to meet the requirements of 110(a)(2)(D)(i)(I). Our TSD contains a more detailed discussion of our evaluation.

### IV. Proposed Action

Under section 110(k) of the Clean Air Act, EPA is proposing to approve a SIP revision submitted by the State of Arizona on October 14, 2009 and to determine, based on that submission and additional EPA analysis, that emissions from Arizona sources do not contribute significantly to nonattainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS in any other state or interfere with maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS by any other state. Accordingly, we propose to conclude that the existing SIP is adequate to address the requirements of section 110(a)(2)(D)(i)(I) of the Clean Air Act (CAA) for the 2006 National Ambient Air Quality Standard (NAAQS or standard) for fine particulate matter (PM<sub>2.5</sub>) and that additional control measures in Arizona are not necessary for this purpose.

EPA is soliciting public comments on this proposal and will accept comments until the date noted in the **DATES** section above.

### V. Statutory and Executive Order Reviews

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

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: July 20, 2012.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2012–18545 Filed 7–27–12; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2012–0398; FRL–9707–5]

### Partial Approval and Disapproval of Air Quality Implementation Plans; Arizona; State Board Requirements for Ozone and Fine Particulate Matter

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to partially approve and partially disapprove a State