receptors'' all monitoring sites in the western states that had recorded $PM_{2.5}$ design values above the level of the 2006 24-hour $PM_{2.5}$ NAAQS (35 μg/m³) 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.[21] 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 $PM_{2.5}$ NAAQS in either state: (1) Technical information indicating that elevated $PM_{2.5}$ 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 $PM_{2.5}$ Transport Analysis and additional technical information, EPA proposes to conclude that emissions of direct $PM_{2.5}$ and $PM_{2.5}$ precursors from sources in the State of Arizona do not interfere with maintenance of the 2006 24-hour $PM_{2.5}$ 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 $PM_{2.5}$ 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 $PM_{2.5}$ 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 $PM_{2.5}$ 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 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.

[21] 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.)

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 $PM_{2.5}$ NAAQS in any other state or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ 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 ($PM_{2.5}$) 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]

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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

Implementation Plan (SIP) revision submitted by the State of Arizona to address the requirements of section 110(a)(2)(E)(ii) of the Clean Air Act (CAA) for the 1997 8-hour ozone national ambient air quality standards (NAAQS) and the 1997 and 2006 NAAQS for fine particulate matter ($PM_{2.5}$). EPA is proposing to approve the state's provisions regarding disclosure of potential conflicts of interest under 128(a)(2), but is proposing to disapprove, on narrow grounds, their 128(a)(1) provisions regarding board composition because these provisions do not apply to enforcement orders. We encourage the State to submit a revised SIP to address this very narrow deficiency, and we stand ready to work with the State to develop a revised plan. 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. *E-mail: r9_airplanning@epa.gov.*
3. *Fax:* 415–947–3579.
4. *Mail or deliver:* Rory Mays (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* 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,* 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: Rory Mays, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 972–3227, *mays.rory@epa.gov.*

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

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I. Background

A. Regulatory History

On July 18, 1997, EPA issued a revised NAAQS for ozone[1] and a new NAAQS for fine particulate matter ($PM_{2.5}$).[2] EPA subsequently revised the 24-hour $PM_{2.5}$ NAAQS on September 21, 2006.[3] Each of these actions triggered a requirement for states to submit an infrastructure SIP to address the applicable requirements of section 110(a)(2) within three years of issuance of the new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that each such plan submission must meet, including section 110(a)(2)(E)(ii), which requires compliance with the requirements of section 128 of the CAA.

On March 10, 2005, EPA entered into a Consent Decree with EarthJustice that obligated EPA to make official findings in accordance with section 110(k)(1) of the CAA as to whether states had made required complete SIP submissions, pursuant to sections 110(a)(1) and (2), by December 15, 2007 for the 1997 8-hour ozone NAAQS and by October 5, 2008 for the 1997 $PM_{2.5}$ NAAQS. EPA made such findings for the 1997 8-hour ozone NAAQS on March 27, 2008 (73 FR 16205) and for the 1997 $PM_{2.5}$ NAAQS on October 22, 2008 (73 FR 62902). In each case, EPA found that Arizona had failed to make a complete submittal to satisfy the requirements of section 110(a)(2)(E)(ii).

The State board SIP provisions in section 128 require each state to submit a SIP that contains requirements that (1) any board or body which approves permits or enforcement orders under the CAA 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 or enforcement orders under the CAA; and (2) 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. 42 U.S.C. 7428.

B. EPA Guidance

In 1978, EPA issued a guidance memorandum recommending ways States could meet the requirements of section 128 (''1978 Guidance''), including suggested interpretations of certain terms in section 128.[4] EPA has not issued further guidance or regulations of general applicability on the subject since that time. However, as part of our proposals on other recent infrastructure actions, EPA has proposed certain interpretations of section 128 and invited comment on these interpretations. See, e.g., EPA's proposed rule on infrastructure SIP requirements for Hawaii (77 FR 21913, April 12, 2012). We are now proposing these same interpretations in relation to the Arizona infrastructure SIP.[5]

II. The State's Submittals

On October 14, 2009, ADEQ submitted the ''Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(2) and (2); 2006 $PM_{2.5}$ NAAQS, 1997 $PM_{2.5}$ NAAQS

[1] The 8-hour averaging period replaced the previous 1-hour averaging period, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm (62 FR 38856).

[2] The annual $PM_{2.5}$ standard was set at 15 micrograms per cubic meter ($\mu g/m^3$), based on the 3-year average of annual arithmetic mean $PM_{2.5}$ concentrations from single or multiple community-oriented monitors and the 24-hour $PM_{2.5}$ standard was set at 65 $\mu g/m^3$, based on the 3-year average of the 98th percentile of 24-hour $PM_{2.5}$ concentrations at each population-oriented monitor within an area (62 FR 38652).

[3] The final rule revising the 24-hour NAAQS for $PM_{2.5}$ from 65 $\mu g/m^3$ to 35 $\mu g/m^3$ was published in the **Federal Register** on October 17, 2006 (71 FR 61144).

[4] *See* Memorandum from David O. Bickart to Regional Air Directors, ''Guidance to States for Meeting Conflict of Interest Requirements of Section 128,'' Suggested Definitions, March 2, 1978.

[5] If EPA finalizes this action, the proposed interpretations will supersede (to the extent that they are inconsistent with) interpretations suggested in the 1978 guidance, at least for Arizona's SIP.

and 1997 8-hour Ozone NAAQS,'' to address all of the CAA section 110(a)(2) requirements except for section 110(a)(2)(G)[6] for these three NAAQS (''2009 Infrastructure Submittal'').[7] The 2009 Infrastructure Submittal includes public process documentation (including public comments) and evidence of adoption.

On June 1, 2012, ADEQ submitted the ''Proposed Supplement to the Arizona State Implementation Plan under Clean Air Act Section 110(a)(1) and (2): Implementation of [1997 $PM_{2.5}$ and 8-hour ozone NAAQS and 2006 $PM_{2.5}$ NAAQS], Parallel Processing Version'' (''2012 Supplement''). The 2012 Supplement includes a number of statutes and regulations that are currently effective under State law but that have not been adopted specifically for submittal to EPA as a SIP revision under CAA section 110. By letter dated June 1, 2012, ADEQ submitted unofficial copies of these statutes and regulations to EPA with a request for ''parallel processing''[8] and stated its intention to submit these statutes and regulations as a formal SIP submittal, following reasonable notice and public hearings, by late August 2012.[9] ADEQ amended this request by letter dated June 14, 2012, to remove several statutes and regulations from the 2012 Supplement.[10]

We are proposing to act on the 2009 Infrastructure Submittal, as supplemented and amended by the 2012 Supplement. We refer to the 2009 Infrastructure Submittal and 2012 Supplement collectively as the ''2009 Infrastructure SIP.''

III. EPA's Evaluation

To determine whether the CAA section 110(a)(2)(E)(ii) requirements are satisfied, EPA must determine whether the State SIP has adequate board composition and disclosure requirements under section 128 of the CAA. In their 2009 Infrastructure Submittal and 2012 Supplement, Arizona submitted unofficial copies of Title 38, Chapter 3, Article 8 Conflict of Interest of Officers and Employees provisions to address the section 128 requirements. The June 2012 Supplement also included Arizona Revised Statute § 49–478, which addresses compositional requirements for county hearing boards. We are proposing to approve these statutory provisions into the SIP as non-regulatory materials.[11]

A. Evaluation of 128(a)(1) Board Composition Requirements

As explained further in our Technical Support Document (TSD),[12] Arizona has four heads of executive agencies that approve permits and enforcement orders under the Clean Air Act: the Director of Arizona Department of Environmental Quality (ADEQ), and the Control Officer of each of the following three agencies: Maricopa County Air Quality Department (AQD), Pima County Department of Environmental Quality (DEQ), and Pinal County Air Quality Control District (AQCD). Permit and enforcement order appeals at the state level are heard by an administrative law judge in Arizona's Office of Administrative Hearings, while those at the county level are heard by an Air Quality Hearing Board in each respective county (Maricopa, Pima, and Pinal). The only boards in Arizona that approve permits and enforcement orders are the Air Quality Hearing Boards in Maricopa, Pima, and Pinal counties, which may hear permit and enforcement order appeals and take actions to sustain, modify, or reverse (for permits) or affirm or modify (for enforcement orders) the actions of each county's respective Control Officer. These boards are subject to the board membership requirements of section 128(a)(1).

ARS 49–478(B) establishes the compositional requirements of the county Air Quality Hearing Boards, namely that they consist of five members and that ''[a]t least three members shall not have a substantial interest, as defined in section 38–502, in any person required to obtain a permit pursuant to [Title 49, Chapter 3 (''Air Quality''), Article 3 (''County Air Pollution Control'')].'' It is important to note that while this statute explicitly addresses interests in persons required to obtain permits, it does not address ''substantial interest'' with respect to interests in persons subject to enforcement orders.

Pima County Code 17.04.190 (''Composition'') generally mirrors the language or ARS 49–478 but also includes the following requirement in subsection B: ''At least a majority of the hearing board members shall not individually have a substantial interest in an emission source subject to permits or enforcement orders issued pursuant to this title. Substantial interest means any interest other than a remote interest as defined in A.R.S. 38–502, paragraph 10.'' Thus, this local regulation extends the majority membership requirement of ARS 49–478 to interests in persons subject to enforcement orders. However, this regulation has not been submitted for incorporation into the Arizona SIP.

Maricopa County Air Pollution Control Regulation, Rule 100, Section 108 also mirrors the language of ARS 49–478 but its majority membership requirement is limited to substantial interests ''in any person required to obtain an air pollution permit'' (i.e., it does not address persons subject to enforcement orders). Arizona's 2009 Infrastructure Submittal and 2012 Supplement did not cite any such provisions for Pinal County.

ARS 49–478 in conjunction with the definitions of ''substantial interest'' and ''remote interest'' in ARS 38–502, which we propose to approve into the Arizona SIP, satisfy the ''public interest'' and ''significant income'' requirements of CAA section 128(a)(1) for the county boards, but only with respect to interests in persons subject to permits. ARS 49–478 does not specifically reference interests in persons subject to enforcement orders. We view this as a very narrow deficiency in the State SIP but one that nonetheless compels disapproval of the State's 128(a)(1) board composition provisions.

EPA takes very seriously a proposal to disapprove a state plan, as we believe that it is preferable, and preferred in the provisions of the Clean Air Act, that

[6] In a separate rulemaking, EPA proposed to fully approve Arizona's SIP to address the requirements regarding air pollution emergency episodes in CAA section 110(a)(2)(G) for the 1997 8-hour ozone NAAQS. 77 FR 21911 (April 12, 2012).

[7] *See* letter dated October 14, 2009, from Eric C. Massey, Air Quality Director, ADEQ, to Laura Yoshii, Acting Regional Administrator, EPA Region 9.

[8] Under EPA's ''parallel processing'' procedure, EPA proposes rulemaking action concurrently with the State's proposed rulemaking. If the State's proposed plan is changed, EPA will evaluate that subsequent change and may publish another notice of proposed rulemaking. If no significant change is made, EPA will publish a final rulemaking on the plan after responding to any submitted comments. Final rulemaking action by EPA will occur only after the plan has been fully adopted by Arizona and submitted formally to EPA for approval into the SIP. See 40 CFR part 51, appendix V, section 2.3. We note that because ADEQ's rulemaking process here is solely for purposes of adopting the 2012 Supplement as a SIP revision under CAA section 110 and not for purposes of revising any of the statutes or regulations contained therein, we do not expect any significant changes between the proposed and final plans.

[9] *See* letter dated June 1, 2012, from Eric C. Massey, Air Quality Director, ADEQ, to Jared Blumenfeld, Regional Administrator, EPA Region 9.

[10] *See* letter dated June 14, 2012, from Eric C. Massey, Air Quality Director, ADEQ, to Jared Blumenfeld, Regional Administrator, EPA Region 9.

[11] Copies of these Arizona statutes are included in the 2012 Supplement, which is available in the docket for this action and online at *http://www.regulations.gov,* docket number EPA–R09–OAR–2012–0398.

[12] Our Technical Support Document (TSD) describes our evaluation in more detail and is available in the public docket for this rulemaking, which may be accessed online at *http://www.regulations.gov,* docket number EPA–R09–OAR–2012–0398.

these requirements be implemented through state plans. A state plan need not contain exactly the same provisions that EPA might require, but EPA must be able to find that the state plan is consistent with the requirements of the Act. Further, EPA's oversight role requires that it assure consistent implementation of Clean Air Act requirements by states across the country, even while acknowledging that individual decisions from source to source or state to state may not have identical outcomes. In this instance, we believe that the 2009 Infrastructure SIP mostly meets the requirements of 128(a)(1) with respect to significant income and representing the public interest, except that the submitted provisions do not specifically address ''substantial interest'' with respect to interests in persons subject to enforcement orders. As a result, EPA believes this proposed disapproval is the only path that is consistent with the Act at this time. Based on the content of Pima County Code 17.04.190, we believe that this narrow deficiency can be cured by Maricopa and Pinal counties amending their regulations to mirror Pima County Code 17.04.190, and by ADEQ submitting such amended regulations for Pima, Maricopa, and Pinal counties as a SIP revision.

B. Evaluation of 128(a)(2) Disclosure Requirements

Arizona's statutes governing disclosure of interests are found in ARS Title 38, Chapter 3, Article 8, which ADEQ submitted as a revision to the Arizona SIP. As further explained in our TSD, the conflict of interest requirements under Article 8 apply to all those individuals that approve permits and enforcement orders in the first instance or on appeal, including the Director of ADEQ, the administrative law judges of the state Office of Administrative Hearings, the Air Pollution Control Officers of the three relevant counties (Maricopa, Pima, and Pinal), and the members of the Air Quality Hearing Boards in each of the three counties.

ARS 38–503 is the heart of the disclosure provisions in Article 8. In particular, ARS 38–503(B) reads as follows: ''Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.'' We interpret ''any decision of a public agency'' to include both permit and enforcement order approvals. ARS 38–502(3) defines ''make known'' as filing a paper or a copy of relevant meeting minutes that fully discloses a substantial interest and such filings must be maintained in a special file open to public inspection pursuant to ARS 38–509.

The disclosure of ''a substantial interest in any decision of a public agency'' covers a wide array of potential conflicts, because ''remote interest'' is narrowly defined, and Article 8 applies to all individuals that approve permits and enforcement orders under the CAA. Thus, upon Article 8 being approved into the Arizona SIP, the State and counties of Arizona will meet the CAA section 128(a)(2) requirement that ''any potential conflicts of interest * * * be adequately disclosed.''

IV. Proposed Action

EPA has evaluated the 2009 Infrastructure SIP and the existing provisions of the Arizona SIP for compliance with the CAA section 110(a)(2)(E)(ii) requirements for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS and the 2006 $PM_{2.5}$ NAAQS. Our TSD contains more detailed evaluations and is available in the public docket for this rulemaking, which may be accessed online at *http://www.regulations.gov,* docket number EPA–R09–OAR–2012–0398.

Based upon this analysis, EPA proposes to approve Arizona's 2009 Infrastructure SIP with respect to the following infrastructure SIP requirements:

- Section 110(a)(2)(E)(ii) (in part): 128(a)(2) relating to potential conflicts of interest by members of any state board or body.

In addition, we are proposing to approve into the SIP certain statutory provisions included in the 2009 Infrastructure SIP, as discussed in the TSD: [13]

- ARS Title 38, Chapter 3, Article 8 (''Conflict of Interest of Officers and Employees'')
- ARS 49–435 (''Hearings on orders of abatement'')
- ARS 49–461 (''Violations; order of abatement'')
- ARS 49–478 (''Hearing board'')
- ARS 49–482 (''Appeals to hearing board'')
- ARS 49–490 (''Hearings on orders of abatement'')

Simultaneously, we are proposing to disapprove Arizona's 2009 Infrastructure SIP with respect to the following infrastructure SIP requirements:

- Section 110(a)(2)(E)(ii) (in part): 128(a)(1) relating to ''significant income'' and representing the ''public interest'' board composition requirements for Pima, Maricopa, and Pinal counties.

As explained more fully in the TSD, we are proposing to disapprove the 2009 Infrastructure SIP with respect to this requirement of CAA section 110(a)(2)(E)(ii) because the Arizona SIP does not fully satisfy the statutory requirements for board composition under section 128(a)(1) 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 portion of 110(a)(2)(E)(ii) of the 2009 Infrastructure SIP that we are proposing to approve, as explained in the TSD, would improve the SIP by replacing obsolete statutes or regulations and by updating the state and local agencies' SIP implementation and enforcement authorities. We propose to determine that our approval of this element of the 2009 Infrastructure SIP 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, and the submitted SIP revision clarifies and updates the SIP. Our TSD contains a more detailed discussion of our evaluation.

Under section 179(a) of the CAA, final disapproval of a submittal that addresses a requirement of part D, title I of the CAA (CAA sections 171–193) or is required in response to a finding of substantial inadequacy as described in CAA section 110(k)(5) (SIP Call) starts a sanctions clock. The 2009 Infrastructure SIP was not submitted to meet either of these requirements. Therefore, any action we take to finalize the described partial disapprovals will not trigger mandatory sanctions under CAA section 179.

In addition, CAA section 110(c)(1) provides that EPA must promulgate a Federal Implementation Plan (FIP) within two years after finding that a State has failed to make a required submission or disapproving a State implementation plan submission in whole or in part, unless EPA approves a SIP revision correcting the deficiencies within that two-year period.

[13] Copies of these Arizona statutes and regulations are included in the 2012 Supplement, which is available in the docket for this action and online at *http://www.regulations.gov,* docket number EPA–R09–OAR–2012–0398.

V. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq, because this proposed partial approval and partial disapproval of SIP revisions under CAA section 110 will not in-and-of itself create any new information collection burdens but simply proposes to approve certain State requirements, and to disapprove certain other State requirements, for inclusion into the SIP. Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this proposed action will not have a significant impact on a substantial number of small entities. This proposed rule does not impose any requirements or create impacts on small entities. This proposed partial SIP approval and partial SIP disapproval under CAA section 110 will not in-and-of itself create any new requirements but simply proposes to approve certain State requirements, and to disapprove certain other State requirements, for inclusion into the SIP. Accordingly, it affords no opportunity for EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. Therefore, this action will not have a significant economic impact on a substantial number of small entities.

We continue to be interested in the potential impacts of this proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector.'' EPA has determined that the proposed partial approval and partial disapproval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This action proposes to approve certain pre-existing requirements, and to disapprove certain other pre-existing requirements, under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this proposed action.

E. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely proposes to approve certain State requirements, and to disapprove certain other State requirements, for inclusion into the SIP and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175, Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP on which EPA is proposing action would not 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. Thus, Executive Order 13175 does not apply to this proposed action.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This proposed action is not subject to EO 13045 because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This proposed partial approval and partial disapproval under CAA section 110 will not in-and-of itself create any new regulations but simply proposes to approve certain State requirements, and to disapprove certain other State requirements, for inclusion into the SIP.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use

available and applicable voluntary consensus standards.

The EPA believes that this proposed action is not subject to requirements of Section 12(d) of NTTAA because application of those requirements would be inconsistent with the Clean Air Act.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this proposed rulemaking.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

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

Dated: July 20, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2012–18547 Filed 7–27–12; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0556; FRL–9706–7]

Revisions to the Nevada State Implementation Plan, Washoe County Air Quality District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Washoe County District Board of Health (WCDBOH) portion of the Nevada State Implementation Plan (SIP) that EPA expects to be submitted by the Nevada Division of Environmental Protection (NVDEP). These revisions concern regulations regarding compliance with permit conditions, recordkeeping, source sampling and testing, and statements of compliance with 40 CFR part 70 permits. These regulations generally regulate emissions of criteria pollutants such as volatile organic compounds (VOC), oxides of nitrogen (NO_X), and particulate matter (PM). This proposed approval is based upon proposed regulations submitted by NVDEP and an accompanying request that EPA proceed with SIP review while the State and local agencies complete their public review and agency adoption processes. EPA will not take final action on these regulations until NVDEP submits the final adopted versions to EPA as a revision to the Nevada SIP. Final EPA approval of the regulations and incorporation of them into the Nevada SIP would make them federally enforceable under the Clean Air Act (CAA). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by August 29, 2012.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2012–0556, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 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 *www.regulations.gov* or email. *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* 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,* 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: Cynthia Allen, EPA Region IX, (415) 947–4120, *allen.cynthia@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What rules did the State submit?

By letter dated July 5, 2012, NVDEP submitted to EPA on behalf of WCDBOH, unofficial copies of several rules, with a request for approval of these provisions into the SIP by parallel processing.[1] See July 5, 2012 letter to Jared Blumenfeld, Regional Administrator, EPA Region 9, from Colleen Cripps, Administrator, NVDEP. Table 1 lists the four rules addressed by this proposal.

[1] Under EPA's ''parallel processing'' procedure, EPA proposes rulemaking action concurrently with the State's proposed rulemaking. If the State's proposed rule is changed, EPA will evaluate that subsequent change and may publish another notice of proposed rulemaking. If no significant change is made, EPA will publish a final rulemaking on the rule after responding to any submitted comments. Final rulemaking action by EPA will occur only after the rule has been fully adopted by Nevada and submitted formally to EPA for incorporation into the SIP. See 40 CFR part 51, appendix V.