

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA Approval date	Additional explanation
Section 110(a)(2) Infrastructure Requirements for the 1997 PM <sub>2.5</sub> NAAQS.	Statewide .....	12/7/07, 6/6/08, 4/26/10 .....	9–25–12 [Insert page number where the document begins].	This action addresses the following CAA elements or portions thereof: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M).
Section 110(a)(2) Infrastructure Requirements for the 2006 PM <sub>2.5</sub> NAAQS.	Statewide .....	4/26/10, 5/24/11 .....	9–25–12 [Insert page number where the document begins].	This action addresses the following CAA elements or portions thereof: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M).

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 [FR Doc. 2012–23497 Filed 9–24–12; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R09–OAR–2012–0458; FRL–9730–8]

**Approval and Promulgation of Implementation Plans; Arizona; Nogales PM<sub>10</sub> Nonattainment Area Plan**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a state implementation plan revision submitted by the Arizona Department of Environmental Quality to address the moderate area PM<sub>10</sub> (particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers) planning requirements for the Nogales nonattainment area. Consistent with this final action, EPA is approving the following plan elements as meeting the requirements of the Clean Air Act: The Nogales nonattainment area 2008 and 2011 emission inventories; the demonstration that the Nogales nonattainment area is attaining the National Ambient Air Quality Standard for PM<sub>10</sub>, but for international emissions sources in Nogales, Mexico; the demonstration that reasonably available control measures sufficient to meet the standard have been implemented in the nonattainment area; the reasonable further progress demonstration; the demonstration that implementation of measures beyond those needed for attainment meet the contingency measure requirement; and, the motor vehicle emissions budget for the purposes of determining the conformity of transportation plans, programs, and projects with this PM<sub>10</sub> plan.

**DATES: Effective Date:** This rule is effective on October 25, 2012.  
**Docket:** EPA has established docket number EPA–R09–OAR–2012–0458 for this action. The index to the docket for this action is 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 in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., confidential business information or 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:** Jerry Wamsley, Air Planning Office, AIR–2, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, telephone number: (415) 947–4111, or email address, [wamsley.jerry@epa.gov](mailto:wamsley.jerry@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, wherever “we”, “us” or “our” are used, we mean EPA. We are providing the following table of contents for ease of locating information in this proposal.

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**I. EPA’s Proposed Action**

On June 27, 2012, EPA proposed to approve the proposed state implementation plan (SIP) revision submitted by the Arizona Department of Environmental Quality (ADEQ) on May

29, 2012 to address the Clean Air Act (CAA or “Act”) requirements for areas classified as “moderate” nonattainment for the PM<sub>10</sub> national ambient air quality standard (NAAQS), in this case, Nogales, Arizona. ADEQ submitted a plan for the Nogales nonattainment area (NA) entitled *Proposed State Implementation Plan Nogales PM<sub>10</sub> Nonattainment Area*, referred to as the “Nogales 2012 Plan” here and in our proposal. See 77 FR 38400; (June 27, 2012). Specifically, under CAA section 110(k)(3), EPA proposed to approve the following elements of the Nogales 2012 Plan:

- (1) The 2008 base year and 2011 emissions inventories as meeting the requirements of CAA section 172(c)(3);
  - (2) The demonstration of attainment but for international emissions as meeting the requirements of CAA section 179B(a)(1);
  - (3) The implementation of paving projects and capital improvement projects at the Ports of Entry within the Nogales NA prior to the CAA’s 1994 attainment deadline as meeting the reasonably available control measure/ reasonably available control technology (RACM/RACT) requirements of CAA sections 172(c)(1), 179B(a)(2), and 189(c)(1)(C);
  - (4) The implementation of paving projects and capital improvement projects at the Ports of Entry to meet the reasonable further progress (RFP) demonstration requirement of CAA sections 172(c)(2) and 179B(a)(2);
  - (5) The implementation of post-1994 paving projects as meeting the contingency measure requirements of CAA sections 172(c)(9) and 179B(a)(2); and,
  - (6) The 2011 attainment year motor vehicle emissions budget if revised to include road construction PM<sub>10</sub>, because, as revised, it is derived from the section 179B demonstration and meets the requirements of CAA section 176(c) and 40 CFR 93, subpart A.
- To summarize our proposal, first, we described the 24-hour PM<sub>10</sub> NAAQS and its application to the Nogales NA and

how this resulted in the designation and classification of the Nogales NA as a moderate PM<sub>10</sub> nonattainment area under the CAA. Then, we described, in general terms, the CAA planning requirements for moderate PM<sub>10</sub> nonattainment areas, such as the Nogales NA, and touched briefly upon the 1993 Nogales PM<sub>10</sub> Plan, which identified emissions sources from Nogales, Mexico as the principal sources of PM<sub>10</sub> affecting ambient concentrations in Nogales, Arizona. See 77 FR 38401; (June 27, 2012).

Second, we presented Arizona's Nogales 2012 Plan, submitted by ADEQ on May 29, 2012, and described the ADEQ's concurrent request that EPA "parallel process" its review and proposed action on this plan. Then, we provided a brief description of the location and geography of the Nogales NA. The Nogales NA is located within Santa Cruz County in southern Arizona, approximately 60 miles south of Tucson, and covers 76.1 square miles. The southernmost boundary of the Nogales NA and Santa Cruz County is the United States (U.S.)/Mexico border. Adjacent to the U.S./Mexico border, the city of Nogales, Arizona is the largest city and population center in the Nogales NA. Directly across the U.S./Mexico border from Nogales, Arizona is the much larger city of Nogales, Mexico.<sup>1</sup> See 77 FR 38401–38402; (June 27, 2012).

Third, we discussed in detail the CAA and statutory requirements for moderate PM<sub>10</sub> nonattainment areas as applied to the Nogales NA, given the area's air quality is influenced by international sources of PM<sub>10</sub> emissions from Nogales, Mexico.<sup>2</sup> Specifically, in lieu of a demonstration that the area would actually attain the PM<sub>10</sub> NAAQS, section 179B of the CAA allows Arizona to submit a demonstration that the Nogales NA would have attained the PM<sub>10</sub> NAAQS but for international transport of PM<sub>10</sub> from Mexico. Under CAA section 179B, however, other SIP requirements, such as RACM and contingency measures, among other requirements, continue to apply to PM<sub>10</sub> nonattainment areas even if the area qualifies for relief from the attainment

demonstration requirement. See 77 FR 38402–38404; (June 27, 2012).

The primary criterion we applied for determining attainment of the PM<sub>10</sub> NAAQS but for international emissions was 40 CFR part 50, appendix K. Under 40 CFR part 50, appendix K, a nonattainment area meets the 24-hour PM<sub>10</sub> NAAQS when the expected number of days per calendar year with a 24-hour average concentration above 150 micrograms per cubic meter (µg/m<sup>3</sup>) is equal to or less than one. To demonstrate that the Nogales NA has met the PM<sub>10</sub> standard "but for" emissions from Mexico, Arizona's analysis had to show that no more than three exceedances over its specific three-year analysis period, 2007–2009, based on data completeness and every day sampling, would have occurred on the U.S. side of the border, setting aside contributions from Mexican sources of PM<sub>10</sub>. See 77 FR 38404; (June 27, 2012).

In the fourth section of our proposal, we reviewed the Nogales 2012 Plan and its constituent parts against the applicable CAA statutory and regulatory requirements.

*Emissions Inventories.* The 2008 base year and 2011 emissions inventories were reviewed for compliance with the requirements of CAA section 172(c)(3). For the reasons set forth in the proposed rule, we concluded that the inventories are comprehensive, accurate, and current inventories of actual emissions from all sources in the nonattainment area and therefore meet the requirements of section 172(c)(3). See 77 FR 38404–38405; (June 27, 2012).

*Section 179B or "But For" Demonstration.* Arizona's demonstration of attainment but for international emissions for the Nogales NA was reviewed for compliance with section 179B(a)(1). To summarize briefly Arizona's demonstration, Arizona reviewed local population growth data, Nogales, Mexico and Nogales NA emissions inventories, the ambient PM<sub>10</sub> data, and local meteorological data, and through its analyses, Arizona found that the Ambos Nogales area's meteorology and topography influence the observed exceedances of PM<sub>10</sub> NAAQS and there is a definite south-to-north directional component to the ambient air quality data underlying the exceedances of the PM<sub>10</sub> NAAQS. Finally, daily and hourly analyses of the most recent three years of quality assured and State certified ambient PM<sub>10</sub> data from 2007–2009 and associated meteorological data showed that no more than two, and likely none, of the 29 exceedances would have occurred in the Nogales NA, but for PM<sub>10</sub> emissions from Mexico. Based on these two exceedances, data

completeness, and every day sampling for the 2007–2009 timeframe, the calculated maximum expected annual exceedance rate is 0.7 exceedances per year. The standard used to demonstrate attainment of the PM<sub>10</sub> NAAQS, "but for" international emissions, is that the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m<sup>3</sup> must be equal to or less than one. Therefore, we proposed to determine that Arizona has met this standard and to approve its section 179B analysis and demonstration of attainment but for international emissions for the Nogales NA. See 77 FR 38405–38416; (June 27, 2012).

*RACM/RACT.* The implementation of paving projects and capital improvement projects at the Ports of Entry within the Nogales NA prior to the CAA's 1994 attainment deadline were reviewed under the RACM/RACT requirements of CAA sections 172(c)(1), 179B(a)(2), and 189(c)(1)(C). Based on that review, we concluded that the implementation of paving projects and capital improvement projects at the Ports of Entry within the Nogales NA prior to the 1994 attainment deadline met the RACM/RACT requirements of CAA sections 172(c)(1), 179B(a)(2), and 189(c)(1)(C). See 77 FR 38416–38417; (June 27, 2012).

*Reasonable Further Progress.* The implementation of paving projects and capital improvement projects at the Ports of Entry were reviewed under the RFP demonstration requirement of CAA sections 172(c)(2) and 179B(a)(2). Based on that review, we concluded that the implementation of paving projects and capital improvement projects at the Ports of Entry met the RFP demonstration requirement of CAA sections 172(c)(2) and 179B(a)(2). See 77 FR 38417–38418; (June 27, 2012).

*Contingency Measures.* The implementation of post-1994 paving projects were reviewed under the contingency measure requirements of CAA sections 172(c)(9) and 179B(a)(2). Based on that review, we concluded that the implementation of post-1994 paving projects met the contingency measure requirements of CAA sections 172(c)(9) and 179B(a)(2). See 77 FR 38417–38418; (June 27, 2012).

*Motor Vehicle Emissions Budget.* Finally, the 2011 attainment year motor vehicle emissions budget (MVEB) was reviewed against the requirements of CAA section 176(c) and of 40 CFR 93, subpart A. Based on that review, we concluded that the MVEB, if it included road construction dust when submitted in its final form, would meet the requirements of CAA section 176(c) and

<sup>1</sup> In 2010, Nogales, Arizona had 20,017 inhabitants (U.S. Census Bureau 2010) and Nogales, Mexico had 212,533 inhabitants (Instituto Nacional de Estadística Geografía e Informática, (INEGI) 2010).

<sup>2</sup> In particular, we described our preliminary interpretations of the applicable statutory provisions as set forth in the following guidance documents: The "General Preamble to Title I of the Clean Air Act" at 57 FR 132498; (April 16, 1992) and 57 FR 18070; (April 28, 1992); and "The Addendum to the General Preamble" at 59 FR 41998; (August 16, 1994).

of 40 CFR 93, subpart A. See 77 FR 38418–38419; (June 27, 2012).

Within our proposal, we anticipated the necessity for ADEQ to revise the MVEB to include road construction dust emissions; therefore, we required a second public comment period before Arizona could provide its final submittal containing the revised MVEB. The State’s final submittal and the revised MVEB are discussed further in the next section.

**II. Arizona’s Submittal of the Final 2012 Nogales Plan**

We proposed approval of the Nogales 2012 Plan based on the public draft version of the plan submitted to us by ADEQ as an enclosure to a letter requesting EPA to “parallel process” the plan prior to its submittal in final and adopted form as a revision to the Arizona SIP. We indicated in our proposal that, while we could propose action, we would not take final action on the Nogales 2012 Plan until the plan had been fully adopted by ADEQ and submitted formally to EPA for approval as part of the Arizona SIP.<sup>3</sup> As discussed in more detail below, on August 24, 2012, ADEQ adopted and submitted the *Final 2012 State Implementation Plan Nogales PM<sub>10</sub> Nonattainment Area*, dated August 24, 2012, herein referred to as “Final Nogales 2012 Plan”. This plan is the subject of today’s final action.

*A. Arizona’s Submittal of the Final Nogales 2012 Plan and Clean Air Act Procedural Requirements*

In our review of the Nogales 2012 Plan, dated May 29, 2012, and in our proposal, we noted the need for Arizona to include road construction dust within the plan’s MVEB and notified ADEQ prior to the close of its initial 30-day public comment period on the Nogales 2012 Plan.<sup>4</sup> In addition, ADEQ identified the need to revise the MVEB to include vehicle brake and tire wear emissions along with the previously included vehicle exhaust and entrained road dust emissions. Thus, in response to our comments and its own review of the MVEB, ADEQ revised the MVEB in the Nogales 2012 Plan to include road construction dust and vehicle brake and tire wear emissions, and on July 24, 2012 provided for a 30-day public review of this revised MVEB. On August 24, 2012, ADEQ then adopted and submitted the Final Nogales 2012 Plan on which we are taking final action

today. The Final Nogales 2012 Plan includes the revised MVEB.

Under EPA’s “parallel processing” procedure, EPA proposes rulemaking action on a proposed SIP revision concurrently with the State’s public review process. If the State’s proposed SIP revision is changed, EPA will evaluate that subsequent change and may publish another notice of proposed rulemaking. If no significant change is made, EPA will propose a final rulemaking on the SIP revision after responding to any submitted comments. Final rulemaking action by EPA will occur only after the final SIP revision has been fully adopted by ADEQ and submitted formally to EPA for approval as part of the Arizona SIP. See 40 CFR part 51, appendix V.

Because we anticipated the need to include road construction dust within the MVEB, noted this need in our proposal, and provided a 30-day public comment period concerning this revision to include road construction dust, we are not re-proposing approval of the revised MVEB included in the Final Nogales 2012 Plan. Prior to its August 24, 2012 submittal of the Final Nogales 2012 Plan, the State provided a 30-day public review and comment period of the revised MVEB including road construction dust and brake and tire wear emissions. In sum, these revisions to the Nogales PM<sub>10</sub> MVEB have been presented to the public for as many as 60 days and neither we nor ADEQ have received public comment. As submitted by Arizona in the Final Nogales 2012 Plan, the MVEB revisions are discussed below.

*B. Revisions to the Motor Vehicle Emissions Budget*

We proposed to approve the MVEB for the Nogales NA contingent upon ADEQ’s inclusion of road construction PM<sub>10</sub> in the MVEB. As we noted in the proposed rule, road construction PM<sub>10</sub> should be included in the MVEB because, as the second largest source of PM<sub>10</sub> emissions generated within the Nogales NA, road construction PM<sub>10</sub> is a significant contributor to the overall Nogales NA PM<sub>10</sub> inventory.<sup>5</sup> See 40 CFR 93.122(e). While road construction dust was included within the 2008 and 2011 emissions inventories provided by ADEQ, these emissions were not included in the MVEB for the Nogales 2012 Plan as submitted by ADEQ on May 29, 2012.

As noted above, ADEQ revised the MVEB in the Final Nogales 2012 Plan to include road construction dust (see Table 1 below) and to include brake and

tire wear emissions (see discussion in next section of this document).

**TABLE 1—2011 NOGALES NA PM<sub>10</sub> MOTOR VEHICLE EMISSIONS BUDGET [tons]**

Source category	PM <sub>10</sub>
Unpaved Road Dust .....	864.9
Road Construction Dust .....	267.0
Paved Road Dust .....	121.4
On-road Gasoline and Diesel Vehicle Emissions, including Brake, Tire Wear, and Vehicle Exhaust .....	21.0
<b>Total .....</b>	<b>1,274.3</b>

**Source:** Table 7.1 of the Final Nogales 2012 Plan and “2008 and 2011 p.m.10 Emissions Inventories for the Nogales NA, Santa Cruz County, Arizona” in Appendix B of the Final Nogales 2012 Plan.

Because Arizona included road construction dust as we recommended in our proposed approval of the Nogales 2012 Plan, we are taking final action to approve the Nogales NA PM<sub>10</sub> MVEB at 1,274.3 tons. For our broader discussion of the Nogales 2012 Plan and how the MVEB meets statutory requirements, please see the proposed rule at 77 FR 38418—38419.

*C. Revisions to the 2008 and 2011 Emissions Inventories’ Mobile Source Emissions Estimates*

In reviewing the mobile source emissions estimates within the 2008 and 2011 emissions inventories for the MVEB in the Final Nogales 2012 Plan, ADEQ discovered that vehicle brake and tire wear emissions were not included in the 2008 and 2011 emissions inventories or the corresponding MVEB presented in the Nogales 2012 Plan, submitted May 29, 2012.<sup>6</sup> As a result, the 2008 and 2011 emissions inventories did not include the seven tons per year of PM<sub>10</sub> emissions attributed to vehicle brake and tire wear. ADEQ revised the Nogales NA emissions inventories and MVEB accordingly for the Final Nogales 2012 Plan and thereby increased the Nogales NA PM<sub>10</sub> inventory total from 1,524 to 1,531 tons in 2008 and from 1,521 to 1,528 tons in 2011, an increase of less than 0.5 percent across the Nogales NA emissions inventories.

While including brake and tire wear emissions is important for accuracy and compiling the MVEB, the material effect on any subsequent analyses using emissions inventory data in the Final

<sup>3</sup> See footnote two of the proposed rule at 77 FR 38401; (June 27, 2012).

<sup>4</sup> See correspondence from Lisa Hanf, EPA to Eric Massey, ADEQ, dated June 21, 2012.

<sup>5</sup> See 77 FR 38419 (June 27, 2012).

<sup>6</sup> See Appendices 1 and 2 containing the MOVES model output files within Nogales NA 2008 and 2011 Emissions Inventories within Appendix B of the Nogales 2012 Plan.

Nogales 2012 Plan is inconsequential. For example, in 2008, adding brake and tire wear emissions to the Nogales NA emissions inventory increases its largest share of the total Ambos Nogales regional emissions inventory by less than 0.1 percent, from 35.97 to 36.07 percent.<sup>7</sup> Therefore, it remains accurate for the purposes of analysis to assign to the Nogales NA a maximum of 36 percent of total Ambos Nogales regional PM<sub>10</sub> emissions; consequently, no revisions are required for the section 179B demonstration and supporting analyses presented within the Final Nogales 2012 Plan.

By revising the Nogales NA emissions inventories for 2008 and 2011 and revising the MVEB resulting from the 2011 emissions inventory, ADEQ has corrected the oversight of not including the brake and tire wear emissions in the previously presented emissions inventories. The MVEB provided in Arizona's Final Nogales 2012 Plan submittal accurately includes all on-road sources of PM<sub>10</sub> as estimated within the 2011 Nogales NA emissions inventory. Also, the revised 2008 and 2011 emissions inventories for the Nogales NA within the Final Nogales 2012 Plan provide a comprehensive, accurate, and current inventory of actual emissions from all sources within the nonattainment area.

### III. Public Comments

EPA's proposed rule provided a 30-day public comment period. During this period, we received no comments on our proposal. Furthermore, Arizona received no comments during its 30-day comment period presenting the revised MVEB for public review, prior to its submittal of the Final Nogales 2012 Plan.

### IV. EPA's Final Action

Under CAA section 110(k), and for the reasons set forth in our June 27, 2012 proposed rule and summarized herein, EPA is approving the *Final 2012 State Implementation Plan Nogales PM<sub>10</sub> Nonattainment Area* ("Final Nogales 2012 Plan"), submitted by ADEQ on August 24, 2012, for the Nogales, Arizona "moderate" PM<sub>10</sub>

nonattainment area. Specifically, EPA is approving the following elements of the Final Nogales 2012 Plan:

- (1) The 2008 base year and 2011 emissions inventories as meeting the requirements of CAA section 172(c)(3);
- (2) The demonstration of attainment but for international emissions as meeting the requirements of CAA section 179B(a)(1);
- (3) The implementation of paving projects and capital improvement projects at the Ports of Entry within the Nogales NA prior to the CAA's 1994 attainment deadline as meeting the RACM/RACT requirements of CAA sections 172(c)(1), 179B(a)(2), and 189(c)(1)(C);
- (4) The implementation of paving projects and capital improvement projects at the Ports of Entry to meet the RFP demonstration requirement of CAA sections 172(c)(2) and 179B(a)(2);
- (5) The implementation of post-1994 paving projects as meeting the contingency measure requirements of CAA sections 172(c)(9) and 179B(a)(2); and,
- (6) The 2011 attainment year motor vehicle emissions budget because it is derived from the section 179B demonstration and meets the requirements of CAA section 176(c) and of 40 CFR 93, subpart A.

Even with our approval of Arizona's demonstration that the Nogales NA is attaining the PM<sub>10</sub> NAAQS but for international transport from Mexico, this final action approving the Final Nogales 2012 Plan does not constitute a redesignation to attainment because we have not determined that the area has met the CAA requirements for redesignation under section 107(d)(3)(E). The classification and designation status in 40 CFR part 81 remains moderate nonattainment for the Nogales NA until such time as EPA determines that Arizona has met the CAA requirements for redesignating the Nogales NA to attainment for the PM<sub>10</sub> NAAQS.

### 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. See 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 those choices meet the criteria of the Clean Air Act. Accordingly, this action merely approves a state plan as meeting Federal requirements and does not impose additional requirements beyond

those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive 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 disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898, (59 FR 7629; (February 16, 1994)).
- In addition, this action 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.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and

<sup>7</sup> The previous Nogales NA 2008 emissions inventory of 1,524 tons divided by 4,237 tons, representing total Ambos Nogales regional PM<sub>10</sub> emissions, provides the 35.97 percent share. The revised Nogales NA 2008 emissions inventory of 1,531 tons divided by 4,244 tons, representing total Ambos Nogales regional PM<sub>10</sub> emissions, provides the 36.07 percent share. The 2008 Nogales, Mexico share remains constant at 2,713 tons as part of estimating the Ambo Nogales regional total. See Appendix A of the Final Nogales 2012 Plan for the detailed review and comparison of Nogales NA and Nogales, Mexico emissions inventories from which these figures are taken.

the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 26, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

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

Dated: August 24, 2012.

Alexis Strauss,

Acting Regional Administrator, EPA Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

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

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

#### Subpart D—Arizona

■ 2. Section 52.120 is amended by adding paragraph (c)(150) to read as follows:

#### § 52.120 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(150) The following plan was submitted on August 24, 2012, by the Governor’s designee.

(i) [Reserved]

(ii) Additional material.

(A) Arizona Department of Environmental Quality.

(1) “Final 2012 State Implementation Plan Nogales PM<sub>10</sub> Nonattainment Area,” dated August 24, 2012, including

Appendices A–K, adopted on August 24, 2012.

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[FR Doc. 2012–23118 Filed 9–24–12; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R08–OAR–2007–1034; FRL–9732–1]

#### Disapproval and Promulgation of Air Quality Implementation Plans; State of Utah; Revisions To Open Burning Regulations

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

**ACTION:** Final rule.

**SUMMARY:** EPA is disapproving a State Implementation Plan (SIP) revision submitted by the State of Utah on December 10, 1999. This revision to R307–202 Emission Standards: General Burning authorizes the State to extend the time period for open burning. EPA is disapproving the submitted revision because it does not meet the requirements of section 110(l) of the Clean Air Act (CAA). This action is being taken under section 110 of the CAA.

**DATES:** This final rule is effective October 25, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2007–1034. All documents in the docket are listed in the [www.regulations.gov](http://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 either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Program, U.S. Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Crystal Freeman, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–

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#### SUPPLEMENTARY INFORMATION:

#### Definitions

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

(i) The initials *AQS* mean or refer to Air Quality System.

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

(iii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.

(iv) The initials *NAAQS* mean or refer to the National Ambient Air Quality Standards.

(v) The initials *SIP* mean or refer to State Implementation Plan.

(vi) The words *Utah* or *State* mean the State of Utah.

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#### I. Background

On December 10, 1999, the State of Utah submitted a SIP revision to Rule R307–202 Emission Standards: General Burning. This rule contains the following provisions: definitions and exclusions, community waste disposal, general prohibitions, permissible burning—without permit, permissible burning with permit, and special conditions.

The proposed revision is found within the ‘permissible burning with permit’ in section R307–202–5(3)(e)(i). The revision extends the time period during which open burning could be authorized. The current burning period in the rule is from March 30 to May 30, the revision would extend the beginning of the burning period to March 1. This would allow an additional 30 days to the open burning period. The revision to the rule is based on a request from the Washington County Mayors Association to change the beginning date to accommodate areas of the State that were dry enough to burn earlier in the year.

In our analysis of ambient air quality monitoring data, as described in our June 19, 2012 (77 FR 36443) proposed rule, EPA found that the relaxation of the open burning rule could contribute to further degradation of air quality within the State of Utah. Specifically, the analysis demonstrates that further degradation of air quality could occur in Utah’s PM<sub>2.5</sub> nonattainment areas where