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, and Reporting and recordkeeping requirements.

Dated: June 30, 2011.

Al Armendariz,

Regional Administrator, Region 6.

40 CFR part 52 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 GG—New Mexico

■ 2. Section 52.1620 is amended in paragraph (c) by revising the entry for Part 74 under ''New Mexico Administrative Code (NMAC) Title 20—Environment Protection Chapter 2—Air Quality'' to read as follows:

§ 52.1620 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED NEW MEXICO REGULATIONS

State citation	Title/subject	State approval/ effective date	EPA approval date	Comments
New Mexico Administrative Code (NMAC) Title 20—Environment Protection Chapter 2—Air Quality				
*	*	*	*	*
Part 74	Permits—Prevention of Significant Deterioration.	1/1/2011	7/20/2011 [Insert *FR* page number where document begins].	
*	*	*	*	*

§ 52.1634 [Amended]

■ 3. Section 52.1634 is amended by removing and reserving paragraph (d).

[FR Doc. 2011–18125 Filed 7–19–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2010–1025; FRL–9436–2]

Approval and Promulgation of Air Quality Implementation Plan; New Jersey and New York; Final Disapproval of Interstate Transport State Implementation Plan Revision for the 2006 24-Hour $PM_{2.5}$ NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to disapprove the New Jersey and the New York State Implementation Plan (SIP) revisions submitted to address significant contribution to nonattainment or interference with maintenance in another state with respect to the 2006 24-hour fine particle ($PM_{2.5}$) national ambient air quality standards (NAAQS). On January 20, 2010, New Jersey submitted a SIP revision to address sections of the Clean Air Act (CAA) concerning interstate transport requirements, and the sections of the CAA concerning infrastructure requirements. On March 23, 2010, New York submitted a SIP revision to address the section of the CAA concerning interstate transport, and sections 110(a)(1) and (2) of the CAA concerning infrastructure SIP requirements. In this action, EPA is taking final action to disapprove the portion of the New Jersey and the New York SIP revisions that addresses the requirement prohibiting a state's emissions from significantly contributing to nonattainment or interfering with maintenance of the NAAQS in any other state. The remaining elements of the submittals are not addressed in this action and will be addressed in a separate action. The intended effect of this action will be the implementation of a Federal Implementation Plan (FIP) for the State no later than 2 years from date of the disapproval. The proposed Transport Rule, when final, is the FIP that EPA intends to implement for the State.

DATES: *Effective Date:* This rule is effective on August 19, 2011.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R02–OAR–2010–1025. All documents in the docket are listed at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is 212–637–4249.

FOR FURTHER INFORMATION CONTACT: Kenneth Fradkin (*fradkin.kenneth@epa.gov*), Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

I. What action is EPA taking?
II. What comments did EPA receive in response to the proposal?
III. What are EPA's conclusions?
IV. Statutory and Executive Order Reviews

I. What action is EPA taking?

EPA is taking final action to disapprove portions of the submissions from the State of New Jersey and the State of New York that were submitted to demonstrate that those states have adequately addressed elements of CAA section 110(a)(2)(D)(i)(I). Those elements require a state's SIP to contain

adequate provisions to prohibit air pollutant emissions from sources within a state from significantly contributing to nonattainment in or interference with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in any other state. The New Jersey and New York submissions do not contain adequate provisions to prohibit air pollutant emissions from within the states from significantly contributing to nonattainment in or interference with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in other downwind states.

The remaining elements of the New Jersey and New York submittals, including the section 110 infrastructure, and section 110(a)(2)(D)(i)(II) regarding interfering with measures required in the applicable SIP for another state designed to prevent significant deterioration of air quality and protect visibility, are not addressed in this action and will be acted on in a separate rulemaking.

For additional details on EPA's analysis and findings, the reader is referred to the proposal published in the January 26, 2011 **Federal Register** (76 FR 4579) which is available on line at *http://www.regulations.gov*, Docket number EPA–R02–OAR–2010–1025.

II. What comments did EPA receive in response to the proposal?

EPA received one comment letter on the January 26, 2011 proposal. The letter can be found on the internet in the electronic docket for this action. To access the letter, please go to *http://www.regulations.gov* and search for Docket No. EPA–R02–OAR–2010–1025, or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph above. The discussion below addresses those comments and our response.

A. Comment From the State of New Jersey Concerning the New Jersey Submittal

Comment: The commenter requests that EPA approve its SIP Revision because New Jersey has adopted multi-pollutant performance standards and met its rule commitments to address the emissions from electric generating units. In addition, New Jersey's air quality levels are in compliance with the 2006 24-hour $PM_{2.5}$ NAAQS.

EPA Response: EPA recognizes New Jersey's actions in improving air quality in the state and reducing the transport of emissions to downwind areas, including adopting multi-pollutant performance standards for electric generating units. However, despite such actions by New Jersey, EPA's evaluation, as discussed in the proposed disapproval, demonstrated that New Jersey's submittal is inadequate.

EPA notes that much of the recent improvement in air quality has resulted from the promulgation of the Clean Air Interstate Rule (CAIR). This rule was remanded to EPA in 2008 and will not remain in place indefinitely. Reductions associated with the CAIR thus also cannot be said to be permanent. EPA's modeling analysis, conducted for the proposed Transport Rule, as proposed on August 2, 2010, in the **Federal Register** (75 FR 45210) demonstrates that emissions from New Jersey significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in downwind areas. Therefore, EPA cannot approve New Jersey's submittal.

III. What are EPA's conclusions?

EPA has evaluated the New Jersey and New York submittals for consistency with the CAA, EPA regulations, and EPA policy. The demonstrations submitted by New Jersey and New York do not meet the requirements of section 110(a)(2)(D)(i)(I) because the states did not evaluate or demonstrate with a technical analysis that the emissions reduction measures provided in their SIP revisions assure that they do not contribute significantly to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS. Accordingly, EPA is finalizing the disapproval of the portions of the New Jersey and the New York SIP revisions that address the section 110(a)(2)(D)(i)(I) requirement prohibiting a state's emissions from significantly contributing to nonattainment or interfering with maintenance of the NAAQS in any other state.

EPA is taking no action at this time on the remainder of the demonstration, including sections 110(a)(1) and (2) regarding infrastructure requirements, and section 110(a)(2)(D)(i)(II) regarding interference with measures required in the applicable SIP for another state designed to prevent significant deterioration of air quality and protect visibility. They will be addressed in a separate rulemaking.

Under section 179(a) of the CAA, final disapproval of a submittal that addresses a requirement of a Part D Plan (42 U.S.C. 7501–7515) or is required in response to a finding of substantial inadequacy as described in section 110(k)(5) (42 U.S.C. 7410(k)(5)) (SIP call) starts a sanctions clock. The provisions in the submittal we are disapproving were not submitted to meet either of those requirements. Therefore, no sanctions are triggered for this disapproval.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to act on state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law.

A. Executive Order 12866, Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

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 SIP disapproval under section 110 and subchapter I, part D of the Clean Air Act will not in-and-of-itself create any new information collection burdens but simply disapproves certain 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 rule on small entities, I certify that this action will not have a significant impact on a substantial

number of small entities. This rule does not impose any requirements or create impacts on small entities. This SIP disapproval under section 110 and subchapter I, part D of the Clean Air Act will not in-and-of-itself create any new requirements but simply disapproves certain 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. The fact that the Clean Air Act prescribes that various consequences (e.g., higher offset requirements) may or will flow from this disapproval does not mean that EPA either can or must conduct a regulatory flexibility analysis for this action. Therefore, this action will not have a significant economic impact on a substantial number of small entities.

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 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 disapproves 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 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 disapproves certain 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 EPA is disapproving 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 action.

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

EPA interprets Executive Order 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 Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it 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 SIP disapproval under section 110 and subchapter I, part D of the Clean Air Act will not in-and-of-itself create any new regulations but simply disapproves certain State requirements for inclusion into the SIP.

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

This action 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, section 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 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 Populations

Executive Order 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 action. In reviewing SIP submissions, EPA's role is to approve or disapprove state choices, based on the criteria of the Clean Air Act. Accordingly, this action merely disapproves certain State requirements for inclusion into the SIP under section 110 and subchapter I, part D of the Clean Air Act and will not in-and-of itself create any new requirements. Accordingly, it 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.

K. 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 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).

L. 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 September 19, 2011. 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).)

Statutory Authority

The statutory authority for this action is provided by sections 110 of the CAA, as amended (42 U.S.C. 7410).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

Dated: June 1, 2011.

Judith A. Enck,

Regional Administrator, Region 2.

[FR Doc. 2011–17742 Filed 7–19–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2011–0215; FRL–9435–9]

Approval and Promulgation of Air Quality Implementation Plan; Missouri; Final Disapproval of Interstate Transport State Implementation Plan Revision for the 2006 24-Hour PM2.5 NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to our authority under the Clean Air Act (CAA or Act), the Environmental Protection Agency (EPA) is taking final action to disapprove the portion of the ''Infrastructure'' State Implementation Plan (SIP) (CAA section 110(a)(1) and (2)) submittal from the State of Missouri intended to address the CAA section relating to the ''interstate transport'' requirements for the 2006 24-hour fine particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) that prohibit a state from significantly contributing to nonattainment or interfering with maintenance of the NAAQS in any other state. This final action to disapprove the ''interstate transport'' portion of the Missouri SIP submittal received by EPA on December 28, 2009, only relates to those provisions and does not address the other portions of Missouri's December 28, 2009, submission. The rationale for this action and additional detail on this disapproval were described in EPA's proposed rulemaking published in the **Federal Register** on March 18, 2011. The effect of this action will be the promulgation of a Federal Implementation Plan (FIP) for Missouri no later than two years from the date of disapproval. EPA's proposed Transport Rule, when final, is the FIP that EPA intends to implement for Missouri.

DATES: *Effective Date:* This rule is effective on August 19, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2011–0215. All documents in the docket are listed on the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, Region 7, in the Air Planning and Development Branch, of the Air and Waste Management Division, 901 North 5th Street, Kansas City, Kansas 66101. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance. The Regional Office official hours of business are Monday through Friday, 8 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Kramer, Environmental Scientist, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101; *telephone number:* (913) 551–7186; *fax number:* (913) 551–7844; *e-mail address: kramer.elizabeth@epa.gov.*

Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 19, 2011. 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).)

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. These sections provide additional information on this final action:

I. Background
II. Final Action
III. Administrative Requirements

I. Background

On March 18, 2011 (76 FR 14835), EPA proposed to disapprove a portion of the ''Infrastructure'' SIP (CAA 110(a)(1) and (2)) submittal from the State of Missouri relating to the interstate transport element of infrastructure (CAA section 110(a)(2)(D)(i)(I)). EPA received no comments on the proposed disapproval. For additional detail on EPA's rationale this final action, see the proposed rulemaking.

Section 110(a)(2) of the CAA lists the thirteen required elements that ''infrastructure'' SIPs must address, as applicable, including section 110(a)(2)(D)(i), which pertains to interstate transport of certain emissions. These ''good neighbor'' provisions require each state to submit a SIP that prohibits emissions which adversely affect another state in the ways contemplated in the statute. The section 110(a)(2)(D)(i), portion of Missouri's SIP must prevent sources in the State from emitting pollutants in amounts which will: (I) Contribute significantly to nonattainment of the NAAQS in other states and interfere with maintenance of the NAAQS in other states and (II) interfere with provisions to prevent significant deterioration of air quality in other states or interfere with efforts to protect visibility in other states.

On December 28, 2009, EPA received a SIP revision from the State of Missouri intended to address the requirements of section 110(a)(2) including the requirements of section 110(a)(2)(D)(i) for the 2006 24-hour $PM_{2.5}$ NAAQS. In this final rulemaking, EPA is