

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

[AZ-005-ROP FRL-5953-4]

**Approval and Promulgation of Implementation Plans; Phoenix, Arizona Ozone Nonattainment Area, 15 Percent Rate of Progress Plan and 1990 Base Year Emission Inventory**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** EPA proposes to determine that the Phoenix, Arizona ozone nonattainment area has in place sufficient control measures to meet the 15 percent rate of progress (ROP) requirement in Clean Air Act section 182(b)(2). This proposal is based on EPA's reanalysis of Arizona's 15 percent plan submitted for the Phoenix area. This reanalysis takes into account current information on the implementation of the State's vehicle inspection and maintenance program, additional controls recently adopted by the State, and national rules either proposed or promulgated by EPA that affect emissions in the Phoenix area. EPA is also proposing to approve the area's 1990 base year emissions inventory.

**DATES:** Comments on this proposal must be received in writing by March 27, 1998. Commenters may also request the opportunity to submit oral comments pursuant to Clean Air Act section 307(d)(5). Requests for a public hearing must be received by February 5, 1998.

**ADDRESSES:** Written comments should be addressed to Frances Wicher at the Region 9 address.

Copies of the State's submittals, EPA's draft technical support document (TSD) for this rulemaking, EPA's policies governing 15 percent plan approvals and emission inventories, and other supporting documentation are contained in the docket for this rulemaking. Copies of this document and the TSD are also available in the air programs section of EPA Region 9's website, <http://www.epa.gov/region09>. The docket is available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 9, Office of Air Planning, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105. (415) 744-1248.

Arizona Department of Environmental Quality, Library, 3033 N. Central Avenue, Phoenix, Arizona 85012. (602) 207-2217.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:****I. Background***A. Clean Air Act Requirements***1. Base Year Emission Inventories**

The Phoenix metropolitan area was originally classified as a moderate ozone nonattainment on November 6, 1991.<sup>1</sup> Section 182(b) of the Clean Air Act (CAA or Act) requires that each state in which all or part of a moderate ozone nonattainment area is located submit, by November 15, 1992, an inventory of actual emissions from all sources, as described in sections 172(c)(3) and 182(a)(1), in accordance with guidance provided by the Administrator. EPA provided preliminary guidance on this base year inventory in the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, April 16, 1992, 57 FR 13498, 13502, indicating that the inventory should be for calendar year 1990 and should include both anthropogenic and biogenic sources of volatile organic compounds (VOCs), nitrogen oxides (NOX), and carbon monoxide (CO). The inventory should address actual emissions of these pollutants during the peak ozone season in the nonattainment area as well as emissions from sources emitting greater than 100 tons per year in a 25-mile buffer zone around the nonattainment area. The inventory should include all point and area sources, as well as all highway and non-highway (non-road) mobile sources.

**2. 15 Percent ROP Plans**

Section 182(b)(1)(A) of the CAA requires State's with ozone nonattainment areas classified as moderate and above to develop plans to reduce VOC emissions by 15 percent, net of growth, from the 1990 baseline. The 15 percent rate of progress (ROP) plans were to be submitted by November 15, 1993, and the reductions were required to be achieved by November 15, 1996.

For the 15 percent ROP plans, the CAA sets limitations on the creditability of certain types of reductions. Specifically, a state cannot take credit for reductions achieved by Federal

Motor Vehicle Control Program (FMVCP) measures promulgated prior to 1990, or for reductions resulting from requirements to lower the volatility (Reid Vapor Pressure (RVP)) of gasoline promulgated prior to 1990 or required under section 211(h) of the CAA, which restricts gasoline RVP. Furthermore, the CAA does not allow credit for corrections to vehicle inspection and maintenance (I/M) programs or corrections to Reasonably Available Control Technology (RACT) rules as these programs were required prior to 1990.

Although the November 15, 1996 deadline has now passed, the 15 percent ROP requirement remains. Once a statutory deadline has passed and has not been replaced by a later one, the deadline then becomes as soon as possible. *Delaney v. EPA*, 898 F.2d 687, 691 (9th Cir. 1990). EPA has interpreted this requirement to be "as soon as practicable" (55 FR 36458, 36505 (September 9, 1990)); therefore, to demonstrate that the Phoenix area has met the CAA section 182(b)(1) requirement, it must be demonstrated that the 15 percent reduction will be achieved as soon as practicable by showing that the applicable implementation plan contains all VOC control measures that are practicable for the Phoenix area and that meaningfully accelerate the date by which the 15 percent level is achieved.

EPA has developed guidance that specifically addresses the crediting of post-1996 emission reductions in 15 percent ROP demonstrations. Under EPA policy, reliance on post-1996 emission reductions in the 15 percent plan necessitates that the 1996 target level of emission reductions be revised to remove the additional emission reductions from the FMVCP and federal RVP regulations between 1996 and the year 15 percent is actually to be demonstrated. References 2, 3 and 4.

EPA's policy regarding 15 percent ROP plans can be found in the General Preamble (57 FR 13498, 13507) and other EPA guidance documents referenced in this document and found in the docket for this rulemaking.

*B. Phoenix's 15 Percent ROP Plan*

The State of Arizona submitted the initial 15 percent rate of progress plan for the metropolitan Phoenix area (The Maricopa Association of Governments 1993 Ozone Plan for the Maricopa County Area, November 1993 (1993 MAG Plan)) on November 15, 1993 and an Addendum (March 1994) to that plan on April 8, 1994. On April 13, 1994 EPA found the initial plan incomplete because it failed to include, in fully

<sup>1</sup> The Phoenix metropolitan area was recently reclassified from moderate to serious for ozone. 62 FR 60001 (November 6, 1997). This reclassification does not affect the requirement for a 1990 base year inventory or a 15 percent ROP demonstration.

adopted and enforceable form, all of the measures relied upon in the 15 percent demonstration. This incompleteness finding started the 18-month sanction "clock" in CAA section 179 and the two-year clock under section 110(c) for EPA to promulgate a federal implementation plan (FIP) covering the 15 percent ROP requirement. Subsequently in November 1994 and April 1995, Arizona submitted an attainment plan for the Phoenix area which updated the 15 percent ROP demonstrations.<sup>2</sup> On May 12, 1995, EPA found the revised 15 percent plan and the attainment plan complete, turning off the sanctions clock; however, under section 110(c), the FIP clock continues until EPA approves the 15 percent plan. Since 1995, EPA has acted to approve many of the control measures contained in these plans but has not yet acted on the overall 15 percent plan.

The 15 percent ROP demonstration in the MAG 1993 Plan relied primarily on improvements to the State's vehicle emissions inspection and maintenance program (I/M), a summertime gasoline volatility (RVP) limitation of 7.00 pounds per square inch (psi), numerous stationary and area source control measures, and a number of transportation control measures.

Improvements to the State's I/M program (known as the Vehicle Emissions Inspection Program (VEIP)) included biennial IM240 transient testing for model year 1981 and newer vehicles, more stringent testing cut points (the tailpipe emissions levels at which cars are failed), pressure and purge testing, increased waiver limits, improvements to the anti-tampering program, and a remote sensing program. These I/M improvements accounted for 50 percent of the emission reductions necessary to show the required ROP. See 1993 Ozone Plan Addendum, page 3-6. In designing its enhanced VEIP, Arizona relied in good faith on the technical specifications and associated emission reductions in EPA's enhanced I/M regulations, 40 CFR part 51, subpart S as promulgated on November 5, 1992 (57 FR 52950).

Arizona began to implement the improvements to its I/M program in early 1995 and quickly determined that EPA's pressure and purge test could not be implemented in practice in I/M testing lanes, and consequently suspended the tests. The State subsequently redesigned the pressure

test and began implementing it in 1996. No effective purge test, however, is currently available. EPA continues to work to develop such a test and Arizona remains committed to implementing a test when it becomes available.

Early testing of the final cut points assumed in the State's 15 percent plan also indicated that they would not work in practice because of unacceptably high false failure rates (i.e., failing cars that should have passed) of up to 50 percent. Arizona is currently working to develop alternatives to the final cut points and intends to begin implementing those alternatives as early as 1999.

The purge test and the final cut points accounted for roughly 60 percent of the total emission reductions expected from the VEIP and 30 percent of the emission reductions necessary to show 15 percent ROP. In part to replace these lost emission reductions and in part to ensure continued progress toward attainment of the ozone standard in the Phoenix area, the State opted into EPA's federal reformulated gasoline program in 1997 (60 FR 30260 (June 3, 1997)) and has recently adopted its own, more stringent Cleaner Burning Gasoline (CBG) program as well as other control measures. EPA proposed to approve the State's CBG program on November 20, 1997. 62 FR 61942.

#### C. EPA's 15 Percent ROP Plan Obligation

In August 1996, EPA was sued by the American Lung Association of Arizona, *ALAA v. Browner*, No. CIV 96-1856 PHX ROS (D.Ariz.). This case sought to enforce EPA's obligation under CAA section 110(c) to promulgate a federal plan for the 15 percent ROP requirement. On July 8, 1997 a consent decree was filed with the U.S. District Court for the District of Arizona establishing a schedule of January 20, 1998 for proposing and May 18, 1998 for promulgating a 15 percent ROP plan. Under the consent decree, EPA's obligation to promulgate a plan is relieved to the extent that it has approved State measures.

The State's 15 percent plan as revised and submitted in 1993 through 1995 does not reflect the changes to the control strategy necessitated by the problems with enhanced I/M and the implementation of the federal RFG program. In addition, EPA guidance requires a recalculation of the 15 percent target emission level if post-1996 emissions reductions (such as those from the RFG program) are to be credited to the 15 percent plan. As a result, EPA does not have in front of it a complete state submittal containing a revised 15 percent ROP demonstration

that it could act on without additional analysis, public hearing and adoption by the State. Consequently in this document, EPA is proposing to find, based on its own analysis of the available emission reductions, that the State has sufficient measures to provide for the 15 percent reduction.

## II. EPA's Evaluation

### A. 1990 Base Year Emission Inventory

EPA is proposing to approve the State's 1990 base year emissions inventory for the Phoenix metropolitan area and to use it, with minor modifications, as the basis for the 15 percent ROP demonstration.

As specified in EPA guidance (Reference 1, p. 13502), the 1990 base year inventory is composed of annual and seasonal inventories of actual (as opposed to permitted or potential) VOC, NO<sub>x</sub>, and CO emissions in the Phoenix ozone nonattainment area as well as actual emissions from all large point sources within a 25-mile buffer zone around the nonattainment area.

EPA proposes to approve the base year inventory because it is (1) accurate in that it uses established estimation and measurement methods approved by EPA; (2) comprehensive in that it estimates emissions from all categories of sources for the three ozone precursors; and (3) current in that it provides estimates of actual emissions for the 1990 base year as required.

Table 1 provides a summary of the baseline emissions inventory.

TABLE 1.—METROPOLITAN PHOENIX 1990 BASELINE EMISSIONS INVENTORY  
(Metric tons per day)

Source type	VOC	NO <sub>x</sub>	CO
Point Sources ....	25.6	70.9	13.8
Area Sources ....	111.8	7.4	3.9
On-Road Mobile	136.2	130.1	911.5
Non-Road Mobile	57.9	85.2	521.1
Biogenic .....	37.3	.....	.....
Total .....	368.8	293.6	1450.3

Source: 1993 Ozone Plan, Appendix B, Exhibit 1.

For use in its 15 percent ROP analysis, EPA has slightly modified the State's 1990 base year inventory to reflect the Agency's delisting of perchloroethylene (used primarily as a drycleaning solvent) as a VOC (61 FR 4588 (February 7, 1996)), a revised version of EPA's MOBILE5a on-road motor vehicle emission estimation model, and slightly revised inputs to that model to be consistent with base

<sup>2</sup> The State also submitted its Voluntary Early Ozone Plan for the Metropolitan Phoenix Area (VEOP) on April 21, 1997. This plan contains several additional VOC control measures but does not include any revisions to the demonstration in the previously submitted 15 percent plan.

year and future year analyses.<sup>3</sup> These modifications decreased the submitted base year area source inventory by 1.2 metric tons per day and the on-road mobile source inventory by 0.6 metric tons per day for a total decrease of 1.8 metric tons per day.

**B. Calculation of the 15 Percent ROP Target**

A number of steps are necessary to calculate the 15 percent ROP VOC target emission level. First, the 1990 base year inventory must be revised to exclude sources outside the nonattainment area, biogenic emissions, and any VOC emission reductions that will accrue from the FMVCP and federal RVP standards during the 1990–1996 period. The resulting inventory is referred to as the “adjusted base year inventory.” For 15 percent ROP plans that rely on post-1996 emissions reductions, the adjusted base year inventory must also exclude any VOC emission reductions resulting from the FMVCP and federal RVP

standards from 1996 until the projected date by which the 15 percent ROP will be demonstrated (henceforth referred to as the demonstration year). See Reference 4. Procedures for calculating emission reductions from the FMVCP and federal RVP standards are discussed in Reference 1 (page 13507) and Reference 6. Table 2 presents the adjusted base year inventory.

TABLE 2.—ADJUSTED BASE YEAR INVENTORIES

	Adjustment (mt VOC/d)	Adjusted base year inventory (mt VOC/d)
1990 Base year inventory .....		367.0
Stationary sources outside of the nonattainment area .....	- 1.8	
Biogenic emissions .....	-37.3	

TABLE 2.—ADJUSTED BASE YEAR INVENTORIES—Continued

	Adjustment (mt VOC/d)	Adjusted base year inventory (mt VOC/d)
1990 nonattainment area base year anthropogenic inventory .....		327.9
FMVCP/RVP 1990–1996 .....	- 47.4	
Adjusted base year inventory (1996) .....		280.5

The target level of VOC emissions for demonstrating 15 percent ROP is then calculated by multiplying the adjusted base year inventory by 0.15, adding the VOC reductions from any RACT and/or I/M corrections and from the FMVCP and federal RVP regulations, then subtracting this total from the 1990 nonattainment area base year anthropogenic inventory.

TABLE 3.—15 Percent Rate of Progress Target Levels (Metric tons of VOC/day)

July 1, year	(A) 1990 ROP base year EI	(B) Red. from FMVCP/RVP (90–96)	(C) 1990 adj. base year EI (A–B)	(D) 15% target (0.15 x C)	(E) Red. from FMVCP/RVP (96–99)	(F) RACT & I/M corrections	(G) Needed Red (B + D + E + F)	(H) 1996 target emission level (A–G)
1996 .....	327.9	47.4	280.5	42.1		2.3	91.8	236.1
1998 .....	327.9	47.4	280.5	42.1	3.4	2.3	95.2	232.7
1/1/1999 .....	327.9	47.4	280.5	42.1	4.2	2.3	96.0	231.9
4/1/1999 .....	327.9	47.2	280.5	42.1	4.6	2.3	96.4	231.5
1999 .....	327.9	47.4	280.5	42.1	5.0	2.3	96.8	231.1

NOTE: January 1, 1999 and April 1, 1999 values are interpolated between 1998 and 1999 values.

To demonstrate a 15 percent rate of progress, projected 1996 emissions, accounting for growth after 1990 and including any adjustments for FMVCP/RVP emission reduction occurring after 1996, must be at or below the target emission level.

**C. 15 Percent Demonstration**

EPA proposes to determine that the Phoenix area will have sufficient controls in place by no later than April 1, 1999 to meet the 15 percent rate of progress requirement and that this date is the most expeditious date practicable for achieving the 15 percent target based on the set of controls EPA has proposed for crediting in the 15 percent

demonstration and the unavailability of any other practicable controls that could advance the date.

Table 4 presents the projected controlled 1996 inventory and Table 5 lists the control measures that make up the 15 percent demonstration. EPA notes that the State included a number of adopted and implemented control measures in its 15 percent plan and Voluntary Early Ozone Plan that have not been credited in this 15 percent demonstration because they are not yet in the SIP. These measures remain creditable in future ROP demonstrations to the extent they are SIP approvable.

TABLE 4.—1996 PROJECTED INVENTORY FOR APRIL 1, 1999 DEMONSTRATION

Source Category	Emissions (mt VOC/day)
On-Road .....	76.7
Non-Road .....	43.0
Point .....	18.2
Area .....	93.3
Total .....	231.2
Target Level .....	231.5
Surplus emission reductions .....	0.3

<sup>3</sup> The modifications that EPA used in its analysis do not affect the approvability of the State’s 1990 base year emissions inventory. The delisting of perchloroethylene occurred after the statutory due date for the inventory. In addition, states were not required to upgrade to the later version of MOBILE5a for their base year inventories. Reference

5. Finally, the principle MOBILE5a modification was to use minimum and maximum daily temperatures to calculate temperature corrections to VOC exhaust emissions, hot soak evaporative emissions, and resting loss and running loss emissions instead of a single ambient temperature as was done by Arizona. Although EPA does not

recommend the use of a single ambient temperature to calculate these emissions, the impact on the base year inventory in this case is so slight (less than 0.6 metric tons per day out of an inventory of 136 metric tons per day or less than 0.5 percent) as to not constitute grounds for disapproval.

TABLE 5.—CONTROL MEASURES MAKING UP THE 15 PERCENT DEMONSTRATION

Category	Approval status	Adjusted 1996 reduction (mt VOC/d)
Arizona Vehicle Emissions Inspection Program .....	Approved 60 FR 22518 (May 8, 1995) ....	3.3
Arizona Summertime Gasoline Volatility Limitation (7.00 psi RVP) (on-road and nonroad).	Approved 62 FR 31734 (June 11, 1997)	13.0
Federal RFG—Phase I (on-road and nonroad) .....	Approved June 3, 1997 (62 FR 30260) ...	6.0
National Phase I Non-Road Engines Standards .....	Promulgated July 3, 1995 (60 FR 34582)	9.1
MCESD Rules 331, 336, 337, 342, 346, and 351 .....	Approval signed 1/20/97 .....	11.3
Stage II vapor recovery .....	Approved 11/1/94 (59 FR 54521) .....	9.8
MCESD Rule 335 architectural coatings .....	Approved 1/6/92 (57 FR 354) .....	2.9
Autobody refinishing (national rule) .....	National rule proposed April 30, 1996 (61 FR 19005) and December 30, 1997 (62 FR 67784).	1.4
Consumer products (national rule) .....	National rule proposed April 2, 1996 (61 FR 14531).	2.4
Architectural and industrial coatings (national rule) .....	National rule proposed June 25, 1996 (61 FR 32729).	0.6
Total .....	.....	59.8

**Arizona Vehicle Emissions Inspection Program**

Enhancements to Arizona's vehicle emission inspection program were approved by EPA in 1995 and included IM240 testing for 1981 and newer vehicles, pressure and purge testing, and tighter cut points. Enhancements to the program were implemented beginning in January, 1995. Emission reductions credited in the 15 percent demonstration reflect the program as actually implemented in 1996 (that is, without the final cut points or the purge test) and assume no further improvements.

Arizona's enhanced I/M program also includes a remote sensing program (RSP). The EPA's proposed 15 percent ROP demonstration, however, does not currently include any reductions from this program. The State has estimated reductions from the RSP of 3.7 metric tons of VOC per day in 1996 based on the analysis in the 1993 MAG plan<sup>4</sup> (Reference 7); however, EPA does not currently have sufficient information to determine an appropriate credit for use in its own analysis. EPA proposes to credit the non-enhanced RSP with up to 3.7 metric tons per day if it obtains sufficient information to determine the appropriate credit.

**Summertime Gasoline Volatility Limit (7 psi RVP)**

The State's 7 psi summertime gasoline volatility limit was fully implemented in 1996. Emission reduction credit proposed for the 15 percent plan assumes a decrease in the RVP limit

<sup>4</sup>Since EPA's approval of the State's VEIP, the State has enhanced the implementation of the RSP. This measure is not currently in the SIP. The State's reduction estimate is for the non-enhanced program.

from the federally-required 7.8 psi to 7 psi and is calculated for both on-road motor vehicles and non-road gasoline-powered vehicles.

**Federal Reformulated Gasoline Program—Phase I**

The Federal reformulated gasoline program became effective in the Phoenix area at the retail level on August 4, 1997. 62 FR 30260 (June 3, 1997). As with RVP, the program affects both on-road motor vehicle emissions and non-road gasoline-powered engine emissions. The proposed emission reduction credit for RFG includes emission reductions from both categories.

Arizona has adopted its own Clean Burning Gasoline (CBG) Program to replace the federal RFG program beginning in June, 1998. EPA has recently proposed to approve that program and Arizona has requested to opt-out of the Federal RFG program should EPA grant final approval to its CBG program. Since the State's program has been designed to achieve more emission reductions than available under EPA's RFG regulations, there will be no loss of emission reductions as the Phoenix area transitions from the federal to the state program; therefore, for the purposes of this 15 percent demonstration, EPA proposes to grant emission reductions equivalent to those proposed above for the federal RFG program. If EPA approves the CBG program, the Agency will give it the same credit as federal RFG for the purposes of the 15 percent demonstration. Emissions reductions from the CBG program, if approved by EPA, that are in excess of those proposed for credit above may be used

by the State in any future rate-of-progress demonstrations.

**Phase I Non-road Engine Standards**

On July 3, 1995, EPA promulgated Phase I emission standards for new spark-ignition (gasoline) engines of 25 horsepower or less. These engines include those typically used in lawnmowers and other residential gardening equipment, commercial lawn and garden equipment, and small pumps and compressors, and some other industrial/construction equipment. The Phase I standards were effective with model year 1997 engines and are expected to reduce VOC emissions from the impacted equipment types by 22.9 percent in 1999. See Reference 8.

**Stage II Vapor Recovery**

EPA approved Arizona's Stage II Vapor Recovery rules (Arizona Revised Statutes §§ 41-2131 through 2133 and Arizona Administrative Code R4-31-901 through R4-31-910) in 1994. This program required the installation of California Air Resources Board (CARB) certified stage II vapor recovery equipment at service stations by November 15, 1994.<sup>5</sup>

<sup>5</sup>In its 15 percent plan, the State did not explicitly identify several measures that had been implemented after 1990 but prior to the development of the plan even though these measures are fully creditable in 15 percent plans. These measures include the Stage II vapor recovery program and the final limits in Maricopa County's architectural coating rule. The State, however, did incorporate reductions from these measures into the projected 1996 inventory. For the purposes of EPA's analysis, these measures and their associated reductions (which are identical to the ones calculated by the State) have been explicitly identified.

## MCESD Rules

Concurrently with this proposal, EPA has approved MCESD Rules 331, 336, 337, 342, 346, and 351 into the SIP. Rule 331 limits the emissions of VOCs from surface cleaning and degreasing operations. Rule 336 limits emissions from surface coating operations. Rule 337 limits emissions of VOCs from screen, gravure, letterpress, flexographic and lithographic printing processes, including related coating and laminating processes. Rule 342 controls the emissions of VOCs emanating from applying coatings of finishing materials to furniture or fixtures made of wood or wood derived materials. Rule 346 limits VOC emissions from the surface preparation and coating of wood millwork such as shutters, doors, windows and their associated woodwork, and Rule 351 controls emissions of VOCs from organic liquid loading operations at bulk plants and bulk terminals. These rules, which affect emissions from both point and area sources, result in a total reduction of 9.2 metric tons per day from point sources and 2.1 metric ton per day from area sources.

## Architectural Coatings

EPA approved MCESD's Rule 335 Architectural Coatings in 1992. This rule had a number of compliance deadlines in 1991 and reductions from these final deadlines are fully creditable to the 15 percent plan. See also Footnote 5.

## Consumer Products

On April 2, 1996, EPA proposed national VOC emission standards for 24 categories of consumer products requiring compliance with the standards by 1997. Under EPA policy, 15 percent demonstrations may credit an overall 20 percent reduction in emissions from the consumer products categories covered by this rule. Reference 9. For Maricopa County, this rule will reduce VOC emissions from consumer products by an estimated 2.4 metric tons per day.

This measure, as well as the national autobody refinishing rule and the national architectural and industrial maintenance coating rule discussed in the following sections are statutorily required. See CAA section 183(e) and "Consumer and Commercial Products: Schedule for Regulation," 60 FR 15264 (March 23, 1995). The Agency anticipates at this time that rules will be finalized by mid-1998. EPA has recently been sued to enforce the requirement to promulgate these rules and is currently discussing a schedule for their

promulgation. *Sierra Club v. Browner*, CIV No. 97-984 PLF (D.D.C.).

The fact that these rules are required federal rules, and will likely soon have court-ordered deadlines, creates circumstances that allow EPA to consider them as part of 15 percent plans. Taking credit for reductions from proposed required federal measures is consistent with the overall scheme of the Clean Air Act ozone nonattainment provisions, as well as the relevant provisions by their terms. Congress anticipated that these federal measures would contribute to both progress toward attainment and attainment of the ozone standard and thus these measures are an integral part of Congress' blueprint for ozone attainment. Therefore, EPA concludes that implementation plans should be allowed to account for those reductions in both attainment and rate-of-progress plans. See Reference 10 and 61 FR 10920, 10936 (March 18, 1996).

Among the categories covered by the national rule for consumer products is windshield wiper fluids. MCESD has also adopted Rule 344 to control emissions from windshield wiper fluids. EPA is currently discussing the enforceability of the rule with the County and has not approved the measure into the SIP, hence the emission reductions from this category are based on the national rule and not Rule 344.

## Autobody Refinishing

On April 30, 1996 and December 30, 1997, EPA proposed a national rule governing emissions from autobody refinishing coatings. Under EPA policy (Reference 11), a 37 percent reduction in emissions from autobody refinishing may be credited to this national rule. For Maricopa County, this rule will reduce VOC emissions from autobody refinishing by an estimated 1.4 metric tons per day.

MCESD has also adopted Rule 345 to control emissions from autobody refinishing. EPA is currently discussing the enforceability of this rule with the County and has not approved the measures into the SIP, hence the emission reductions from this category are based on the national rule and not Rule 345.

## Architectural and Industrial Maintenance Coatings

On June 25, 1996 EPA proposed a national rule limiting the VOC content of numerous categories of architectural and industrial maintenance (AIM) coatings. Under EPA policy (Reference 12), a 20 percent reduction in emissions from the AIM coatings rule may be

credited to this national rule for areas without architectural coating rules. As discussed above, Maricopa County already has in place Rule 335 that limits VOC content of architectural coatings. The national rule, as proposed, includes new or tighter limits than are currently in Rule 335 for a number of coating categories (e.g., traffic marking); therefore, the Phoenix area will realize additional emission reductions from the national rule of 0.6 metric tons per day by mid-1999.

## D. "As Soon As Practicable" Demonstration

As discussed above, CAA section 182(b)(1) requires that all moderate and above ozone nonattainment areas prepare plans that provide for a 15 percent VOC emission reduction by November 15, 1996. Since this deadline has passed, in order to demonstrate that the Phoenix area has met the CAA section 182(b)(1) requirement, it must be demonstrated that the 15 percent reduction will be achieved as soon as practicable by showing that the applicable implementation plan contains all VOC control measures that are practicable for the Phoenix area and that meaningfully accelerate the date by which the 15 percent level is achieved. Measures that provide only an insignificant additional amount of reductions or could not be implemented soon enough to meaningfully advance the date by which the 15 percent is demonstrated are not required to be implemented to meet this test.

For the purposes of this 15 percent demonstration only, EPA is proposing to interpret "significant emission reduction" to be equal to or more than one-half of one percent (0.5 percent) of the total emission reduction needed to meet the 15 percent ROP requirement in 1999 for the Phoenix nonattainment area. One-half of one percent is 0.5 metric tons per day.

For the purposes of this 15 percent demonstration only, EPA is also proposing to interpret "to meaningfully accelerate the date by which the 15 percent is demonstrated" to mean three or more months. Because April 1 is before the June 1 start of the Phoenix ozone season, the ambient air quality benefit that would be gained by advancing the demonstration date by less than three months in advance of April 1 would not justify the implementation of additional federal measures in the Phoenix area for the purposes of demonstrating 15 percent. On the other hand, to advance the benchmark demonstration date for the "as soon as practicable" test much more than three months (that is, before

January 1, 1999) would leave so little time between the projected effective date of this action (July 1, 1998) and the benchmark demonstration date that no measure could be reasonably implemented in that short time period. Based on this reasoning, EPA believes that three months is an appropriate benchmark for this "as soon as practicable" test in this case.

Based on its analysis and the set of SIP-approved and federal measures proposed for credit above, EPA is projecting that the Phoenix area will meet the required 15 percent reduction no later than April 1, 1999. An additional emission reduction totaling at least 0.6 metric tons per day would be needed by January 1, 1999 to advance the demonstration date to January 1, 1999. See TSD, Section III.D. Therefore, to show that April 1, 1999 is the "as soon as practicable date" to demonstrate a 15 percent ROP for the Phoenix area, it must be shown that there are no measures that achieve a 0.6 metric tons per day reduction by January 1, 1999.

EPA analyzed a number of control measures that could potentially advance the date by which the 15 percent reduction is demonstrated in the Phoenix area and has found that there are no measures or combination of measures that would advance the date by more than a de minimis amount. These measures included ones recommended by EPA (see "Sample City Analysis Comparison of Enhanced I/M Reductions Versus Other 15 Percent ROP Plan Measures," which is an attachment to Reference 2), by the State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Officials (see "Meeting the 15-Percent Rate-of-Progress Requirement Under the Clean Air Act: A Menu of Options," STAPPA/ALAPCO, September 1993), and in the Report of the Governor's Air Quality Strategies Task Force (December 2, 1996), and the "Reanalysis of the Metropolitan Voluntary Early Ozone Plan," ADEQ *et al*, October 1997.

Most of the measures EPA analyzed generated very small additional emission reductions by January 1, 1999 (e.g., a complete ban on open burning) or could not be implemented to achieve emission reduction before January 1, 1999 (e.g., I/M improvements). In many cases, the State is already developing (e.g., industrial cleaning solvents) or had already adopted a similar measure (e.g., graphic arts) so that little, if any, additional reductions would be achieved by a federal measure. The complete analysis of potential measures

is contained in the TSD for this proposal.

Based on this analysis, EPA has concluded that there are no reasonable measures or combination of reasonable measures that could meaningfully advance the demonstration date; therefore, the Agency proposes to find that April 1, 1999 is the most expeditious date practicable to demonstrate the 15 percent reduction.

### III. Conclusion

Pursuant to its authority under CAA section 110(c) and for the reasons discussed above, EPA is proposing to determine that the Phoenix metropolitan area has in place or will have in place sufficient control measures to meet the 15 percent ROP requirement for VOCs in CAA section 182(b)(1)(A) as soon as practicable. This proposed determination is predicated on EPA's reanalysis of the State's 15 percent ROP plan to reflect the realities of the VEIP, reductions from additional controls adopted by the State, and additional federal regulations.

EPA is also proposing to approve the State's 1990 base year inventory under CAA sections 110(k)(2) and 182(a)(1).

### IV. Administrative Requirements

#### A. Executive Order (E.O.) 12866

The Office of Management and Budget has exempted this action from E.O. 12866 review.

#### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify 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 government entities with jurisdiction over populations of less than 50,000.

This proposal simply presents the analysis of the emission impacts on the Phoenix metropolitan area of already adopted or proposed State and federal rules. This action neither proposes the promulgation of additional measures nor requires Arizona or its local jurisdictions to adopt or implement additional measures beyond those that they currently have adopted and implemented or have been proposed or implemented at the federal level. As such, it does not propose to regulate any entities. Therefore, pursuant to 5 U.S.C. 605(b), EPA certifies that today's

proposed action does not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

#### C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, when EPA promulgates "any general notice of proposed rulemaking that is likely to result in promulgation of any rule that includes any Federal mandate that may result in the expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more" in any one year. A "Federal mandate" is defined, under section 101 of UMRA, as a provision that "would impose an enforceable duty" upon the private sector or State, local, or tribal governments", with certain exceptions not here relevant. Under section 203 of UMRA, EPA must develop a small government agency plan before EPA "establish[es] any regulatory requirements that might significantly or uniquely affect small governments". Under section 204 of UMRA, EPA is required to develop a process to facilitate input by elected officers of State, local, and tribal governments for EPA's "regulatory proposals" that contain significant Federal intergovernmental mandates. Under section 205 of UMRA, before EPA promulgates "any rule for which a written statement is required under [UMRA section] 202", EPA must identify and consider a reasonable number of regulatory alternatives and either adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, or explain why a different alternative was selected.

As explained above, sections 202, 203, 204, and 205 of UMRA do not apply to today's action because it does not impose an enforceable duty on or otherwise affect any entity. Therefore, EPA is not required and has not taken any actions under UMRA.

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

Environmental protection, Air pollution control, Intergovernmental relations, Ozone.

Dated: January 20, 1998.

**Carol M. Browner,**  
Administrator.

## References

1. General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, April 16, 1992, 57 FR 13498.

2. *Memorandum*, John S. Seitz, Director of the Office of Air Quality Planning and Standards, and Richard B. Ossias, Deputy Associate General Counsel to Regional Air Division Directors; "15 Percent VOC SIP Approvals and the 'As Soon As Practicable' Test;" February 12, 1997 including the attachment "Sample City Analysis Comparison of Enhanced I/M Reductions Versus Other 15 Percent ROP Plan Measures," E.H. Pechan and Associates, December 12, 1996.

3. *Note*, Margo Oge, Director Office of Mobile Sources and John Seitz, Director of OAPQS to Regional Division Directors; re: Date by which States Need to Achieve all the Reductions Needed for the 15% Plan from I/M and Guidance for Recalculation, August 13, 1996.

4. *Memorandum*, Gay MacGregor, Director Regional and State Programs Division, OMS and Sally Shaver, Director, Air Quality Strategies and Standards Division, OAQPS to Regional Air Division Directors; "Modeling 15% VOC Reduction(s) from I/M in 1999—Supplemental Guidance;" December 23, 1996.

5. *Memorandum*, Philip A. Lorang, Director, Emission Planning and Strategies Division, OMS to Regional Air Division Directors; "Release of MOBILE5a Emission Factor Model," March 29, 1993.

6. OAQPS, U.S. EPA. Guidance on the Adjusted Base Year Emissions Inventory and the 1996 Target for the 15 Percent Rate of Progress Plans. EPA-452/R-92-005. October 1992.

7. Letter, Nancy Wrona, Director, Air Quality Division, ADEQ; to David Howekamp, Director, Air and Toxics Division, EPA-Region 9; "Submittal of Additional Information in Support of Approval of 15% Rate of Progress Ozone Plan for Maricopa County;" September 11, 1997.

8. *Memorandum*, Philip A. Lorang, Director, Emission Planning and Strategies Division, OMS to Regional Air Division Directors; "Future Nonroad Emission Reduction Credits for Court-Ordered Nonroad Standards;" November 29, 1994.

9. *Memorandum*, John S. Seitz, Director, OAQPS to Regional Air Division Directors; "Regulatory Schedule for Consumer and Commercial

Products under Section 182(e) of the Clean Air Act;" June 22, 1995.

10. *Memoranda*, Mary Nichols, Assistant Administrator for Air and Radiation, U.S. EPA to Regional Administrators, Regions 1-10; "SIP Credits for Federal Nonroad Engine Emissions Standards and Certain Other Mobile Source Programs;" November 23, 1994 and January 30, 1996.

11. *Memorandum*, John S. Seitz, Director, OAQPS to Regional Air Division Directors; "Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance Coating Rule and the Autobody Refinishing Rule;" November 29, 1994.

12. *Memorandum*, John S. Seitz, Director, OAQPS to Regional Air Division Directors; "Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule;" March 22, 1995.

[FR Doc. 98-1765 Filed 1-23-98; 8:45 am]

BILLING CODE 6560-50-U

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[IL160-1b; AD-FRL-5951-7]

### Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

**SUMMARY:** The USEPA proposes to approve a variance allowing a temporary increase in particulate matter emissions from the Marathon Oil refinery in Robinson, Illinois, to allow deferral of repairs of control equipment until the time of a scheduled maintenance period. In the Final Rules section of this **Federal Register**, USEPA is fully approving the State Implementation Plan revision as a direct final rule without prior proposal, because the USEPA views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse written comments are received in response to these actions, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse written comments, the direct final rule will be withdrawn and all public comments will be addressed in a subsequent final rule based on this proposed rule. Any parties interested in

commenting on this action should do so at this time.

**DATES:** Written comments must be received on or before February 25, 1998.

**ADDRESSES:** Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of the State submittal is available for inspection at: Regulation Development Section, Air Programs Branch (AR-18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** John Summerhays, at (312) 886-6067.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule published in the rules section of this **Federal Register**.

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

Dated: January 8, 1998.

**Michelle D. Jordan,**

Acting Regional Administrator, Region V.

[FR Doc. 98-1764 Filed 1-23-98; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 980113012-8012-01; 121197B]

RIN 0648-AK57

### Pacific Halibut Fisheries; Catch Sharing Plan

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed changes to catch sharing plan and sport fishing management; availability of draft environmental assessment and regulatory impact review.

**SUMMARY:** NMFS proposes to approve and implement changes to the Area 2A Pacific halibut Catch Sharing Plan (Plan): (1) To adjust the Washington sport allocation; (2) to provide for an incidental catch of halibut in the commercial sablefish fishery off Washington under certain circumstances; and (3) to adjust management of the sport fisheries off Oregon and Washington under authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). NMFS also proposes