coverage of the rule is being expanded beyond the existing 13 county Atlanta 1-hour ozone nonattainment area to include the additional 32 county area. Subparagraph (a) is amended to add a ''prescribed burning'' and a ''slash burning'' exemption to the rule. Subparagraph (b) is reorganized to add clarity to the rule and is amended to add county specific restrictions for the six counties of Bartow, Carroll, Hall, Newton, Spalding, and Walton as well as the remaining 26 counties of the 32 county area. The six counties listed above will have the same restrictions as those in the Atlanta nonattainment area. The twenty-six remaining counties of the 32 county area will have the same restrictions as those in the Atlanta nonattainment area with the exception that ''prescribed burning'' is allowed in the twenty-six counties. Subparagraph (f) is added to include the definitions for ''Prescribed Burning'' and ''Slash Burning.''

Rule 391–3–1–.03(6)(h)3 relating to ''SIP Permit Exemptions for Industrial Operations'' is being amended. A new exemption from permitting for small feed mill or grain mill ovens and for surface coating drying ovens is being added.

Rule 391–3–1–.03(8) Permit Requirements is being amended. Provisions for internal offsets at a ratio of 1.3 to 1 to avoid New Source Review permitting requirements are being restored in paragraphs (c)(13)(iii) and (iv). These provisions will allow existing sources located within the Atlanta 1-hour ozone nonattainment area to avoid becoming subject to federal New Source Review permitting requirements by offsetting emission increases associated with modifications at a 1.3 to 1.0 ratio. See CAA section 182(c)8 Special Rule for Modifications of Sources Emitting Greater than 100 tons per year.

Rule 391–3–1–.03(11) relating to ''Permit by Rule'' is being amended. A typographical error in the citation of federal operating permit regulations is being corrected. The reference to 40 CFR 70.5(6)(f) is being replaced with the correct reference to 40 CFR 70.6(f).

## III. Proposed Action

EPA is proposing to approve the revisions to Atlanta attainment demonstration as discussed above because they meet EPA and CAA requirements and provide reductions to meet the additional reductions identified as needed to support the attainment demonstration.

## IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this proposed rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed rule 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 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 16, 2000.

**Michael V. Peyton,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 00–32151 Filed 12–15–00; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[AZ 078–0031; FRL–6918–5]**

## Disapproval of Implementation Plans, Arizona Department of Environmental Quality

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to disapprove a revision to the Arizona Department of Environmental Quality (ADEQ) portion of the Arizona State Implementation Plan (SIP) concerning visible emission sources. We are proposing action on a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by January 17, 2001.

**ADDRESSES:** Mail comments to Andrew Steckel, Rulemaking Office Chief (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect copies of the submitted rule revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted rule revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1135.

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

**Table of Contents**



## I. The State's Submittal

### *A. What Rule Did the State Submit?*

Table 1 lists the rule proposed for disapproval with the date that it was adopted and submitted by the Arizona Department of Environmental Quality (ADEQ).

TABLE 1.—SUBMITTED RULE

| Local agency | Rule # | Rule/Title | Adopted | Submitted |
|---|---|---|---|---|
| ADEQ | R18–2–702 | General Provisions | 11/13/93 | 07/15/98 |

On December 18, 1998, we determined that the rule submittal in Table 1 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

### *B. Are There Other Versions of This Rule?*

We approved a version of Rule R18–2–702 into the ADEQ portion of the Arizona SIP, as Rule R9–3–501, Visible Emissions: General, on April 23, 1982 (47 FR 17485).

### *C. What Are the Changes in the Submitted Rule?*

- The rule was changed to apply only to existing sources.
- The opacity method was changed to EPA Method 9 to simplify EPA enforcement.
- An expired and therefore outdated exemption for certain copper smelters was removed.
- A procedure for calculating process weight rate was added to the rule.

## II. EPA's Evaluation and Action

### *A. How Is EPA Evaluating the Rule?*

We evaluated this rule for enforceability and consistency with the CAA as amended in 1990, with 40 CFR 51, and with EPA's PM–10 policy. Sections 172(c)(1) and 189(a) of the CAA require moderate PM–10 nonattainment areas to implement reasonably available control measures (RACM), including reasonably available control technology (RACT) for stationary sources of PM–10. Section 189(b) requires that serious PM–10 nonattainment areas, in addition to meeting the RACM/RACT requirements, implement best available control measures (BACM), including best available control technology (BACT). The area regulated by the rule contains five counties that are PM–10 moderate nonattainment areas: Cochise County, Santa Cruz County, Gila County, Mohave County, and Yuma County. Therefore, the rule must meet the requirements of RACM/RACT. While the rule does not specifically establish PM–10 limits for a process, an opacity standard limits PM–10 emissions. We believe that a general 20% opacity standard is an important control level for PM–10 achievable with reasonably available control technology.

The guidance and policy documents that we used to define specific enforceability and SIP relaxation requirements includes the following:

- PM–10 Guideline Document, (EPA–452/R093–008).

### *B. Does the Rule Meet the Evaluation Criteria?*

Rule provisions which do not meet the evaluation criteria are summarized below and discussed further in the TSDs.

### *C. What Are the Rule Deficiencies?*

ADEQ Rule R18–2–702 contains the following deficiencies:

- The change of scope to apply only to existing sources without a replacement for new sources is a SIP relaxation. The opacity determination is an enforcement tool for both existing and new sources.
- The 40% opacity standard does not meet the requirements of RACM/RACT. A 20% opacity standard has been determined to be reasonably available across the country.
- The enforceability is limited by the discretion of the Director to relax the opacity standard if the source complies with the associated mass standard for the source. Relaxing the opacity standard below the RACM/RACT level does not meet the requirements of RACM/RACT.

### *D. EPA Recommendations To Further Improve the Rule*

The TSD describes additional rule revisions that do not affect our current action but are recommended for the next time the local agency modifies the rule.

### *E. Proposed Action and Public Comment*

As authorized in sections 110(k)(3) and 301(a) of the Act, we are proposing a disapproval of the submitted PCAQCD Rule R18–2–702. If finalized, this action would retain the existing SIP rule in the SIP, including the 40% opacity limit which does not fulfill RACM/RACT. If this disapproval is finalized, sanctions will be imposed under section 179 of the Act unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months. These sanctions would be imposed as described in 59 FR 39832 (August 4, 1994). A final disapproval would also trigger the federal implementation plan (FIP) requirement under section 110(c).

We will accept comments from the public for the next 30 days.

## III. Background Information

### *A. Why Was This Rule Submitted?*

PM–10 harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control PM–10 emissions. Table 2 lists

some of the national milestones leading to the submittal of local agency PM–10 rules.

TABLE 2.—PM–10 NONATTAINMENT MILESTONES

| Date | Event |
|---|---|
| March 3, 1978 | EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the Clean Air Act, as amended in 1977. 43 FR 8964; 40 CFR 81.305. |
| July 1, 1987 | EPA replaced the TSP standards with new PM standards applying only up to 10 microns in diameter (PM–10). 52 FR 24672. |
| November 15, 1990 | Clean Air Act Amendments of 1990 were enacted, Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. |
| November 15, 1990 | PM–10 areas meeting the qualifications of section 107(d)(4)(A) and (B) of the CAA were designated nonattainment by operation of law and classified as moderate or serious pursuant to section 186(a) and 189(a). States are required by section 110(a) to submit rules regulating PM–10 emissions in order to achieve the attainment dates specified in section 186(a)(1) and 188(c). |

## IV. Administrative Requirements

### *A. Executive Order 12866*

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

### *B. Executive Order 13045*

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

### *C. Executive Order 13084*

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the OMB in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this proposed rule.

### *D. Executive Order 13132*

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. E.O. 13132 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.'' Under E.O. 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule 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 E.O. 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

### *E. 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.

This proposed rule will not have a significant impact on a substantial number of small entities because SIP actions under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP action does not create any new requirements, I certify that this action will not have a

significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

*F. Unfunded Mandates*

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed action does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This proposed Federal action acts on 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.

*G. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

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

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

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

Dated: November 30, 2000.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 00–32149 Filed 12–15–00; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[RI–01–043–6991b; A–1–FRL–6918–6]**

## Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Enhanced Motor Vehicle Inspection and Maintenance Program

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision establishes and requires the implementation of an enhanced motor vehicle inspection and maintenance program. The intended effect of this action is to reduce motor vehicle emissions through identification of high emitting vehicles and require repair of these high emitters. This action is being taken under the Clean Air Act.

**DATES:** Written comments must be received on or before January 17, 2001.

**ADDRESSES:** Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, One Congress Street, 11th floor, Boston, MA and Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908–5767.

**FOR FURTHER INFORMATION CONTACT:** Peter Hagerty, (617) 918–1049.

**SUPPLEMENTARY INFORMATION:** This Supplementary Information section is organized as follows:



### I. What Action Is EPA Proposing Today?

We are proposing approval of the Rhode Island enhanced motor vehicle inspection and maintenance program SIP revision which was submitted in draft form on November 17, 2000.

### II. How Can EPA Propose Approval of a Draft Plan?

EPA can propose approval of a SIP revision through a process called parallel processing. This process allows EPA to propose approval of a state SIP at the same time that the state is having its required public comment period. The public has the opportunity to review the State's proposed program, plus EPA's discussion in this notice of the non-regulatory program commitments Rhode Island must submit, for the purposes of commenting on this proposed SIP revision. If there are no substantive changes as a result of the state public hearing process, and if there are no substantive adverse comments in response to this notice that cause EPA to require changes in the program beyond the additions already discussed in this notice, EPA can go forward with a final rulemaking notice. If substantive changes are made or substantive adverse comments received that require a program change then EPA must repropose the revision for public comment.

### III. What Rhode Island SIP Revision Is the Topic of This Action?

On November 17, 2000, Rhode Island Department of Environmental Management (DEM) submitted a draft revision to its SIP for motor vehicle inspection and maintenance. The revision will be the subject of a public hearing in Rhode Island on December 21, 2000. The SIP revision proposes to revise the Rhode Island SIP to add the enhanced motor vehicle inspection and maintenance program which is required by EPA's inspection and maintenance