

number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve 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 approves 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 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, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

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

Dated: December 13, 2002.

**Bharat Mathur,**

*Acting Regional Administrator, Region 9.*

For the reasons stated in the preamble, part 52, chapter I, of title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

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

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

2. Section 52.1870 is amended by adding paragraph (c)(127) to read as follows:

#### § 52.1870 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(127) On July 18, 2002, Ohio submitted revisions to its Permit to Install rules as a revision to the State implementation plan.

(i) Incorporation by reference.

(A) Ohio Administrative Code Rules 3745-31-01, 3745-31-02, 3745-31-03, 3745-31-05, and 3745-31-07 effective November 30, 2001.

[FR Doc. 03-1235 Filed 1-21-03; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[AZ 106-0064; FRL-7418-8]

### Approval and Promulgation of Implementation Plans; Arizona; Motor Vehicle Inspection and Maintenance Programs

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving two State Implementation Plan (SIP) revisions submitted by the Arizona Department of Environmental Quality (ADEQ). These revisions consist of several changes that have been made to Arizona's Basic and Enhanced Vehicle Emissions Inspection

and Maintenance Programs after the programs were approved by EPA in 1995. Arizona's Basic Vehicle Emissions Inspection (VEI) Program is implemented in the Tucson Air Planning Area carbon monoxide (CO) nonattainment area (Area B). The Enhanced VEI Program is implemented in the Maricopa County ozone and CO nonattainment area (the Phoenix area or Area A).

**EFFECTIVE DATE:** February 21, 2003.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA's Region 9 office at 75 Hawthorne Street, San Francisco, California 94105.

This document and the Technical Support Document (TSD) for this rulemaking are also available as electronic files on EPA's Region 9 Web page at <http://www.epa.gov/region09/air>.

#### FOR FURTHER INFORMATION CONTACT:

Sylvia Dugré, Office of Air Planning (AIR-2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105. Phone: (415) 947-4149; e-mail: [dugre.sylvia@epa.gov](mailto:dugre.sylvia@epa.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Background

On August 12, 2002 (67 FR 52433), EPA published a notice of proposed rulemaking for the State of Arizona. The notice proposed approval of revisions to the SIP for Arizona's Basic and Enhanced VEI programs.

ADEQ submitted the changes to its Basic and Enhanced VEI Programs as a revision to its SIP on July 6, 2001. The July 6, 2001 SIP revision package includes, among various other program changes, ADEQ's revised rule which extends the exemption for newer model year vehicles from the current model year to the first five model year vehicles and the revised rules incorporating legislative changes to the provisions for issuing a waiver. Also included in the SIP revision is State legislation that discontinues the remote sensing program that had been implemented in Area A and authorizes a study to determine the most effective on-road testing program for Arizona.

A SIP revision supplementing the July 6, 2001 SIP revision was submitted by ADEQ on April 10, 2002. This submittal contains the ADEQ rule revisions incorporating on-board diagnostics (OBD) testing and, in accordance with the State legislation, deleting the previously approved remote sensing program from the ADEQ regulations. It also contains a modeling demonstration, with adjustments for the IM147

transient loaded-mode emissions test, showing the I/M program implemented in Area A meets EPA's high enhanced performance standard.

A more complete description of Arizona's submittals and the rationale for EPA's approval were presented in the proposal and will not be restated here.

## II. Public Comments on the Proposed Action

No comments were submitted to the docket during the comment period for the proposed rulemaking published in the August 12, 2002 **Federal Register**.

## III. Final Action

Clean Air Act (CAA) sections 182(c)(3) and 187(a)(6) require serious ozone and carbon monoxide areas, such as the Phoenix area, to implement enhanced I/M programs. EPA's requirements for these I/M programs are contained in 40 CFR part 51, subpart S. In order for EPA to approve the SIP revisions submitted by ADEQ, they must be consistent with EPA's I/M requirements and they must meet CAA section 110(a) requirements for enforceability as well as CAA section 110(1) requirements regarding plan revisions.

In today's action, EPA is finding that the Arizona enhanced I/M program implemented in Area A (Phoenix) meets CAA and EPA requirements for a high enhanced program. We are also finding that the VEI program implemented in Area B (Tucson) continues to meet EPA's I/M requirements for basic programs.<sup>1</sup> The basis for these findings are discussed in the proposal for today's action. See 67 FR 52433.

In addition, under CAA section 110(1), EPA is finding that these SIP revisions submitted by ADEQ do not interfere with the applicable requirements concerning CO maintenance in the Tucson area or any other requirements of the CAA applicable to Tucson. We are also finding that these SIP revisions will not interfere with any applicable requirements for CO and ozone attainment and reasonable further progress (RFP) or any other requirements of the CAA applicable to the Phoenix area. The basis for these findings are discussed in the proposal for today's action. See 67 FR 52433.

Finally, EPA is approving various Arizona statutes amending the VEI

programs and the latest revisions to the basic and enhanced VEI program regulations. Specifically, we are approving the following Arizona statutes:

Amendments to Arizona Revised Statutes (ARS) 49-541, 49-542.05, 49-544, 49-545, 49-551 and the repeal of 49-542.01 submitted to EPA as a SIP revision on July 6, 2001.

Amendments to ARS 49-542, 49-543, and the repeal of 49-541.01 submitted to EPA as a SIP revision on April 10, 2002.

We are also approving the following Arizona regulations:

Arizona Administrative Code (AAC), Title 18, Chapter 2, Article 10 (except for AAC R 18-2-1020) "Motor Vehicles; Inspection and Maintenance" as of December 31, 2000, submitted to EPA as a SIP revision on July 6, 2001.

Amendments to AAC R 18-2-1006 and 18-2-1019, and the repeal of AAC R 18-2-1014 and R 18-2-1015 submitted to EPA as a SIP revision on April 10, 2002.

## 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. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). 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 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 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism

implications because it does 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). This action merely approves 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 rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (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. This 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.*).

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 rule 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).

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 March 24, 2003. Filing a petition for reconsideration by the Administrator of this final rule does

<sup>1</sup> As an unclassified CO nonattainment area that has been redesignated to attainment, the Tucson area does not have a statutory requirement to implement a basic I/M program. The area, however, has relied on the program to both attain and maintain the CO standard.

not affect the finality of this rule 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, Carbon monoxide, Incorporation by reference, Intergovernmental regulations, Ozone, Reporting and recordkeeping requirements.

Dated: October 31, 2002.

**Alexis Strauss,**

*Acting Regional Administrator, Region 9.*

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart D—Arizona**

2. Section 52.120 is amended by adding paragraphs (c)(108) and (c)(109) to read as follows:

**§ 52.120 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(108) Revisions to the Arizona State Implementation Plan for the Motor Vehicle Inspection and Maintenance Programs, submitted on July 6, 2001.

- (i) Incorporation by reference.
- (A) Arizona Revised Statutes.

(1) Section 49–551 as amended in Section 27 of Arizona Senate Bill 1427, 43rd Legislature, 2nd Regular Session (1998), approved by the Governor on May 29, 1998.

(2) Section 49–544 as amended in Section 15 of Arizona Senate Bill 1007, 43rd Legislature, 4th Special Session (1998), approved by the Governor on May 20, 1998.

(3) Section 49–541 as amended in Section 44 of Arizona House Bill 2189, 44th Legislature, 1st Regular Session (1999), approved by the Governor on May 18, 1999.

(4) Section 49–542.01 repealed in Section 3 and Section 49–545 as amended in Section 5 of Arizona House Bill 2104, 44th Legislature, 2nd Regular session (2000), approved by the Governor on April 28, 2000.

(5) Section 49–542.05 as added in Section 23 of Arizona Senate Bill 1004, 44th Legislature, 7th Special Session

(2000), approved by the Governor on December 14, 2000.

(B) Arizona Administrative Code.

(1) Title 18, Chapter 2, Article 10 (except for AAC R 18–2–1020) “Motor Vehicles; Inspection and Maintenance” as adopted on December 31, 2000.

(109) Revisions to the Arizona State Implementation Plan for the Motor Vehicle Inspection and Maintenance Programs, submitted on April 10, 2002 by the Governor’s designee.

(i) Incorporation by reference.

(A) Arizona Revised Statutes.

(1) Section 49–542 as amended in Section 9, Section 49–543 as amended in Section 11, and Section 49–541.01 repealed in Section 29 of Arizona House Bill 2538, 45th Legislature, 1st Regular Session (2001), approved by the Governor on May 7, 2001.

(B) Arizona Administrative Code.

(1) Amendments to AAC R 18–2–1006 and 18–2–1019, and the repeal of AAC R 18–2–1014 and R 18–2–1015 effective January 1, 2002.

3. Section 52.123 is amended by adding paragraph (k) to read as follows:

**§ 52.123 Approval status.**

\* \* \* \* \*

(k) The Administrator approves the revised Enhanced Vehicle Inspection and Maintenance Program for the Maricopa County carbon monoxide and ozone nonattainment area submitted by the Arizona Department of Environmental Quality on July 6, 2001 and April 10, 2002 as meeting the requirements of Clean Air Act sections 182(c)(3) and 187(a)(6) and the requirements for high enhanced inspection and maintenance programs contained in 40 CFR part 51, subpart S.

[FR Doc. 03–1234 Filed 1–21–03; 8:45 am]

**BILLING CODE 6560–50–P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 20**

[CC Docket No. 94–102; FCC 02–318]

**Compatibility With Enhanced 911 Emergency Calling Systems; PSAP E911 Service Readiness**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petitions for reconsideration.

**SUMMARY:** This document responds to petitions for reconsideration of the Commission’s October 2001 decision which addressed a petition from the city of Richardson, Texas by adopting rules

that clarify what constitutes a valid Public Safety Answering Point (PSAP) to trigger a wireless carrier’s obligation to provide E911 service to the PSAP within six months. The document modifies the Commission’s rules to provide additional clarification regarding PSAP readiness. The action is taken to respond to the petitions for reconsideration and to promote rapid E911 implementation.

**DATES:** Effective February 21, 2003, except for §§ 20.18(j)(4) and (5), which contain information collection requirements that are not effective until approved by the Office of Management and Budget. The Commission is seeking emergency approval from the Office of Management and Budget for these collections. Public comment on the information collections on these PRA burdens are due March 24, 2003. The Commission will publish a document in the **Federal Register** announcing the effective date of these sections.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Salhus, Attorney, 202–418–1310. For further information concerning the information collection contained in this Fourth Memorandum Opinion and Order, contact Judith Boley Herman, Federal Communications Commission, 202–418–0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s Order on Reconsideration (Recon) in CC Docket No. 94–102; FCC 02–318, adopted November 21, 2002, and released November 26, 2002. The complete text of the Recon and the Supplemental Final Regulatory Flexibility Analysis is available on the Commission’s Internet site, at <http://www.fcc.gov>, and is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC. The text may also be purchased from the Commission’s copy contractor, Qualex International, Portals II, 445 12th Street, SW., CY-B4202, Washington, DC 20554 (telephone 202–863–2893).

**Synopsis of the Order on Reconsideration**

1. The Recon responds to two petitions for reconsideration of the Commission’s Order (60 FR 55618, November 2, 2001) in this proceeding. The Order, in further response to a petition filed by the city of Richardson, Texas, adopted rules clarifying what constitutes a valid PSAP request to trigger a wireless carrier’s obligation to provide E911 service to that PSAP within six months. The Recon modifies