

Coordinating Committee, who will choose the members of the Work Groups.

The Coordinating Committee will be chartered under the FACA and will serve the role of planning and coordinating the regulatory development process. The committee will communicate with the Source Work Groups to ensure general consistency and thoroughness of data analyses and preliminary regulatory recommendations. The Coordinating Committee will consider and discuss the regulatory recommendations made by the Source Work Groups and present final recommendations to the EPA management. The Source Work Groups and Coordinating Committee will strive for consensus, but if consensus is not reached, the Coordinating Committee will present majority and minority recommendations to the EPA management. The FACA requires that the Coordinating Committee members be chosen by the EPA Administrator.

Criteria for Work Group and Coordinating Committee Membership

Source Work Group members should meet the following criteria: represent an affected party and, preferably, be able to represent the interests of other affected parties; commit to spending a significant amount of their time (perhaps 20 to 25 percent) over a multiple year period; and possess insight, understanding, and technical knowledge of the source category. It is preferable that Source Work Group members also have regulatory process experience. Source Work Groups should include representatives of sources affected by the rule, State/local regulatory agencies, environmental groups, and the EPA. Criteria for membership in the testing and monitoring protocol and economic analyses work groups are similar, but also require expertise in the named technical areas.

Criteria for membership on the Coordinating Committee includes the ability to: represent an affected party; be able to represent the interests of other affected parties; communicate with other affected parties; commit a significant amount of their time (perhaps 20 to 25 percent) over a multi-year period; and have substantive experience with the EPA air programs regulatory process (particularly NSPS or NESHAP regulatory development). The Coordinating Committee should be made up of representatives of the following: environmental, public health, and environmental justice groups; State/local regulatory agencies; affected sources; manufacturers of combustion,

emission control, and emission monitoring/testing equipment; fuel producers and suppliers; labor; and the EPA.

Nomination Process

Nominations are being solicited for members of the Coordinating Committee as well as members of the Work Groups. The nominations must indicate whether the nomination is for one of the Work Groups or for the Coordinating Committee. Each nomination must discuss and explain how the nominee meets or satisfies the membership criteria discussed above. A brief resume and several current references should be included. The ICCR document includes an example nomination form. It is recommended that this form be used in order to assure that the nomination includes all of the necessary information.

Before submitting a nomination, individuals or organizations should obtain and thoroughly read the ICCR document. This document is available on the TTN or may be obtained by calling or writing the Air and Radiation Docket and Information Center. See Inspection of Documents section for more details.

Public Information

The EPA plans to accomplish several tasks at a public meeting to be held in July. The ICCR project will be discussed in general, and information will be provided on how to follow the progress of this rulemaking. The EPA also plans to describe the roles and membership criteria for the various Work Groups and the Coordinating Committee, along with an explanation of the nomination process. The EPA will try to answer any questions raised by the public on any of these processes.

There will also be a satellite video presentation to discuss the ICCR at 190 sites across the United States. This video presentation will serve to educate the public on the same topics to be covered at the public meeting. Viewers of the satellite presentation will also have the opportunity to have their questions answered by the EPA. This video presentation will be shown at the public meeting.

Dated: June 14, 1996.

Mary D. Nichols,

Assistant Administrator For Air and Radiation.

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40 CFR Part 52

[Region II Docket No. 150, PR4-1, FRL-5523-9]

Approval and Promulgation of Implementation Plans; Commonwealth of Puerto Rico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of revisions to the Puerto Rico Regulations for the Control of Atmospheric Pollution, submitted to EPA by the Puerto Rico Environmental Quality Board (EQB) on September 29, 1995. This action proposes approval of revisions to Rules 102, 105, 106, 107, 109, 110, 111, 112, 114, 117, 121, 201, 203, 204, 205, 206, 209, 211, 301, 401, 402, 403, 404, 405, 406, 408, 409, 410, 412, 413, 414, 417, and 501. EPA is not incorporating new Rule 422 into the federally approved Puerto Rico State Implementation Plan (SIP). EPA is also announcing the withdrawal of Rules 411, 418, 419, 420 and 421 from the Puerto Rico SIP at the request of the EQB. However, although requested by the EQB, EPA is not withdrawing Rule 404 from the SIP. A revision to Rule 423 was also submitted by the EQB on September 29, 1995, however, EPA determined the revision to Rule 423 to be administratively incomplete and returned it to EQB and it, therefore, is not included in this rulemaking.

DATES: Comments must be received on or before July 22, 1996.

ADDRESSES: All comments should be addressed to: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, New York, New York 10007-1866.

Copies of the Commonwealth's submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,
Region II Office, Air Programs Branch,
290 Broadway, 20th Floor, New York,
New York 10007-1866

Environmental Protection Agency,
Region II Caribbean Field Office,
Centro Europa Building, Suite 417,
1492 Ponce de Leon Avenue, Stop 22,
Santurce, Puerto Rico 00909
Commonwealth of Puerto Rico,
Environmental Quality Board, Banco
National Plaza, 8th Floor, 431 Ponce
De Leon Avenue, Hato Rey, Puerto
Rico, 00917.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290

Broadway, 20th Floor, New York, New York 10007-1866, (212) 637-4249.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 1995, the Puerto Rico Environmental Quality Board (EQB) submitted to EPA a request for approval of revisions to the Puerto Rico Regulations for the Control of Atmospheric Pollution (the Regulations). On February 5, 1996, EPA sent a letter to Hector Russe Martinez, Chairman of the EQB, announcing EPA's determination that the revisions to the Regulations, excluding those to Rule 423, are administratively complete. Under the context of the Clean Air Act (Act), the Commonwealth of Puerto Rico is regarded as a state. For the purposes of discussing and analyzing Puerto Rico's State Implementation Plan (SIP) submittal, EPA has broken it into the following elements: I) revisions to the general Regulations, II) regulations needed to support the Title V of the Act Operating Permits Program, III) Revisions to the Puerto Rico PM₁₀ SIP for the Municipality of Guaynabo, and, IV) a request that certain rules of the Regulations which are currently included as part of Puerto Rico's approved SIP be withdrawn from the SIP, however, these regulations will remain enforceable by Puerto Rico. Item V) addresses regulations concerning Hazardous Air Pollutants (HAPs) which were approved pursuant to section 112(l) of the Act.

EPA is proposing approval of the revisions to the general Regulations and the request made by EQB that certain rules be withdrawn from the SIP. Generally the changes to the Regulations involve administrative and grammatical changes which improve the clarity of the rules. They do not change the emission limitations nor add significant new requirements.

I. Revisions to the General Puerto Rico Regulations

Several of the revisions in this section consist of clarification type changes such as revised dates, public law cites, word changes (facility to source), renumbering of rules, etc. A summary of the various revisions are given below. EPA generally feels that the revisions improve the effectiveness of the Regulations and will have no negative effect on maintaining the national health related standards.

A. Part I—General Provisions

1. Rule 102, "Definitions": There are approximately 30 new or revised definitions in the revised Rule 102. The definitions are mainly for SIP purposes,

although, some clarify the Title V Operating Permit Program contained in Part VI of the Regulations and the requirements under section 112 of the Act.

2. Rule 106, "Test Methods" was revised to reference the available EPA approved alternative test methods, new EPA test methods, or methods previously not listed in the regulation by oversight. The test methods specified are those found in 40 CFR Part 51 Appendix M; 40 CFR Part 60 Appendix A, B, and F; and 40 CFR Part 61 Appendix B, C, D and E.

3. Rule 112, "Compliance Determination/Certification" was revised to incorporate a range of compliance and certification options that are available to the "Board" to ensure compliance with the provisions of this regulation.

4. Other revisions to Part I of the Regulations, which include revisions to Rules 105, 107, 109, 110, 111, 114, 117, and 121, are clarification type changes which bring these rules up to date. None of the revisions involve changing the stringency of these provisions.

EPA has thoroughly reviewed all of the revisions contained in Part I of the Regulations and has determined them to meet EPA guidance and requirements; therefore, EPA is proposing approval of these revised rules.

B. Part II—Approval and Permit

1. Rule 203, "Permit to Construct a Source" was revised by extending the period for which a permit shall automatically lapse or be revoked if no construction has commenced or construction has been suspended to three years (after the date of its issuance). This is approvable provided EQB does not have Prevention of Significant Deterioration of Air Quality (PSD) delegation. If EQB were to request PSD delegation from EPA, the time for which a permit shall automatically lapse or be revoked if no construction has commenced or construction has been suspended should be reduced to 18 months.

2. Rule 206, "Exemptions" was revised to create a list of insignificant activities for Title V purposes, in addition, these activities are also exempt from Puerto Rico's permitting program. Rule 206 states that a location approval, construction permit or operating permit is not required for sources listed in this rule as long as potential emissions are below two tons per year (tpy) of a criteria pollutant, five tpy of a combination of criteria pollutants, or two tpy or the emission levels defined in Appendix E of the

Regulations for HAP emissions, whichever is lower.

3. Rule 211, "Synthetic Minor Source Emission Certification" is a new rule added for Title V purposes which provides sources with a federally enforceable mechanism to limit the potential to emit of criteria pollutants, and to establish requirements for all sources that maintain emissions below the Title V major source thresholds. Minor sources (emitting 75% or less of major source threshold, excluding sources subject to New Source Performance Standards (NSPS), National Emission Standard for Hazardous Air Pollutants (NESHAPS), or Maximum Achievable Control Technology (MACT) standards) must summarize in a monthly log, maintained on site for five years, the following types of information: all raw materials and other substances used, description of equipment design and specifications, hours of operation, fuel type and use, control effectiveness of equipment, etc. The minor source must request coverage under this rule within twelve months of the effective date of Rule 211 or by the application deadline under Puerto Rico's Title V program, whichever is sooner. Such request must include a sworn statement stating that emissions do not exceed the minor source levels, and must identify the methods used to determine emissions (i.e., stack test, monitoring). EQB may also request a performance test to verify the emissions are below 75% of major source threshold. Upon receipt of a complete request, the Board will issue a notification for coverage for a fixed term of five years. The minor source must submit annual process statements, including all information contained in the monthly log. De minimis sources (sources which emit two tpy or less of a regulated air pollutant except HAPs or five tpy or less of any combination of regulated air pollutants excluding HAPs or an amount equal to or less than the emission thresholds for HAPs listed in Appendix E) only need to maintain records sufficient to determine actual emissions on site for three years.

Intermediate sources (emissions are below major source threshold) are required to have a federally enforceable operating permit by January 1997. The limitations in the permit issued pursuant to Rule 204 must specify at a minimum: (a) technically accurate limitations and the portions of the source subject to the limitations; (b) the time period applicable to the limitation; (c) the method to determine compliance, including appropriate monitoring, recordkeeping, and reporting; (d) permanent and quantifiable limitations,

controls, and requirements; and (e) that the emission limitations, controls, and other requirements imposed in the permit are at least as stringent as any other applicable limitation contained in the SIP or enforceable under the SIP. Rule 211 states that permits issued under Rule 204 that do not meet the criteria for intermediate sources in Rule 211 are enforceable by EQB.

This rule also requires a 30 day public comment period prior to the issuance of permits to intermediate sources. Because this rule meets the five criteria outlined in the June 28, 1989 Federal Register (54 FR 27281), EPA is proposing approval of this mechanism for EQB to issue federally enforceable operating permits. In addition, because EPA has determined that the recordkeeping, reporting and certification requirements for minor sources are enforceable and that the rule is consistent with the January 25, 1995 Guidance on Potential to Emit, EPA finds the mechanism for limiting the potential to emit for minor sources to be approvable. Furthermore, Rule 211 states that violations of Rule 211 may subject the source to major source requirements and to enforcement actions.

4. Other revisions to Part II of the Regulations, which include revisions to Rules 201, 204, 205, and 209, are clarification type changes which bring these rules up to date.

EPA has thoroughly reviewed all of the revisions contained in Part II of the Regulations and has determined them to meet EPA guidance and requirements, therefore, EPA is proposing approval of these revised rules.

C. Part III—Variance

1. Rule 301, "Variance Authorized" was revised by combining two paragraphs into a more clearly written single paragraph. The paragraph relates to the conditions which may be imposed by EQB on preliminary approval of variances. Since this minor change does not deviate from EPA guidance EPA is, therefore, proposing approval of revised Rule 301.

D. Part IV—Prohibitions

1. Rule 405, "Incineration" was revised to read more clearly and also to bring the regulation up to date. The revisions reflect minor changes to the applicability, maintenance, and compliance requirements.

2. Old Rule 422, "Air Pollution Control Equipment," the provisions of old Rule 422 were incorporated into Rule 108 "Air Pollution Control Equipment" of the Regulations. Therefore, old Rule 422 was removed

from the Regulations. The Commonwealth used this number for a new Rule 422, "Asbestos Containing Material Management." These provisions of the new Rule 422 do not relate to the National Ambient Air Quality Standards (NAAQS) emission reduction strategies and they parallel other Federal laws which already regulate these matters. EPA has determined that it is not appropriate for Rule 422 to be incorporated into the federally approved SIP. Accordingly, the new Rule 422 is and will remain enforceable by Puerto Rico only.

3. Other revisions to Part IV of the Regulations, which include revisions to Rules 401, 402, 403, 404, 406, 408, 409, 410, 412, 413, 414, and 417 are clarification type changes which bring these rules up to date.

EPA has thoroughly reviewed all of the revisions contained in Part IV of the Regulations and has determined them to meet EPA guidance and requirements, therefore, EPA is proposing approval of these revised rules. However, EPA has determined that it is not appropriate for Rule 422 to be incorporated into the federally approved SIP. In addition, EPA cannot take action on the revisions to Rule 423, "Limitations for the Guaynabo PM₁₀ Nonattainment Area", in this rulemaking. Rule 423 is discussed later in more detail under section III—Revisions to the Puerto Rico PM₁₀ SIP for the Municipality of Guaynabo.

E. Part V—Fees

1. Rule 501, "Permit Fees" was revised based on clarification type changes and merely to bring this rule up to date. The revisions reflect changes to the price, applicability, and validity of permits issued by EQB.

EPA has thoroughly reviewed all of the revisions contained in Part V of the Regulations and has determined them to meet EPA guidance and requirements, therefore, EPA is proposing approval of revised Rule 501.

II. Regulations Needed to Support the Title V of the Clean Air Act Operating Permits Program

Although revisions to Part VI, "Operating Permits Rules for Title V Sources" of the Puerto Rico Regulations were submitted to EPA as part of the September 29, 1995 submittal, on February 26, 1996, EPA fully approved the Operating Permits Program submitted by Puerto Rico (See 60 FR 7073). However, while EPA has approved Puerto Rico's program it is EPA's policy not to include it as part of the federally approved SIP.

III. Revisions to the Puerto Rico PM₁₀ SIP for the Municipality of Guaynabo

Also submitted as part of the September 29, 1995 SIP revision submittal were revisions to Rule 423 "Limitations for the Guaynabo PM₁₀ Nonattainment Area" of the Puerto Rico Regulations. Although not identified by Puerto Rico in the September 29, 1995 SIP submittal, EPA considers these revisions as a SIP revision to the Puerto Rico PM₁₀ SIP for the Municipality of Guaynabo. In a May 31, 1995 Federal Register notice (60 FR 28333), EPA approved Rule 423 as part of the Puerto Rico PM₁₀ SIP for the Municipality of Guaynabo.

In a February 5, 1996 letter to Hector Russe Martinez, Chairman of the EQB, EPA determined that revised Rule 423 is administratively incomplete and returned it to the Commonwealth of Puerto Rico. Therefore, Rule 423 is not included in this rulemaking.

In addition, included in Puerto Rico's September 29, 1995 SIP revision submittal EQB requested that EPA withdraw Rule 404 "Fugitive Emissions" from the Puerto Rico SIP. However, Rule 404 was submitted on November 15, 1993 to EPA as part of the Puerto Rico PM₁₀ SIP for the Municipality of Guaynabo and approved by EPA on May 31, 1995 (60 FR 28333). EQB demonstrated in the PM₁₀ SIP that Rule 404 was needed to attain and maintain the PM₁₀ NAAQS. EQB's September 29, 1995 request to withdraw Rule 404 did not include technical support or a demonstration that Rule 404 is no longer needed to attain and maintain the PM₁₀ NAAQS. Therefore, EPA is not withdrawing Rule 404 from the SIP.

IV. Request that Certain Rules of the Regulations be Withdrawn From the Puerto Rico SIP

EQB requested in their September 29, 1995 SIP submittal, that certain rules currently included in the federally approved Puerto Rico SIP be withdrawn from the SIP since these rules are not a part of Puerto Rico's strategy to achieve and maintain compliance with the NAAQS. The rules requested to be withdrawn include Rule 404 "Fugitive Emissions", Rule 411 "Hydrogen Sulfide", Rule 418 "Waste Gas Disposal", Rule 419 "Volatile Organic Compounds", Rule 420 "Objectionable Odors", and, Rule 421 "Increments Of Progress." Rule 424 "Roof Surface Coating" is an entirely new regulation which EQB provided for information but is not to be part of the SIP. Rule 424 will be enforced by Puerto Rico. EPA agrees that all the above rules except

Rule 404 should be withdrawn from the SIP. None of these rules has a direct impact on NAAQS pollutants and, therefore, will not affect the attainment or maintenance plans which have been approved. It should also be noted that it is EPA policy that no odor regulations be included in SIPs because there is no NAAQS specifically for odor. EPA is proposing approval of Puerto Rico's request to withdraw Rules 411, 418, 419, 420, and 421 from the SIP. These rules, however, will remain enforceable by Puerto Rico.

V. Regulations Concerning HAPs which were Approved Pursuant to Section 112(l) of the Clean Air Act

Section 112(l) of the Act enables Puerto Rico to develop a program for the implementation and enforcement of HAP emissions standards. Approval by EPA of such program would provide for the delegation of the EPA Administrator's authorities and responsibilities to implement and enforce the HAP emissions standards to Puerto Rico. Puerto Rico has revised Rule 211 of the Puerto Rico Regulations pursuant to section 112(l) of the Act in order to provide sources with a mechanism to limit potential HAP emissions.

EPA can only approve a program under 112(l) if Puerto Rico meets the following criteria: (1) adequate authority to assure compliance with any section 112 standard or requirements; (2) adequate resources; (3) the program provides for an expeditious schedule for assuring compliance with section 112 requirements; and (4) the program is otherwise likely to satisfy the objectives of the Act. EQB has already demonstrated through Title V that it has adequate authority to implement and enforce all section 112 requirements for both Title V and non-Title V sources. EQB also demonstrated sufficient fees to implement all section 112 requirements in its Title V Fee Demonstration. While EPA is approving Rule 211 as part of the SIP, Rule 211 will also have the effect of limiting HAP emissions pursuant to its approval under section 112(l) of the Act.

Conclusion

EPA is proposing approval the revisions to the Regulations, which include revisions to Rules 102, 105, 106, 107, 109, 110, 111, 112, 114, 117, 121, 201, 203, 204, 205, 206, 209, 211, 301, 401, 402, 403, 404, 405, 406, 408, 409, 410, 412, 413, 414, 417, and 501. EPA is not incorporating new Rule 422 into the federally approved SIP. In addition, EPA is proposing approval of the withdrawal of Rules 411, 418, 419, 420

and 421 from the SIP, which contain the federally approved regulations, however, EPA is not approving the withdrawal of Rule 404 from the SIP.

Nothing in this proposed rule should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 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 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.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the Clean Air Act, preparation of a regulatory 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 US EPA*, 427 US 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a federal mandate that may result in estimated annual costs of \$100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this SIP or plan revision, the state and any affected local or tribal governments have elected to adopt the program provided for under section 112(l) and 110 of the Clean Air Act. These rules may bind state, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action would impose

any mandate upon the state, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these regulations under state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this direct final action does not include a mandate that may result in estimated annual costs of \$100 million or more to state, local, or tribal governments in the aggregate or to the private sector.

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

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

Dated: May 31, 1996.
William J. Muszynski,
Acting Regional Administrator.
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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018-AD78

Addition of Cossatot National Wildlife Refuge to the List of Open Areas for Hunting and Sport Fishing in Arkansas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to add Cossatot National Wildlife Refuge to the list of areas open for hunting and sport fishing in Arkansas along with pertinent refuge-specific regulations for such activities. The Service has determined that such use will be compatible with the purposes for which the refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound fish and wildlife management, and is otherwise in the public interest by providing additional recreational opportunities at national wildlife refuges.