

appendix V. In addition, as explained above and in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and part D of Title I, and implementing regulations.

What Action Is EPA Taking?

We are proposing to approve this revision to the Kansas SIP concerning K.A.R. 28-19-719 as it meets the requirements of the CAA. We are also proposing to revoke K.A.R. 28-19-79 as it has been revised and replaced.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 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).

This proposed 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

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 CAA. This proposed 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 CAA. 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 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 5, 2001.

Martha R. Steincamp,

Acting Regional Administrator, Region 7.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 080-0041; FRL-7105-2]

Revisions to the Arizona State Implementation Plan, Pinal County Air Quality Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a full disapproval of revisions to the Pinal County Air Quality Control District's

(PCAQCDs) portion of the Arizona State Implementation Plan (SIP). These revisions concern definitions and the incorporation by reference of external documents into the SIP. We are also proposing a full approval of a revision to the PCAQCD portion of the Arizona SIP concerning definitions and a removal of rules previously approved in error. We are proposing action on local rules 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 December 19, 2001.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), 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.

Pinal County Air Quality Control District, Building F, 31 North Pinal Street (P.O. Box 987), Florence, AZ 85232.

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.

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by local air agencies and submitted by the Arizona Department of Environmental Quality (ADEQ).

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
PCAQCD	1-2-110	Adopted Documents	07/29/98	10/07/98
PCAQCD	1-3-130	Adopted Documents	05/14/97	10/07/98
PCAQCD	1-3-140	Definitions	07/29/98	10/07/98
PCAQCD	3-1-020	Adopted Documents	05/14/97	10/07/98
PCAQCD	4-1-010	Adopted Documents	05/14/97	10/07/98

On April 24, 1999, these rule submittals were found by default to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

Table 2 lists rules that we previously approved into the SIP in error and are now proposing to remove from the SIP.

TABLE 2.—SIP RULES FOR REMOVAL (PREVIOUSLY APPROVED ON APRIL 9, 1996 (61 FR 15717), AS CLARIFIED ON DECEMBER 20, 2000 (65 FR 79742))

Local agency	Rule #	Rule title	Adopted	Submitted
PCAQCD	1-3-130	Adopted Documents	10/12/95	11/27/95
PCAQCD	3-1-020	Adopted Documents	06/29/93	11/27/95

B. Are There Other Versions of These Rules?

We approved a version of Rules 1-2-110, 1-3-130, 1-3-140, and 3-1-020 into the SIP on April 9, 1996 (61 FR 15717), as clarified on December 20, 2000 (65 FR 79742). There are no previous versions of Rule 4-1-010 in the SIP.

C. What Is the Purpose of the Submitted Rules and Rule Revisions?

The purposes are as follows:

- Rule 1-2-110 adds a reference to EPA test methods and protocols and incorporates by reference Arizona Administrative Code (AAC), title 18, chapter 2 (July 1, 1996), including appendices 9 and 10, into the PCAQCD portion of the Arizona SIP.

- Rule 1-3-130 removes the adoption date of AAC Rule R18-2-101, Definitions, which is incorporated by reference.

- Rule 1-3-140 removes two unnecessary paragraphs relating to section 111 and 112 of the Clean Air Act (CAA) from definition 79, Major Source, and adds four compounds to definition 89, Non-Precursor Organic Compound. The submittal also requests that definition 81, Maximum Achievable Control Technology, not be included in the SIP.

- Rule 3-1-020 removes the adoption date of AAC Rule R18-2-301, Definitions, which is incorporated by reference.

- Rule 4-1-010 is a new rule that incorporates by reference AAC, title 18, chapter 2, article 6 (July 1, 1996) into the PCAQCD portion of the Arizona SIP. The TSD has more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193).

B. Do the Rules Meet the Evaluation Criteria?

Rule 1-3-140 improves the SIP by updating certain definitions and is consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. Definition 81 is excluded from approval into the SIP at the request of PCAQCD. Rules 1-2-110, 1-3-130, 3-1-020, and 4-1-010 contain provisions which do not meet the evaluation criteria are summarized below and discussed further in the TSD.

C. What Are the Rule Deficiencies?

These provisions conflict with section 110 of the CAA and prevent full approval of the SIP revision.

- Submitted Rule 1-2-110 incorporates by reference Arizona Administrative Code (AAC), title 28, chapter 2 (July 1, 1996), which is not contained in the Arizona SIP. This

would imply that all of the AAC rules in chapter 2 were SIP-approvable, which is not necessarily the case. Also certain AAC rules may be inconsistent with PCAQCD rules.

- Submitted Rules 1-3-130 and 3-1-020 incorporate by reference AAC Rules R18-2-101 and R18-2-301, which are not contained in the Arizona SIP. Enforceability of definitions in these incorporated AAC rules would be limited, unless these AAC rules were approved into the Arizona SIP. Also certain AAC rules may be inconsistent with PCAQCD rules.

- The present SIP-approved versions of Rule 1-3-130 and 3-1-020 also incorporate by reference AAC Rules R18-2-101 and R18-2-301, which are not contained in the Arizona SIP.

- Submitted Rule 4-1-010 incorporates by reference AAC, title 18, chapter 2, article 6 (July 1, 1996), which is not contained in the SIP. This would imply that all of the AAC rules in chapter 2, article 6 were SIP-approvable, which is not necessarily the case. Also certain AAC rules may be inconsistent with PCAQCD rules.

D. EPA Recommendations to Further Improve the Rules.

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

E. Proposed Action and Public Comment.

As authorized in sections 110(k)(3) and 301(a) of the CAA, EPA is proposing a full approval of submitted Rule 1–3–140.

As authorized in sections 110(k)(3) and 301(a) of the CAA, EPA is proposing a full disapproval of submitted Rules 1–2–110, 1–3–130, 3–1–020, and 4–1–010. If this disapproval is finalized, no sanctions would be imposed under section 179 of the CAA. The SIP-approved version of Rule 1–2–110 would be retained in the Arizona SIP.

As authorized in section 110(k)(6) of the CAA, EPA is proposing a removal from the SIP of present SIP-approved Rules 1–3–130 and 3–1–020.

We will accept comments from the public on today's proposed actions for the next 30 days.

III. Background Information

Why Were These Rules Submitted?

Section 110(a) of the CAA requires states to submit regulations that control volatile organic compounds, oxides of nitrogen, ozone, particulate matter, and other air pollutants which harm human health and the environment. These rules were developed as part of the local agency's program to control these pollutants.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13211

This proposed rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

C. 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 Executive Order 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 Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

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. Executive Order 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 Executive Order 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 Executive Order 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. Executive Order 13175

Executive Order 13175, entitled "Consultation and Coordination with

Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

F. 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.

EPA's proposed disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, 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).

G. 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 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 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.

H. 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, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: November 6, 2001.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 01–28859 Filed 11–16–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7105–1]

RIN 2060–AH75

National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: The EPA is announcing the extension of the public comment period on the proposed national emission standards for hazardous air pollutants for hydrochloric acid (HCl) production facilities, including HCl production at fume silica facilities. The EPA originally requested comments on the proposed rule by November 19, 2001 (66 FR 48174, September 18, 2001). We are extending the deadline to December 19, 2001, and are now requesting written comments by that date because we have received requests for a 30-day extension from the Chlorine Institute, Incorporated, and the Dow Chemical Company. The reasons given for these requests were: to assess comprehensively the implications of the many nuances of the proposed rule; and the need for HCl producers to address increased security issues resulting from the incidents of September 11 which kept key personnel from focusing on the proposed rule within the original 60-day period. We find these requests reasonable.

DATES: Comments may be submitted by December 19, 2001.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–99–41, U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–99–41, U.S. EPA, 401 M Street, SW., Washington, DC 20460. The EPA requests a separate copy also be sent to the contact person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Comments may be submitted by electronic mail (e-mail) to: *a-and-r-docket@epa.gov*. Comments submitted by e-mail must be submitted as an ASCII file to avoid the use of special characters and encryption problems. Comments will also be accepted on disks in WordPerfect® version 5.1, 6.1, or 8 file format. All comments and data submitted in electronic form must be identified by the docket number A–99–41. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: OAQPS Document Control Officer, C404–02, Attention: Mr. Bill Maxwell, U.S. EPA, Research Triangle Park, NC 27711. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available to the public without further notice to the commenter.

Docket. Information related to the proposed standards is available for inspection at the Air and Radiation Docket and Information Center, Docket No. A–99–41. The docket is located at the U.S. EPA, 401 M Street, SW, Room M–1500 (ground floor, Waterside Mall), Washington, DC 20460, telephone (202) 260–7548. The docket is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Maxwell, Combustion Group, Emission Standards Division, C439–01, U.S. EPA, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5430; facsimile number (919) 541–5450; electronic mail address: *maxwell.bill@epa.gov*.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Recordkeeping and reporting requirements.