ENIRONMENTAL PROTECTION AGENCY

40 CFR Part 52


Revisions to the Arizona State Implementation Plan, Arizona Department of Environmental Quality, Maricopa County Air Quality Department, and Pima County Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Arizona Department of Environmental Quality (ADEQ), Maricopa County Air Quality Department (MCAQD), and Pima County Department of Environmental Quality (PCDEQ) portions of the Arizona State Implementation Plan (SIP) that EPA expects to be submitted by ADEQ. These revisions concern regulations that require monitoring and reporting of volatile organic compounds (VOC), oxides of nitrogen (NOx), and particulate matter (PM) emissions from stationary sources. This proposed approval is based upon proposed regulations submitted by ADEQ and an accompanying request that EPA proceed with SIP review while the State and local agencies complete their public review and agency adoption processes. EPA will not take final action on these regulations until ADEQ submits the final adopted versions to EPA as a revision to the Arizona SIP. Final EPA approval of the regulations and incorporation of them into the Arizona SIP would make them federally enforceable under the Clean Air Act (CAA).

EPA is also proposing to incorporate them into the Arizona SIP by parallel processing.

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs EPA to use voluntary consensus standards, which are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The EPA believes that this action is not subject to requirements of Section 12(d) of NTTAA because application of those requirements would be inconsistent with the Clean Air Act.

I. The State’s Submittal

A. What rules did the State submit?

By letter dated June 1, 2012, ADEQ submitted to EPA on behalf of ADEQ, MCAQD, and PCDEQ, unofficial copies of several rules and statutes, with a request for approval of these provisions into the SIP by parallel processing.

B. Are there other versions of these rules?

C. What is the purpose of the submitted rules?

The EPA is proposing to approve revisions to the Arizona Department of Environmental Quality (ADEQ), Maricopa County Air Quality Department (MCAQD), and Pima County Department of Environmental Quality (PCDEQ) portions of the Arizona State Implementation Plan (SIP) that EPA expects to be submitted by ADEQ. These revisions concern regulations that require monitoring and reporting of volatile organic compounds (VOC), oxides of nitrogen (NOx), and particulate matter (PM) emissions from stationary sources. This proposed approval is based upon proposed regulations submitted by ADEQ and an accompanying request that EPA proceed with SIP review while the State and local agencies complete their public review and agency adoption processes. EPA will not take final action on these regulations until ADEQ submits the final adopted versions to EPA as a revision to the Arizona SIP. Final EPA approval of the regulations and incorporation of them into the Arizona SIP would make them federally enforceable under the Clean Air Act (CAA). EPA is also proposing to incorporate them into the Arizona SIP by parallel processing.

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II. EPA’s Evaluation and Proposed Action

A. How is EPA evaluating the rules?

B. Are there other versions of these rules?

C. What is the purpose of the submitted rules?

The EPA is proposing to approve revisions to the Arizona Department of Environmental Quality (ADEQ), Maricopa County Air Quality Department (MCAQD), and Pima County Department of Environmental Quality (PCDEQ) portions of the Arizona State Implementation Plan (SIP) that EPA expects to be submitted by ADEQ. These revisions concern regulations that require monitoring and reporting of volatile organic compounds (VOC), oxides of nitrogen (NOx), and particulate matter (PM) emissions from stationary sources. This proposed approval is based upon proposed regulations submitted by ADEQ and an accompanying request that EPA proceed with SIP review while the State and local agencies complete their public review and agency adoption processes. EPA will not take final action on these regulations until ADEQ submits the final adopted versions to EPA as a revision to the Arizona SIP. Final EPA approval of the regulations and incorporation of them into the Arizona SIP would make them federally enforceable under the Clean Air Act (CAA). EPA is also proposing to incorporate them into the Arizona SIP by parallel processing. EPA lacks the discretionary authority to address environmental justice in this rulemaking.

III. Statutory and Executive Order Reviews

The EPA believes that this action is not subject to requirements of Section 12(d) of NTTAA because application of those requirements would be inconsistent with the Clean Air Act.

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List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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


Jared Blumenfeld,
Regional Administrator, Region IX.

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The above rules have been adopted locally but have not been adopted specifically for purposes of approval into the federally enforceable SIP under CAA section 110. ADEQ has requested that MCAQD and PCDEQ adopt these regulations following public process for purposes of SIP approval and thereafter submit the rules to ADEQ for transmittal to EPA as SIP revisions. Concurrent with these county processes, ADEQ anticipates that it will schedule a public hearing in July 2012 on its proposal to submit these rules to EPA for incorporation into the SIP, and intends to submit the final SIP revision to EPA by late August 2012. We note that because the state and county rulemaking processes here are solely for purposes of adopting these regulations as SIP revisions under CAA section 110 and not for purposes of revising any of the regulations, we do not expect any substantive changes between the proposed and final submittals. Final approval of these rules, however, is contingent upon EPA’s receipt of fully adopted rules that satisfy state and local procedural requirements for SIP submittals.

B. Are there other versions of these rules?

There are no SIP-approved versions of ADEQ Rule 18–2–327. We approved an earlier version of ADEQ Rule 9–3–313 into the SIP on April 23, 1982 (47 FR 17483). The submitted rule ADEQ Rule 18–2–313 will replace the SIP rule ADEQ Rule 9–3–313. We approved an earlier version of MCAQD Rule 100, Section 500 into the SIP on February 10, 2005 (70 FR 7038). The submitted rule MCAQD Rule 100, Section 500 will replace SIP rule MCAQD Rule 100, Section 504. We approved an earlier version of PCDEQ Rule 622 into the SIP on April 16, 1982 (47 FR 16328). The submitted rule PCDEQ Rule 17.12.040 will replace the SIP rule PCDEQ Rule 622.

C. What is the purpose of the submitted rules?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. NOX helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. PM contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control VOC, NOX, and PM emissions.

ADEQ Rule 18–2–313 establishes requirements for continuous emissions monitoring systems at certain fossil-fuel fired steam generators, sulfuric acid plants, nitric acid plants, and fluid bed catalytic cracking unit catalysts regenerators at petroleum refineries, if subject to an emission standard. ADEQ Rule 18–2–327 requires that every source subject to a permit complete and submit an annual emissions inventory questionnaire. PCDEQ Rule 17.12.040 establishes reporting requirements for emissions that exceed levels allowed under applicable regulations. PCDEQ Rule 17.24.040 requires a source to provide to the Control Officer all records and documentation needed to determine compliance or noncompliance with a regulation. The purpose of revising MCAQD Rule 100, Section 500 was to add recordkeeping and add/review emission reporting requirements. EPA’s technical support documents (TSDs) have more information about these rules.

II. EPA’s Evaluation and Proposed Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). Guidance and policy documents that we use to evaluate enforceability requirements consistently include the following:


B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the applicable requirements and guidance regarding enforceability and SIP relaxations. The TSDs have more information on our evaluation.

C. Public Comment and Proposed Action

Because EPA believes the submitted rules fulfill all applicable CAA requirements, we are proposing to fully approve them under section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period or ADEQ does not submit the
adopted SIP revisions as expected, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

• Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
• 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);
• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
• Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (50 FR 7629, February 16, 1994).

In addition, this proposed action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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


Jared Blumenfeld,
Regional Administrator, Region IX.
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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 239

[Docket No. FRA–2011–0062, Notice No. 1; 2130–AC33]

Passenger Train Emergency Preparedness

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FRA is proposing to revise its regulations for passenger train emergency preparedness. These proposed revisions would: ensure that railroad personnel who communicate and coordinate with first responders during emergency situations receive initial and periodic training and are subject to operational (efficiency) tests and inspections; clarify that railroads must develop procedures in their emergency preparedness plans (e-prep plans) addressing the safe evacuation of passengers with disabilities during emergency situations; limit the need for FRA to formally approve purely administrative changes to approved e-prep plans; specify new operational (efficiency) testing and inspection requirements for both operating and non-operating employees; and remove as unnecessary the section on the preemptive effect of the regulations.

DATES: Comments: Written comments must be received by August 27, 2012. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

Hearing: FRA anticipates being able to resolve this rulemaking without a public, oral hearing. However, if FRA receives a specific request for a public, oral hearing prior to July 27, 2012, one will be scheduled and FRA will publish a supplemental notice in the Federal Register to inform interested parties of the date, time, and location of any such hearing.

ADDRESSES: Comments: Comments related to Docket No. FRA–2011–0062, Notice No. 1, may be submitted by any of the following methods:

• Fax: 202–493–2251.
• Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590.
• Hand Delivery: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W12–140 on the Ground level of the West Building, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name, docket name and docket number or Regulatory Identification Number (RIN) for this rulemaking (2130–AC33). Note that all comments received will be posted without change to http://www.regulations.gov, including any personal information provided. Please see the Privacy Act heading in the SUPPLEMENTARY INFORMATION section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to http://www.regulations.gov at any time or visit the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W12–140 on the Ground level of the West Building, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:
Daniel Knote, Staff Director, Passenger Rail Division, U.S. Department of Transportation, Federal Railroad Administration, Office of Railroad Safety, Mail Stop 25, West Building 3rd Floor, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: 202–493–6350); or Brian Roberts, Trial Attorney, U.S. Department of Transportation, Federal Railroad Administration, Office of Chief Counsel, Mail Stop 10, West Building 3rd Floor,