

## PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT

1. The authority citation for part 1915 continues to read as follows:

**Authority:** Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); secs. 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), or 5-2002 (67 FR 65008) as applicable; 29 CFR Part 1911.

2. Amend § 1915.5 to revise paragraphs (d)(4)(i), (vi) through (x), and (xiii) through (xviii) and by removing paragraph (d)(4)(xix) to read as follows:

### § 1915.5 Incorporation by reference.

\* \* \* \* \*

(d) \* \* \*

(4) \* \* \*

(i) NFPA 1981-2002 Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire and Emergency Services, IBR approved for § 1915.505(e)(3)(v).

\* \* \* \* \*

(vi) NFPA 10-2002 Standard for Portable Fire Extinguishers, IBR approved for §§ 1915.507(b)(1) and (b)(2).

(vii) NFPA 14-2003 Standard for the Installation of Standpipe and Hose Systems, IBR approved for §§ 1915.507(b)(2) and (d)(1).

(viii) NFPA 72-2002 National Fire Alarm Code, IBR approved for § 1915.507(c)(6).

(ix) NFPA 13-2002 Standard for the Installation of Sprinkler Systems, IBR approved for § 1915.507(d)(2).

(x) NFPA 750-2003 Standard on Water Mist Fire Protection Systems, IBR approved for § 1915.507(d)(2).

\* \* \* \* \*

(xiii) NFPA 11-2005 Standard for Low-, Medium-, and High-Expansion Foam, IBR approved for § 1915.507(d)(3).

(xiv) NFPA 17-2002, Standard for Dry Chemical Extinguishing Systems, IBR approved for § 1915.507(d)(4).

(xv) NFPA 12-2005, Standard on Carbon Dioxide Extinguishing Systems, IBR approved for § 1915.507(d)(5).

(xvi) NFPA 12A-2004, Standard on Halon 1301 Fire Extinguishing Systems, IBR approved for § 1915.507(d)(5).

(xvii) NFPA 2001-2004, Standard on Clean Agent Fire Extinguishing Systems, IBR approved for § 1915.507(d)(5).

(xviii) NFPA 1403-2002, Standard on Live Fire Training Evolutions, IBR approved for § 1915.508(d)(8).

3. Amend § 1915.505 to revise paragraph (e)(3)(v), to read as follows:

### § 1915.505 Fire response.

\* \* \* \* \*

(e) \* \* \*

(3) \* \* \*

(v) Provide only SCBA that meet the requirements of NFPA 1981-2002 Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire and Emergency Services (incorporated by reference, see § 1915.5); and

\* \* \* \* \*

4. Amend § 1915.507 to revise paragraphs (b)(1), (b)(2), (c)(6), (d)(1), (d)(2), (d)(3), and (d)(5) to read as follows:

### § 1915.507 Land-side fire protection system.

\* \* \* \* \*

(b) \* \* \*

(1) The employer must select, install, inspect, maintain, and test all portable fire extinguishers according to NFPA 10-2002 Standard for Portable Fire Extinguishers (incorporated by reference, see § 1915.5).

(2) The employer is permitted to use Class II or Class III hose systems, in accordance with NFPA 10-2002 (incorporated by reference, see § 1915.5), as portable fire extinguishers if the employer selects, installs, inspects, maintains, and tests those systems according to the specific recommendations in NFPA 14-2003 Standard for the Installation of Standpipe and Hose Systems (incorporated by reference, see § 1915.5).

(c) \* \* \*

(6) Select, install, inspect, maintain, and test all automatic fire detection systems and emergency alarms according to NFPA 72-2002 National Fire Alarm Code (incorporated by reference, see § 1915.5)

(d) \* \* \*

(1) Standpipe and hose systems according to NFPA 14-2003 Standard for the Installation of Standpipe and Hose Systems (incorporated by reference, see § 1915.5);

(2) Automatic sprinkler systems according to NFPA 25-2002 Standard for the Inspection, Testing, and Maintenance of Water-based Fire Protection Systems, (incorporated by reference, see § 1915.5), and either (i) NFPA 13-2002 Standard for the Installation of Sprinkler Systems (incorporated by reference, see § 1915.5), or (ii) NFPA 750-2003 Standard on Water Mist Fire Protection Systems (incorporated by reference, see § 1915.5);

(3) Fixed extinguishing systems that use water or foam as the extinguishing agent according to NFPA 15-2001 Standard for Water Spray Fixed Systems

for Fire Protection (incorporated by reference, see § 1915.5) and either NFPA 11-2005 Standard for Low-, Medium-, and High-Expansion Foam (incorporated by reference, see § 1915.5);

\* \* \* \* \*

(5) Fixed extinguishing systems using gas as the extinguishing agent according to NFPA 12-2005 Standard on Carbon Dioxide Extinguishing Systems (incorporated by reference, see § 1915.5); NFPA 12A-2004 Standard on Halon 1301 Fire Extinguishing Systems (incorporated by reference, see § 1915.5); and NFPA 2001-2004 Standard on Clean Agent Fire Extinguishing Systems (incorporated by reference, see § 1915.5).

[FR Doc. E6-17125 Filed 10-16-06; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2006-0729; FRL-8231-4]

### 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 limited approval and limited disapproval of revisions to the Pinal County Air Quality Control District (PACQCD) portion of the Arizona State Implementation Plan (SIP). These revisions concern particulate matter (PM-10) emissions from fugitive dust. We are proposing action on local rules that regulate 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 November 16, 2006.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2006-0729, by one of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.

2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available

online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail. [www.regulations.gov](http://www.regulations.gov) is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

**Docket:** The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Francisco Dóñez, EPA Region IX, (415) 972-3956, [Donez.Francisco@epa.gov](mailto:Donez.Francisco@epa.gov).

**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 .....	4-2-020	General [Fugitive Dust] .....	6/29/93	11/27/95.
PCAQCD .....	4-2-030	Definitions [Fugitive Dust] .....	6/29/93	11/27/95.
PCAQCD .....	4-2-040	Standards [Fugitive Dust] .....	6/29/93	11/27/95.
PCAQCD .....	4-2-050	Monitoring and Records [Fugitive Dust] .....	5/14/97	10/07/98.

On June 4, 1996, the submittals of rules 4-2-020, 4-2-030, and 4-2-040 were found to meet the completeness criteria in 40 CFR part 51, Appendix V, which must be met before formal EPA review. On April 24, 1999, the submittal of rule 4-2-050 was found to meet the completeness criteria.

### B. Are there other versions of these rules?

There are no previous versions of Rules 4-2-020, 4-2-030, 4-2-040, or 4-2-050 in the SIP.

### C. What is the purpose of the submitted rules?

Particulate matter (PM-10) harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control PM-10 emissions. Rules 4-2-020, 4-2-030, 4-2-040, and 4-2-050 establish requirements that help control PM-10 emissions from fugitive dust. EPA’s technical support document (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), must require reasonably available control measures (RACM), including reasonably available control technology (RACT) in moderate PM-10

nonattainment areas (see section 189(a)), must require best available control measures (BACM), including best available control technology (BACT) in serious PM-10 nonattainment areas (see section 189(b)), and must not relax existing requirements (see sections 110(l) and 193). A portion of PCAQCD is designated attainment, a portion is designated moderate nonattainment, and a portion is designated serious nonattainment for PM-10.

The following guidance documents were used for reference:

1. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, U.S. EPA, 40 CFR part 51.
2. PM-10 Guideline Document (EPA-452/R-93-008).

### B. Do the rules meet the evaluation criteria?

These rules improve the SIP by establishing more stringent emission limits. These rules are largely consistent with the relevant policy and guidance regarding enforceability, RACT and SIP relaxations. Rule 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 and part D of the Act and prevent full approval of the SIP revision.

1. Rule 4-2-020, Section B specifies that Article 4 “shall not be construed so as to prevent normal farm cultural practices which cause fugitive dust.” Normal farm cultural practice is defined in Rule 4-2-030, Definition 2, as “all activities \* \* \* conducted on any facility for the production of crops, livestock, poultry, livestock products or poultry products.” As written, Rule 4-2-020, Section B effectively exempts agricultural activities from the fugitive dust rules without justification.

2. Rule 4-2-030, Definition 3, defines “reasonable precaution” in highly general terms. The term “reasonable precaution” is then used in every section of Rule 4-2-040, to define what actions must be taken to mitigate fugitive dust emissions from relevant activities. This general requirement is not sufficiently clear or enforceable.

3. Rule 4-2-050 does not contain recordkeeping provisions. The absence of these provisions makes the all of the submitted rules difficult to enforce.

### D. Proposed Action and Public Comment

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is proposing a limited approval of the submitted

rules to improve the SIP. If finalized, this action would incorporate the submitted rules into the SIP, including those provisions identified as deficient. This approval is limited because EPA is simultaneously proposing a limited disapproval of the rules under section 110(k)(3). 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 according to 40 CFR 52.31. A final disapproval would also trigger the federal implementation plan (FIP) requirement under section 110(c). Note that the submitted rules have been adopted by the PCAQCD, and EPA's final limited disapproval will not prevent the local agency from enforcing them.

We will accept comments from the public on the proposed limited approval and limited disapproval for the next 30 days.

### III. Statutory and Executive Order Reviews

#### A. Executive Order 12866, Regulatory Planning and Review

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

#### B. Paperwork Reduction Act

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.*)

#### C. 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 rule will not have a significant impact on a substantial number of small entities because 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 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).

#### D. Unfunded Mandates Reform Act

Under sections 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 the 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 approval action proposed 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 Federal action proposes to approve 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.

#### E. Executive Order 13132, Federalism

*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 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 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

#### F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 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." This proposed rule does not have tribal implications, as specified in Executive Order 13175. 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. Thus, Executive Order 13175 does not apply to this rule.

EPA specifically solicits additional comment on this proposed rule from tribal officials.

#### G. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks

*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.

*H. Executive Order 13211, Actions that Significantly Affect Energy Supply, Distribution, or Use*

This 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.

*I. 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.

The EPA believes that VCS are inapplicable to this action. Today's action 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, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: September 14, 2006.

**Wayne Nastri,**

*Regional Administrator, Region IX.*

[FR Doc. E6-17233 Filed 10-16-06; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[EPA-R01-OAR-2006-0226; FRL-8231-7]

**Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Maine; Redesignation of the Portland, ME and the Hancock, Knox, Lincoln and Waldo Counties, Maine 8-Hour Ozone Nonattainment Areas to Attainment for Ozone**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve: A request to redesignate two 8-hour ozone National Ambient Air Quality Standard (NAAQS) nonattainment areas to attainment for the 8-hour ozone NAAQS; and a State Implementation Plan (SIP) revision containing a separate 10-year maintenance plan for each area. The two areas are the Portland, Maine 8-hour ozone nonattainment area and the Hancock, Knox, Lincoln and Waldo Counties (Midcoast), Maine 8-hour ozone nonattainment area. EPA is also providing information on the status of its transportation conformity adequacy determination for the new motor vehicle emissions budgets (MVEBs) for the year 2016 that are contained in the 10-year 8-hour ozone maintenance plans for each area. EPA is proposing to approve MVEBs for both areas.

**DATES:** Written comments must be received on or before November 16, 2006.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R01-OAR-2006-OAR-0226 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail:* [arnold.anne@epa.gov](mailto:arnold.anne@epa.gov).

3. *Fax:* (617) 918-0047.

4. *Mail:* "Docket Identification Number EPA-R01-OAR-2006-OAR-0226", Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114-2023.

5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114-2023. Such deliveries are only accepted during the

Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R01-OAR-2006-OAR-0226. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov) or e-mail, information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114-2023. EPA requests that if at all possible, you contact the