Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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, the Administrator certifies 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 CAA, preparation of a 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).

C. 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 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 approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 9, 1997.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 97–32929 Filed 12–16–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–5933–7]

Approval and Promulgation of Implementation Plans; Colorado; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing corrections to the State Implementation Plan (SIP) for the State of Colorado. First, EPA is proposing corrections to its January 21, 1997 rulemaking in which EPA approved several Colorado new source review (NSR) SIP revisions. Specifically, pursuant to a December 17, 1996 request from the State of Colorado, EPA is proposing to remove from the approved SIP two sections of Colorado's prevention of significant deterioration (PSD) rules in Regulation No. 3. EPA is also proposing to disapprove a provision in the State's definition of ''federally enforceable'' in Regulation No. 3 that EPA inadvertently failed to disapprove in its January 21, 1997 rulemaking. Specifically, the provision in that definition states that provisions which are not required by the Federal Clean Air Act (Act) shall not be submitted as part of the SIP and shall not be federally enforceable. This provision is being proposed for disapproval because the Act provides that any provision approved by EPA as part of the SIP is federally enforceable unless and until the State requests, and EPA approves, a SIP revision removing such provision.

Second, EPA is proposing to correct an October 5, 1979 rulemaking in which EPA incorrectly listed Colorado House Bill 1109 as being approved as part of the Colorado SIP.

Last, EPA is proposing to correct a September 23, 1980 rulemaking, in which EPA mistakenly replaced a Colorado SIP approval in 40 CFR 52.320 with a Montana SIP approval.

DATES: Comments must be received in writing on or before January 16, 1998.

ADDRESSES: Written comments on this action should be addressed to Vicki Stamper, 8P2-A, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2466. Copies of the documents relative to this action are available for inspection during normal business hours at the following location: Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2466.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, EPA Region VIII,(303) 312–6445.

SUPPLEMENTARY INFORMATION:

I. Corrections to January 21, 1997 Rulemaking

On January 21, 1997, EPA promulgated approval of five Colorado SIP revisions submitted on November 12, 1993, August 25, 1994, September 29, 1994, November 17, 1994, and January 29, 1996. (See 62 FR 2910–2914.) All of these SIP submittals contained revisions to the State's NSR and PSD provisions in Parts A and B of Colorado Regulation No. 3.

A. Correction to Exclude Sections V.B. and VII.A.5. of Part B of Colorado Regulation No. 3 From the SIP

The November 12, 1993 SIP submittal contained revisions to Regulation No. 3 that were adopted by the Colorado Air Quality Control Commission (AQCC) at a July 15, 1993 public hearing. The primary purpose of the State's July 1993 rulemaking was to adopt an operating permit program to address the requirements of title V of the Clean Air Act Amendments of 1990 and 40 CFR part 70. Concurrent with the adoption of its operating permit program, the State made revisions to its construction permit regulations, which are also in Regulation No. 3, to make the two programs work together and to allow for the implementation of certain title V operating permit provisions. At the same time, the State also completely restructured and renumbered the provisions in Regulation No. 3. While the majority of the provisions in the

State's construction permitting regulations were unchanged, the State's November 12, 1993 SIP submittal included the State's entire construction permitting regulations (including its PSD rules) because of the restructuring and renumbering of Regulation No. 3.

On December 17, 1996, the State submitted a request to exclude two sections of Part B of Regulation No. 3 from its November 12, 1993 SIP submittal, specifically Sections V.B. and VII.A.5. (referred to herein as Sections V.B. and VII.A.5. or as ''the two provisions.'') On January 21, 1997, EPA's approval of the State's November 12, 1993 SIP submittal was published (62 FR 2910). The approval did not exclude Sections V.B. and VII.A.5.

Section V.B. of Part B of Regulation No. 3 applies the Class I sulfur dioxide PSD increment to certain pristine areas in Colorado that are not designated Class I by the Federal PSD regulations. This is not required by the Act or Federal PSD regulations. Section VII.A.5. of Part B of Regulation No. 3 provides that no new major stationary source or major modification shall individually consume more than 75% of an applicable increment. No such provision (or similar provision) is required by the Act or Federal PSD regulations. Neither of the two provisions is necessary for the State to demonstrate attainment and/or maintenance of the National Ambient Air Quality Standards (NAAQS). Therefore, EPA believes that these two provisions may be removed from the SIP.

In this instance, EPA believes it is appropriate to remove the two provisions from the SIP pursuant to EPA's authority under section 110(k)(6) of the Act. Section 110(k)(6) of the Act provides as follows:

> Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.

The State submitted its request well before EPA's final approval of the State's November 12, 1993 SIP submittal was published in the **Federal Register** or was otherwise announced to the public. Thus, EPA had an opportunity to exclude the two provisions from the final published rule, but failed to do so.

Although there may be instances where a request to withdraw components of a SIP implicates the Act's requirement for State notice and hearing, EPA does not believe this is one of them. First, these two provisins had been part of the State's regulations for many years [1], but had been expressly excluded from the State's SIP submittals of prior PSD revisions and had been expressly excluded from EPA's rulemaking actions on those prior PSD rule revisions. (See 51 FR 31125, September 2, 1986, and 56 FR 12850, March 28, 1991.) Second, the State merely renumbered these two provisions at its July 15, 1993 hearing, and there was no indication that the State intended to change course and submit these two provisions to EPA for approval into the SIP. Presumably, if the State had intended such a change in course, the State would have focused its notice and public hearing on the two provisions prior to adopting the renumbering of Regulation No. 3 and submitting it to EPA. This did not occur, and the evidence suggests that submittal of these two provisions to EPA was merely an oversight. If EPA had reviewed the circumstances more carefully when it received the State's December 17, 1996 letter, EPA could have corrected its final rule before publication.

With respect to Section V.B., EPA also believes a correction is necessary because Section V.B. (which, as stated above, applies the Class I sulfur dioxide increment to certain pristine Class II areas in Colorado) is inconsistent with the requirements of EPA's PSD regulations. Specifically, 40 CFR 51.166(g) contains certain requirements for redesignating an area from Class II to Class I, and the State has not addressed those requirements for the areas listed in Section V.B. Thus, EPA erred in approving Section V.B. as part of the SIP. This position is consistent with EPA's prior rulemaking regarding this provision. In a September 2, 1986 action, EPA did not approve this provision into the SIP, explaining that the State had not followed the specific procedures outlined in 40 CFR 51.166(g) for redesignating an area from Class II to Class I. (See 51 FR 31125.)

For the reasons discussed above, EPA is correcting its January 21, 1997 SIP approval to remove Sections V.B. and VII.A.5. of Part B of Regulation No. 3 from the approved SIP.

[1] The AQCC originally adopted Section V.B. on March 10, 1983 and Section VII.A.5. on May 17, 1990.

B. Correction to Disapprove Provision in Definition of ''Federally Enforceable'' in Colorado Regulation No. 3

In the State's September 29, 1994 SIP submittal of revisions to Regulation No. 3, the State revised its definition of ''federally Enforceable'' in Section I.B.22. of Part A of Colorado Regulation No. 3. EPA's nonattainment NSR and PSD permitting regulations in 40 CFR 51.165 and 51.166, respectively, require this term to be defined in States' permitting programs, as it is used in various definitions and provisions of the Federal preconstruction permitting regulations.

Colorado's definition of ''federally enforceable'' basically mirrors the Federal definition in 40 CFR 51.165(a)(1)(xiv) and 51.166(b)(17). However, on August 18, 1994, the State revised this definition (among other things) to add a provision stating the following: ''Notwithstanding the foregoing, and except for the voluntarily accepted limitations and conditions described in the preceding sentence, any provision, standard, or regulation that is not required by the Federal Act or that is more stringent than the Federal Act is adopted under powers reserved to the State of Colorado pursuant to section 116 of the Federal Act, is not to be submitted to the EPA as a provision of the SIP and shall not be federally enforceable.'' According to the State, this revision was made to mirror the definition found in Section 25–7–105.1 of the Colorado Air Pollution Prevention and Control Act.

During the State's public comment period on this regulatory change, EPA stated in an August 12, 1994 letter that it could not approve the statement quoted above as part of the SIP. Any provision that has been submitted by the State and approved by EPA as part of the SIP is considered to be federally enforceable regardless of whether it is required by the Act or more stringent than the Act. Similarly, terms and conditions incorporated into a permit that is issued under an EPA-approved permitting program, such as new source review or title V operating permits, are also generally considered to be federally enforceable. [2] The only way a State can change the Federal enforceability of any provision that has been approved by EPA as part of the SIP is by submitting a request for revision to the SIP and by receiving EPA approval of the SIP

[2] States can designate certain provisions in a title V permit that have not been approved as part of the SIP or that are not otherwise federally enforceable or federally required as ''State-only'' in a title V operating permit, and those terms would not be considered federally enforceable. (See 40 CFR 70.6(b)(2).)

revision (through notice and comment rulemaking via the **Federal Register**).

EPA believes the statement in the State's definition of ''federally enforceable'' quoted above is thus misleading to the public and the regulated community.

In EPA's January 21, 1997 rulemaking, EPA approved the definition of ''federally enforceable'' into the SIP in its entirety. (See 62 FR 2914.) However, for the reasons discussed above and in EPA's August 12, 1994 letter to the State, EPA believes its approval of the above-quoted statement was made in error. Consequently, EPA is proposing to correct its January 21, 1997 rulemaking to disapprove the statement in the State's definition of ''federally enforceable'' which states that any provision, standard or regulation not required by the Act is not to be submitted as part of the SIP and shall not be federally enforceable. EPA is proposing this correction pursuant to section 110(k)(6) of the Act.

II. Correction of October 5, 1979 Rulemaking

On October 5, 1979, EPA approved several submittals from the State of Colorado, which were made pursuant to the 1977 revisions to the Act. (See 44 FR 57401–57411.) In that action, EPA listed House Bill 1109 in 40 CFR 52.320(c)(14)as one of the submittals being approved (see 44 FR 57409, October 5, 1979). House Bill 1109 repealed and reenacted the State's Air Quality Control Act. The bill was signed into law by the Governor on June 20, 1979 and submitted to EPA on July 23, 1979, along with House Bill 1090 (regarding burning of solid wastes) and Senate Bill 1 (regarding provisions for reducing motor vehicle emissions). In the preamble to the October 5, 1979 rulemaking, EPA discussed the State's July 23, 1979 submittal of the three bills. EPA indicated that it was taking no action on House Bill 1109 at that time and would propose action in the **Federal Register** at a future date to take public comment on the acceptability of the State's revised Air Quality Control Act (see 44 FR 57403). Since EPA clearly stated in the preamble that it was not taking action on House Bill 1109, EPA erred in listing House Bill 1109 as being approved as part of the SIP in 40 CFR 52.320(c)(14). Therefore, pursuant to section 110(k)(6) of the Act, EPA is proposing to amend the regulatory text regarding the State's July 23, 1979 submittal to remove the reference to House Bill 1109.[3]

Although EPA's October 5, 1979 rulemaking indicated that EPA would propose action on House Bill 1109 at a future date, EPA no longer believes it is necessary to take action on House Bill 1109 or any successor provisions in the State's Air Quality Control Act. Generally, EPA does not believe it is necessary to approve State authorizing legislation into the SIP. Instead, EPA needs to be satisfied that such authorizing legislation exists and that it shows that the State has adequate legal authority to adopt, implement, and enforce the SIP. Therefore, EPA will not be taking action on House Bill 1109.

III. Correction of September 23, 1980 Rulemaking

On September 23, 1980, EPA approved various SIP submittals from the State of Montana intended to address the 1977 revisions to the Act. In that action, EPA mistakenly revised 40 CFR 52.320, which identifies SIP approvals for the State of Colorado, to reflect approval of these various Montana SIP submittals (see 45 FR 62984). EPA's original intention with the September 23, 1980 rulemaking was to revise 40 CFR 52.1370(c)(8) for the State of Montana's plan, but EPA promulgated the language regarding Montana's SIP at 40 CFR 52.320(c)(8). On June 30, 1982, EPA partially corrected this error for Montana by promulgating the September 23, 1980 approval at 40 CFR 52.1370(c)(10). (See 47 FR 28373.) However, no correction was ever made to the ''Identification of Plan'' for Colorado at 40 CFR 52.320. Consequently, EPA is proposing to revise 40 CFR 52.320(c)(8) to reinstate the previous Colorado SIP approval promulgated at 52.320(c)(8), as it was last revised on March 2, 1976 (see 41 FR 8958).

IV. Proposed Action

EPA is proposing to revise 40 CFR 52.320(c)(72)(I)(D) to exclude Sections V.B. and VII.A.5. of Part B of Regulation No. 3, which pertain to the State's PSD program, from the approved SIP.

EPA is proposing to correct its January 21, 1997 approval of Section I.B. of Part A of Regulation No. 3 (as in effect on September 30, 1994) to disapprove the last sentence in the definition of ''federally enforceable'' which states that any provision, standard or regulation not required by the Act is not to be submitted as part of the SIP and shall not be federally enforceable.

EPA is proposing to amend 40 CFR 52.320(c)(15) to remove the reference to House Bill 1109, which was incorrectly listed as being approved in EPA's October 5, 1979 Colorado rulemaking (see 44 FR 57409).

Last, EPA is proposing to amend 40 CFR 52.320(c)(8) to reinstate the Colorado SIP approval promulgated on March 2, 1976 (see 41 FR 8958) that was incorrectly replaced in a September 23, 1980 rulemaking (45 FR 62984).

EPA is making these corrections pursuant to section 110(k)(6) of the Act.

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

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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 economic 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.

The proposed corrections would remove certain requirements from the SIP. However, regardless of EPA's final action, these requirements will still apply as a matter of State law. Thus, the proposed corrections would not alter the impact of these requirements on small entities, and EPA certifies that the removal of such requirements from the SIP would not have a significant economic impact on a substantial number of small entities.

The proposed corrections would also result in a disapproval of certain language in the State's definition of federally enforceable in its permitting regulations. Disapproval of this language would not create any new requirements and would not alter requirements that the State is already imposing. Therefore, EPA certifies that this disapproval would not have a significant economic impact on a substantial number of small entities.

[3] Note that the provision in 40 CFR 52.320(c)(10) promulgated on October 5, 1979 was renumbered as 40 CFR 52.320(c)(15) on June 27, 1980. See 45 FR 43411.

C. 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 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 proposed corrections do 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 would impose no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, would result from this action.

List of Subjects in 40 CFR Part 52

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

Dated: November 17, 1997.

Patricia D. Hull,

Acting Regional Administrator, Region VIII.

[FR Doc. 97–32926 Filed 12–16–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–5936–2]

RIN: 2060–AE–83

National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Extension of public comment period.

SUMMARY: The EPA is announcing a 30-day extension of the public comment period for the proposed ''National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.'' As initially published in the **Federal Register** on November 10, 1997 (62 FR 60565), written comments on the proposed rule were to be submitted to the EPA on or before January 9, 1998 (a 60-day public comment period). The public comment period is being extended for 30 days and will now end on February 9, 1998.

DATES: Comments must be received on or before February 9, 1998.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–95–20, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460. The EPA requests that a separate copy also be sent to the contact person listed under the **FOR FURTHER INFORMATION CONTACT** section. Comments and data may also be submitted electronically by following the instructions provided in the **SUPPLEMENTARY INFORMATION** section. No Confidential Business Information (CBI) should be submitted through electronic mail.

FOR FURTHER INFORMATION CONTACT: Mr. Lalit Banker; Organic Chemicals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5420.

SUPPLEMENTARY INFORMATION: Electronic Filing. Electronic comments can be sent directly to the EPA at: a-and-r-docket@epamail.epa.gov. Electronic comments and data must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 or 6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number A–95–20. Electronic comments may be filed online at many Federal Depository Libraries.

Discussion. On November 10, 1997, at 62 FR 60565, the EPA published the proposed National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production and provided a 60-day public comment period. Requests have been received to extend the public comment period beyond the 60 days originally provided. These requests have been made by businesses that will be affected by the rule. Their request for this extension is primarily based on the fact that Thanksgiving and Christmas holidays occur during the comment period which would cause hardship on their ability to provide timely and useful comments. In consideration of these concerns, the EPA is extending the comment period by 30 days (until February 9, 1998), in order to give all interested persons the opportunity to comment fully.

Dated: December 9, 1997.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 97–32928 Filed 12–16–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 971208290–7290–01; I.D. 112097C]

RIN 0648–AK51

Fisheries Off West Coast States and in the Western Pacific; Northern Anchovy Fishery; Control Date

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; consideration of a control date.

SUMMARY: The Pacific Fishery Management Council (Council) is developing an amendment to the Northern Anchovy Fishery Management Plan (FMP) that may place small coastal pelagic species under Federal management along with northern anchovy. Proposed management options include limiting effort by controlling the number and/or capacity of vessels harvesting coastal pelagic resources off Washington, Oregon, and California. This notice is intended to notify fishermen that anyone entering the coastal pelagics fishery after November 5, 1997, may not be eligible to continue participating in the fishery under the new amendment.

DATES: Comments must be submitted by January 16, 1998.

ADDRESSES: Submit comments to the Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Morgan, (562) 980–4036, or Mr. Svein Fougner, Acting Chief, Fisheries Management Division, (562) 980–4034.

SUPPLEMENTARY INFORMATION: The current draft of the amendment to the FMP would add the following species to the management unit: Pacific mackerel