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 proposed 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: September 8, 2003.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 03–24558 Filed 9–26–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ–082–0065; FRL–7564–8]

Approval and Promulgation of Implementation Plans; Arizona—Maricopa County Ozone, PM–10 and CO Nonattainment Areas; Approval of Revisions to Maricopa County Area Cleaner Burning Gasoline Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to approve revisions to the Arizona Cleaner Burning Gasoline (CBG) program currently approved in the State implementation plan (SIP). Specifically, we propose to approve revisions that, among other changes, replace Arizona's interim CBG program with a permanent program, amend the wintertime CBG program to limit the types of gasoline that may be supplied, and remove the minimum oxygen content requirement for summertime gasoline.

DATES: Written comments on this proposal must be submitted to EPA at the address below by October 29, 2003.

ADDRESSES: Comments on this proposal should be mailed or e-mailed to: Wienke Tax, Office of Air Planning (AIR–2), EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901. Telephone (520) 622–1622, or *tax.wienke@epa.gov.* Comments may also be submitted via *http://www.regulations.gov.* We prefer to receive comments electronically if possible.

A copy of this document, the EPA technical support document (TSD),[1] and other material relevant to this proposed action are available for public inspection at EPA's Region 9 office during normal business hours. Due to increased security, please call 24 hours ahead of your visit so that we can arrange to have someone meet you.

Environmental Protection Agency, Region 9, Air Division, Air Planning Office (AIR–2), 75 Hawthorne Street, San Francisco, CA 94105–3901.

A copy of the docket is also available for inspection at the address listed below:

Arizona Department of Environmental Quality Library, 1110 West Washington Street, First Floor, Phoenix, Arizona 85007, (602) 771–4335.

Electronic Availability

This document and the TSD are also available as electronic files on EPA's Region 9 Web Page at *http://www.epa.gov/region09/air.*

FOR FURTHER INFORMATION CONTACT: Wienke Tax, Office of Air Planning, (AIR–2), EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901. (520) 622–1622, e-mail: *tax.wienke@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we'', ''us'' and ''our'' refer to U.S. EPA.

Table of Contents

I. Summary of Today's Proposal

We propose to approve revisions to the Arizona CBG program that the Arizona Department of Environmental Quality (ADEQ) and the State legislature have adopted since EPA approval of the interim CBG program in 1998. ADEQ has submitted these changes to EPA for approval into the SIP in four separate SIP submittals: SIP Revision, Arizona Cleaner Burning Gasoline Permanent Rules—Maricopa County Ozone Nonattainment Area, February 1999 (''CBG Permanent Rules''), State Implementation Plan Revision for the Cleaner Burning Gasoline Program in the Maricopa County Ozone Nonattainment Area, March 2001 (''Summertime Minimum Oxygen Content Removal''), Arizona Cleaner Burning Gasoline Rule to Revise the State Implementation Plan for the Maricopa County Carbon Monoxide, Ozone, and PM10 Nonattainment Areas, August 2001 (''CBG Wintertime Rules''),

[1] See ''Technical Support Document, Notice of Proposed Rulemaking on Arizona State Implementation Plan, Arizona Cleaner Burning Gasoline SIP Revisions'', August 2003.

and Supplement to Cleaner Burning Gasoline Program State Implementation Plan Revision, September 2001 (''Technical Supplement'').[2] EPA is proposing to approve the current CBG rule, as codified in Arizona Administrative Code, Title 20, Chapter 2, Article 7, on March 31, 2001 and sections 49–541 (as codified on August 9, 2001), 41–2124 (D) and (K) (as codified on April 28, 2000), 41–2123 (as codified on August 6, 1999), 41–2113(B)(4) (as codified on August 21, 1998), 41–2115 (as codified on July 18, 2000), and 41–2066(A)(2) (as codified on April 20, 2001) of the Arizona Revised Statutes. The key changes from the interim CBG program approved into the SIP in 1998 are described in the following section.

This preamble describes our proposed actions on the Arizona CBG gasoline program and provides a summary of our evaluation of the program. Our detailed evaluation of the program can be found in the TSD that accompanies this proposal.

II. Background to Today's Proposal

A. Air Quality in the Maricopa County Area

The Arizona CBG program, as currently approved in the SIP, applies in Maricopa County. As revised, the program will apply in Maricopa County and portions of Yavapai and Pinal counties that are part of ''Area A'' as defined in Arizona Revised Statutes (ARS) § 49–541, which generally represents the nonattainment area in and around Maricopa County.[3] The Maricopa County nonattainment area is located in the eastern portion of Maricopa County and encompasses the cities of Phoenix, Mesa, Scottsdale, Tempe, Chandler, Glendale, and 17 other jurisdictions and considerable unincorporated County lands. The area is home to approximately 3 million people.

The area violated both the annual and 24-hour PM–10 standards as well as the one-hour ozone and 8-hour CO standard. In 1990, the area was classified a moderate nonattainment area for ozone, CO, and PM–10. In 1996, because of continuing violations of both PM–10 standards, the area was reclassified to serious for PM–10 and required to submit a serious area plan by December 10, 1997 showing attainment no later than December 31, 2001. The moderate area ozone attainment deadline was November 15, 1996. On November 6, 1997, the area was reclassified to serious for ozone effective December 8, 1997 with an attainment deadline of no later than November 15, 1999. Due to continuing exceedances of the CO standard, the Maricopa County area was redesignated as serious for CO effective August 28, 1996. The nonattainment areas for ozone and CO are the same, and are slightly smaller than the PM–10 nonattainment area.

B. What Is ''Cleaner Burning Gasoline''?

The State CBG fuel program establishes limits on the properties and emission standards for gasoline sold in portions of the State in and around Maricopa County. These standards help reduce emissions of volatile organic compounds (VOCs), oxides of nitrogen (NO_X), carbon monoxide (CO) and particulate matter (PM).

ADEQ first adopted interim CBG regulations on September 12, 1997. The regulations were adopted as interim measures, in accordance with State legislation (HB 2307), as a quick means to replace federal reformulated gasoline (RFG), which had been in effect in the Maricopa County ozone nonattainment area during the summer of 1997.

The interim CBG regulations specified three types of gasoline which roughly corresponded to Phase I federal RFG (''CBG Type 3''), Phase 2 California Air Resources Board (CARB) RFG (''CBG Type 2'') and Phase II federal RFG (''CBG Type 1''). For 1998, gasoline suppliers to the covered area had the option of meeting the requirements for either CBG Type 2 or Type 3. For 1999 and beyond, suppliers were required to provide CBG Type 1 or Type 2. The interim regulations include year-round limits on sulfur, aromatics, olefins, and distillation properties, and seasonal limits on Reid vapor pressure (RVP), oxygen content, and VOC and NO_X performance. The area covered by the interim rule is all of Maricopa County.

ADEQ submitted the interim CBG rule for approval as a revision to the ozone plan for the Maricopa County ozone nonattainment area on September 12, 1997, and as a revision to the State PM–10 plan on January 21, 1998. EPA approved the interim CBG rule SIP revisions on February 10, 1998 (63 FR 6653). In accordance with section 211(c)(4)(C) of the Act, EPA found that the fuel controls were necessary for the Phoenix area to attain the PM–10 and ozone national ambient air quality standards (NAAQS). *Id.* at 6656.

C. Description of Arizona's Changes to the CBG Program

Since 1997, ADEQ has adopted several amendments to its CBG rule in order to make it a permanent rule and to reflect changes made by the State legislature to the fuel provisions of the ARS. Most of these changes involve the removal of SIP-approved requirements and options. The ''CBG Permanent Rules'' include the following key changes from the interim rules currently approved in the SIP:

- The standards for CBG Type 3, which was only available as an option in 1998, have been removed along with references to this fuel option.[4]
- Summertime minimum oxygen content standards for Type 1 gasoline have been removed by specifying a 0.0% minimum oxygen content for April 1 through November 1 in Table 1 of the rule.[5]
- The option of supplying CBG Type 1 during the winter fuel season (November 2 through March 31) was removed by including wintertime fuel specifications that limit suppliers to CBG Type 2 beginning in 2000. With this change, requirements for wintertime NO_X surveys were removed because CBG Type 2 (CARB Phase 2 RFG) does not include a NO_X performance standard.
- The option to provide non-ethanol oxygenated fuel during the winter has been removed by amending the wintertime oxygen content provisions to require fuel containing 10% ethanol, unless the use of a non-ethanol oxygenate is approved by the Director of ADEQ.[6]
- NO_X performance standards for CBG Type 1 and summer survey requirements were amended to conform with changes made by EPA to the

[2] In accordance with section 110(k)(1)(B), these SIP submittals were deemed complete by operation of law six months after submittal.

[3] As further explained herein, the nonattainment areas vary slightly according to the specific nonattainment pollutant. This notice generally refers to all of these areas collectively as the Maricopa County area or nonattainment area.

[4] This change was included in ADEQ's February 1999 ''CBG Permanent Rules'' submittal and reflects changes to the Arizona Revised Statutes by HB 2307.

[5] Additionally, the third footnote to Table 2 of the interim rule was removed. This footnote had provided that CBG Type 2 produced in accordance with the non-averaging option must comply with a per gallon minimum oxygen content requirement of 1.8% by weight from April 1 through October 31. For additional information, see ADEQ's March 2001 ''Summertime Minimum Oxygen Content Removal'' submittal. These changes reflect amendments to the Arizona Revised Statutes by SB 1504.

[6] This change was also included in ADEQ's August 2001 ''CBG Wintertime Rules'' submittal implementing changes to the Arizona Revised Statutes by HB 2347. Should ADEQ waive the 10 percent ethanol requirement, the regulations require a minimum oxygen content of 2.7 percent by weight for non-ethanol blends. Arizona Administrative Code (AAC) R20–2–751(A)(7)(a)(i). Thus winter fuel will continue to contain oxygen in the range of 2.7 to 3.5 percent by weight. See letter from Nancy Wrona, ADEQ and J. Art Macias, ADWM, to Jack Broadbent, EPA, August 12, 2003.

federal RFG regulations in December 1997 (62 FR 68196).[7]

• The area subject to the program was redefined to include all of Maricopa County as well as some western portions of Pinal County and a small part of southern Yavapai County.[8]

III. CAA Requirements for SIP Approval of State Fuel Measures

In determining the approvability of any SIP revision, we must evaluate the proposed revision for consistency with the requirements of the CAA and EPA regulations, as found in CAA section 110 and Title I, Part D and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). Section 110(a)(2) contains the general requirements for SIPs (*e.g.*, enforceable emissions limits,[9] ambient monitoring, permitting of new sources, adequate funding).

Of particular relevance for today's action, where EPA is considering revisions to requirements currently approved into the SIP, is the requirement of section 110(l). Section 110(l) allows revisions to a SIP as long as the revisions do not interfere with any applicable requirement of the Act, including requirements concerning attainment and reasonable further progress. Thus, revisions to SIPs must meet the general requirements applicable to all SIPs including: reasonable notice and public hearing; necessary assurances that the implementing agencies have adequate personnel, funding, and authority under section 110(a)(2)(E)(i) and 40 CFR 51.280; and a description of enforcement methods as required by 40 CFR 51.111. In addition, EPA will consider the effect of these proposed SIP revisions on the ability of the State to attain the NAAQS and demonstrate reasonable further progress.

For SIP revisions addressing certain fuel measures, an additional statutory requirement may apply. CAA section 211(c)(4)(A) generally prohibits state regulation of a motor vehicle fuel characteristic or component for which EPA has adopted a control or prohibition under section 211(c)(1), unless the state control is identical to the federal control. Section 211(c)(4)(C), however, provides an exception to this preemption if EPA approves the state requirements in a SIP.

IV. The CBG Program's Compliance With CAA SIP Approval Requirements

The following sections present a condensed discussion of our evaluation of the Arizona CBG program's compliance with applicable CAA requirements for fuels programs. Our complete evaluation is found in the TSD for this proposal. We encourage anyone wishing to comment on this proposal to review the TSD along with today's **Federal Register** notice. A copy of the TSD can be downloaded from our Web site or obtained by calling or writing the contact person listed above.

A. General SIP Requirements

Reasonable Notice and Public Hearing. Sections 110(a)(2) and 110(l) require that SIP measures be adopted by the State after reasonable notice and public hearing. The revisions to the CBG rule contained in the various State SIP submittals all followed reasonable notice and a public hearing. A public hearing for the ''CBG Permanent Rules'' was held on December 11, 1997. A public hearing for the ''CBG Wintertime Rules'' was held on June 8, 1999. A public hearing for the ''Summertime Minimum Oxygen Content Removal'' submittal was held on November 20, 2000.

Enforceable Emission Limits and Program for Enforcement. Section 110(a)(2)(A) and (C) require that measures adopted into the SIP be enforceable and that the State have a program for enforcing the measures. In addition, section 110(a)(2)(E) requires that the State provide necessary assurances that it has adequate personnel, funding, and authority to implement the rules. The CBG rules, as revised, contain an extensive description of the standards and what would constitute a violation, recordkeeping and reporting requirements, the enforcement methods to be used, and the fines to be imposed for noncompliance.

For the most part, the enforcement provisions of the revised CBG rule are the same as the interim rule. The most notable change is the deletion the requirement for wintertime NO_X surveys and the increase of summertime NO_X and VOC surveys. The State deleted the wintertime NO_X survey requirement because, after November 15, 2000, only CBG Type 2 (similar to CARB Phase 2 RFG) could be sold in the Maricopa County nonattainment area in the wintertime, and there are no NO_X performance standards for this gasoline. Consistent with EPA's December 31, 1997 final revisions to the federal RFG program (62 FR 68196), however, the revised rules increase the number of gasoline quality surveys during the summer wherever CBG is sold. We conclude that the CBG program continues to be enforceable with these revisions.

The February 1999 ''CBG Permanent Rules'' submittal contains assurances that ADEQ and the Arizona Department of Weights and Measures (ADWM) have adequate personnel, funding, and authority to implement the rules. These assurances have not changed with the subsequent submittals. We have concluded that the provisions contained in the revised CBG rules confer on the State the requisite authority to enforce compliance.

B. Section 110(l): Interference With Attainment or Reasonable Further Progress

Section 110(l) prohibits EPA from approving a SIP revision if the revision would interfere with any applicable requirement of the Act including requirements concerning attainment and reasonable further progress (RFP). In applying section 110(l) to a particular SIP revision, we need not focus solely on the SIP revision's impact on emissions; rather, we may look at whether the entire SIP still provides for expeditious attainment of the NAAQS. We believe Arizona's CBG program, as modified, will continue to reduce ozone, PM–10 and wintertime CO concentrations, and, along with the other SIP measures, will be consistent with the Maricopa County area's continued or planned attainment of the ozone, PM–10 and CO NAAQS.

Ozone. In April 2001, EPA determined that the Phoenix area had attained the 1-hour ozone standard by its statutory deadline of November 15, 1999. See 66 FR 29230 (May 30, 2001). The area has continued in attainment since 1999 with no recorded exceedances of the 1-hour ozone standard and an overall downward trend in ozone levels. See Letter from Nancy Wrona, ADEQ, to Colleen McKaughan, EPA, June 12, 2002.

Because the area attained the ozone NAAQS, Arizona was not required to submit a serious area attainment demonstration;[10] therefore, there is no

[7] See ADEQ's August 2001 ''CBG Wintertime Rules'' submittal.

[8] The definition of the covered area has been changed in several statutory and regulatory revisions. The final definition submitted for EPA approval is described in ADEQ's August 2001 ''CBG Wintertime Rules'' submittal and reflects statutory changes made by HB 2189.

[9] Approvable regulations must include clear indications of what constitutes a violation, who is liable, and what defenses are available. In addition, penalties must be large enough to both ensure that any economic benefit due to noncompliance would be limited and include an additional penalty for deterrence.

[10] See Memorandum, John S. Seitz, Director, OAQPS, EPA, to Regional Air Directors, ''Reasonable Further Progress, Attainment

plan against which to judge whether the proposed revisions are consistent with the area's formal plan to attain the standard by its applicable statutory deadline. However, because the area has attained the ozone standard in 1999—and has continued to achieve attainment—under the interim CBG program, we can compare the revised CBG program to the interim CBG program for the purposes of our analysis under section 110(l).[11]

For purposes of ozone attainment, the most substantial change to the CBG program in these proposed revisions is the removal of the two percent minimum oxygen requirement for summertime CBG. This change, however, is not a relaxation in the SIP because the SIP-approved regulations already allowed the use of non-oxygenated CBG (CBG Type 2 produced under the averaging option) during the summer control period. Thus, the fuel options allowed under the revised State rules will be no less stringent than those allowed under the current SIP.

While we find on the face of the regulations that section 110(l) is satisfied and there will be no relaxation in the SIP, we have worked with ADEQ to assess the changes in emissions and ozone concentrations likely to occur as a result of these changes to the CBG program. Arizona's technical analysis supporting the March 2001 ''Summertime Minimum Oxygen Content Removal'' submittal indicated that the removal of the minimum oxygen content requirement could result in increases in VOC and CO emissions and a decrease in NO_X emissions as compared to the emissions from gasoline provided to the area during the period of 1997 to 1999 (the period in which the area first attained the ozone NAAQS). These changes in emissions are not likely to interfere with requirements for attainment because the projected emissions changes are relatively small, and Phoenix has had a general downward trend in ambient ozone concentrations from 1996 to 2002, allowing a buffer for small changes in emissions without necessarily jeopardizing attainment.

To confirm this conclusion, we reevaluated ADEQ's emissions modeling and used these results to assess the impact these emission changes may have on ambient ozone concentrations. Our modeling generated speciated emissions estimates likely to result from the changes to the CBG requirements. We provided these speciated emissions estimates to the State and the State performed modeling using the Urban Airshed Model (UAM). The modeling predicted a four percent reduction in peak ozone for the types of non-oxygenated gasoline likely to be supplied to the area under the revised rules. The modification to Arizona's summertime gasoline program, therefore, will not interfere with requirements related to attainment and maintenance of the ozone NAAQS in the Maricopa County area.[12]

In 2001, we determined the area had attained the 1-hour ozone standard and therefore the RFP requirements of 182(c)(2)(B) for serious ozone nonattainment areas no longer applied to the Maricopa County area. 66 FR 29230 (May 30, 2001). As a result, there is no continuing obligation for the State to show further VOC reductions. The revisions therefore do not need to be evaluated against these RFP requirements to satisfy section 110(l).[13]

Carbon monoxide. For CO attainment, we propose to conclude that the revisions to the CBG program are consistent with the area's plan for attainment. In March, 2001, Arizona submitted a revised serious nonattainment area CO plan for the Phoenix area. This plan relied in part on the CBG program being proposed for approval today to demonstrate both progress toward and attainment of the CO standard in the area. See Revised MAG 1999 Serious Area Carbon Monoxide Plan for the Maricopa County Nonattainment Area, Maricopa Association of Governments, March 2001, Chapter 9.[14] Therefore, these revisions to the CBG program are consistent with and support the development of the Phoenix area's plan for meeting the Act's attainment and RFP requirements.

Particulate Matter. As with CO, the proposed revisions are consistent with the area's plan for attaining the NAAQS and satisfying RFP. EPA approved the Maricopa County PM–10 Serious Area Plan on July 25, 2002. 67 FR 48718. The area's PM–10 plan includes CBG as an on-road mobile source control measure to meet Best Available Control Measure (BACM) and Most Stringent Measure (MSM) requirements. The plan reflects the statutory revisions to the interim CBG program being proposed in today's action. See, *e.g.*, EPA, Technical Support Document for Approval of the Serious Area PM–10 State Implementation Plan, at 122–23 (Jan. 14, 2002).[15] Because the revisions to the interim CBG program are assumed in the demonstration of attainment and RFP for PM–10, we conclude the proposed revisions satisfy the requirements of 110(l).[16]

C. Findings Under Section 211(c)(4)

In our approval of the CBG interim rule and Arizona's 211(c)(4)(C) waiver request (63 FR 6653 (Feb. 10, 1998)), we approved CBG Types 2 and 3 for 1998 and CBG Types 1 and 2 for 1999 and beyond, finding these fuel requirements necessary to achieve the NAAQS in the Maricopa County area. The proposed revisions to the CBG rule would not add new fuel requirements to the SIP. The revisions remove currently SIP-approved requirements and compliance options. We do not read section 211(c)(4)(A) of the Act to prevent States from making changes to SIP-approved fuel programs where these changes would not have changed EPA's original assessment of the necessity of the State fuel controls. Because we find Arizona's changes to the CBG program are therefore within the scope of the previous finding, we conclude that a new finding under 211(c)(4)(C) is not required by the Act.

Demonstrations, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' May 10, 1995.

[11] See *Hall* v. *EPA,* 273 F.3d 1146, 1160 n.11 (9th Cir. 2001) (noting ''no relaxation'' test would ''clearly be appropriate in areas that achieved attainment under preexisting rules'').

[12] These reductions in peak 1-hour ozone concentrations should also ensure the fuel changes will not interfere with achievement of the 8-hour ozone NAAQS.

[13] We need not resolve whether 110(l) requires EPA to evaluate the consistency of SIP revisions with past RFP demonstrations once EPA finds the area has attained the ozone NAAQS because, since adoption of the 1999 15 percent Rate of Progress Plan (ROP), additional VOC controls have become effective in the Maricopa County area to offset any potential changes in VOC emissions resulting from the proposed revisions. For additional discussion, please refer to the TSD.

[14] ADEQ estimates that the revisions to the wintertime program will provide a further reduction in total CO emissions of around 33 metric tons per day over those achieved by the program as implemented prior to 1999. See ''Wintertime CBG'' Submittal, Enclosure 3.

[15] We note that the 1998 approval of the interim Arizona CBG program claimed PM–10 reductions from the program's NO_X performance standard (63 FR 6653) and the proposed revisions do not change these NO_X performance standards. ADEQ claims additional PM–10 emission reductions will be achieved by the proposed revisions to the wintertime oxygen content requirement. In the Background Information Document supporting ADEQ's August 2001 ''CBG Wintertime Rule'' submittal, ADEQ claims the change to a 3.5 percent oxygen content requirement will reduce PM–10 emissions by 2.1 metric tons per day.

[16] With respect to PM2.5, EPA AIRS data indicates that the Phoenix area has not violated the 24-hour or annual PM2.5 NAAQS through 2002, and is not expected to be nonattainment for PM2.5.

VI. Summary Statement About Proposed Approval

We have evaluated the submitted SIP revisions and have determined that they are consistent with the CAA and EPA regulations. Therefore, we are proposing to approve the Arizona CBG program into the Arizona SIP under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D to address ozone, CO and PM–10 nonattainment in the Maricopa County area.

Specifically, we propose to approve the following elements of the CBG program: AAC R20–2–701, R20–2–716, R20–2–750 through 762, and Title 20, Chap. 2, Art. 7, Tables 1 and 2 (Mar. 31, 2001); and ARS §§ 49–541 (as codified on August 9, 2001), 41–2124(D) and (K) (as codified on April 28, 2000), 41–2123 (as codified on August 6, 1999), 41–2113(B)(4) (as codified on August 21, 1998), 41–2115 (as codified on July 18, 2000), and 41–2066(A)(2) (as codified on April 20, 2001).

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

V. Statutory and Executive Order Review

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

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, OMB must approve all ''collections of information'' by EPA. The Act defines ''collection of information'' as a requirement for ''answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons * * *'' 44 U.S.C. 3502(3)(A). Because the proposed action does not involve information collection by EPA, the Paperwork Reduction Act does not apply.

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 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 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. While state fuel controls are preempted in certain circumstances, these issues are not raised by this proposed SIP revision. 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, Carbon monoxide, Intergovernmental regulations, Ozone, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: September 4, 2003.

Wayne Nastri,

Regional Administrator, Region 9.

[FR Doc. 03–24557 Filed 9–26–03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 432

[FRL–7565–2]

RIN 2040–AD56

Extension of Comment Period on the Notice of Data Availability for the Effluent Limitations Guidelines and New Source Performance Standards for the Meat and Poultry Products Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On August 13, 2003, EPA published a Notice of Data Availability for the proposed effluent limitations guidelines and standards for the meat and poultry products (MPP) point source category (68 FR 48472). The notice presented a summary of new data and described how EPA might use the data to develop final MPP regulations. This action extends the comment period for the Notice of Data Availability to October 14, 2003.

DATES: Comments on the Notice of Data Availability will be accepted through October 14, 2003. Comments provided electronically will be considered timely if they are submitted by 11:59 p.m. Eastern Time on October 14, 2003.

ADDRESSES: Public comments regarding this document should be mailed to Water Docket, U.S. Environmental Protection Agency, Mailcode 4101T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. OW–2002–0014, or submitted electronically at *http://www.epa.gov/edocket*.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Ms. Samantha Lewis at (202) 566–1058 or at the following e-mail address: *lewis.samantha@epa.gov* or Ms. Shari Barash at (202) 566–0996 or at the following e-mail address: *barash.shari@epa.gov*.

SUPPLEMENTARY INFORMATION: In February 2002, EPA proposed effluent limitations guidelines and standards for wastewater discharges from meat and poultry processing facilities (67 FR 8582, February 25, 2002). The proposed regulation included revised effluent standards for wastewater discharges associated with the operation of new and existing meat processing and independent rendering facilities, and also proposed new effluent limitations for poultry slaughtering and poultry further processing facilities. In the proposal, EPA specifically solicited comment on 20 issues. EPA received comments on these and other issues from various stakeholders, including State and local regulatory authorities, environmental groups, individual industrial facilities and industry groups, and private citizens.

On August 13, 2003, EPA published a Notice of Data Availability for the proposed rule (68 FR 48472). The Notice of Data Availability presented a summary of data received in comments and additional data collected by EPA along with descriptions of how the data may be used by EPA in developing final regulations. The comment period for the Notice of Data Availability was originally scheduled to end on September 29, 2003. This action extends the comment period to October 14, 2003.

To submit comments, or access the official public docket, please follow the detailed instructions as provided in Unit C of the **SUPPLEMENTARY INFORMATION** section of the August 13, 2003 **Federal Register** notice. If you have questions, consult the person listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Dated: September 23, 2003.

G. Tracy Mehan, III,

Assistant Administrator, Office of Water.

[FR Doc. 03–24770 Filed 9–26–03; 8:45 am]

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