

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2012-0470; FRL-9740-2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the Arizona Department of Environmental Quality (ADEQ) and Maricopa County Air Quality Department (MCAQD) portions of the Arizona State Implementation Plan (SIP). This action was proposed in the **Federal Register** on June 27, 2012 and concerns regulations that require monitoring and reporting of volatile organic compounds (VOC), oxides of

nitrogen (NO_x), and particulate matter (PM) emissions from stationary sources. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act). We are not acting on two Pima County Department of Environmental Quality (PCDEQ) rules originally listed in our June 27, 2012 proposed action because official copies of these rules with public process documentation were not submitted for SIP approval.

DATES: These rules will be effective on December 5, 2012.

ADDRESSES: EPA has established docket number EPA-R09-OAR-2012-0470 for this action. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g.,

copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g., confidential business information (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: Rynda Kay, EPA Region IX, (415) 947-4118, Kay.Rynda@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to EPA.

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I. Proposed Action

EPA proposed to approve the following rules into the Arizona SIP in the **Federal Register** at 77 FR 38246, June 27, 2012.

| Local agency | Rule No. | Rule title |
|--------------|------------------------|---|
| ADEQ | 18-2-313 | Existing Source Emission Monitoring. |
| ADEQ | 18-2-327 | Annual Emissions Inventory Questionnaire. |
| MCAQD | 100, Section 500 | Monitoring and Records. |
| PCDEQ | 17.12.040 | Reporting Requirements. |
| PCDEQ | 17.24.040 | Reporting for Compliance Evaluations. |

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation. Our proposed approval of these rules responded to a June 1, 2012 request from the State to parallel process versions of these rules. Our proposal explained that the above rules had not previously been submitted to us or had been adopted locally but had not been adopted specifically for purposes of approval into the federally enforceable SIP under CAA section 110.

On August 24, 2012, ADEQ submitted to EPA the versions of ADEQ 18-2-313 and 18-2-327 that were adopted locally on February 15, 2001 and December 7, 1995 respectively. On June 19, 2012, ADEQ submitted to EPA the version of Maricopa Rule 100, Section 500 that was adopted locally on March 15, 2006. On September 5, 2012, EPA determined that the submittal for ADEQ Rules 18-2-313 and 18-2-327, and MCAQD Rule 100, Section 500 met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review. We have reviewed these versions of the rules, and they are

unchanged from the versions we proposed for approval on June 27, 2012.

On June 27, 2012, we also proposed approval of PCDEQ Rules 17.12.040 and 17.24.040 contingent upon EPA’s receipt of fully adopted rules that satisfy state and local procedural requirements for SIP submittals. PCDEQ Rule 17.12.040 was not submitted to EPA and while PCDEQ Rule 17.24.040 was submitted on August 24, 2012, it did not include evidence of public notice as required by 40 CFR part 51 Appendix V. As such, we are not finalizing our action on these rules at this time. If these rules are subsequently submitted to EPA, we may finalize their approval in a future rulemaking contingent upon the rules being substantially identical to the rules in our June 27, 2012 proposed action, and that the adopted rules satisfy relevant requirements for SIP submittals.

II. Public Comments and EPA Responses

EPA’s proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving Maricopa Rule 100, Section 500, ADEQ Rule 18-2-313 and ADEQ Rule 18-2-327 into the Arizona SIP.

IV. Statutory and Executive Order Reviews

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

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United

States Court of Appeals for the appropriate circuit by January 4, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: September 14, 2012.

Jared Blumenfeld,
Regional Administrator, Region IX.

Therefore, 40 CFR chapter I is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for Part 52 continues to read as follows:

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

Subpart D—Arizona

■ 2. Section 52.120 is amended by adding paragraph (c)(152) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(152) The following plan was submitted August 24, 2012, by the Governor’s designee.

(i) Incorporated by reference.

(A) Arizona Department of Environmental Quality.

(1) Arizona Administrative Code, title 18, chapter 2, article 3 (Permits and Permit Revisions):

(i) Section R18-2-313 (“Existing Source Emission Monitoring”), effective on February 15, 2001.

(ii) Section R18-2-327, (“Annual Emissions Inventory Questionnaire”), effective on December 7, 1995.

(B) Maricopa County Air Quality Department.

(1) Rule 100, Section 500, “Monitoring and Records,” revised on March 15, 2006.

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[FR Doc. 2012-26684 Filed 11-2-12; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

[FWS-HQ-MB-2012-0084; 91200-1231-9BPP]

RIN 1018-AZ16

Migratory Bird Permits; Delegating Falconry Permitting Authority to Seven States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The States of Alaska, Arizona, Kansas, Kentucky, Massachusetts, New Hampshire, and North Dakota have requested that we delegate permitting for falconry to the State, as provided under our regulations. We have reviewed regulations and supporting materials provided by these States, and have concluded that their regulations comply with the Federal regulations. We change the falconry regulations accordingly.

DATES: This rule is effective January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Dr. George T. Allen, 703-358-1825.

SUPPLEMENTARY INFORMATION:

Background

We, the U.S. Fish and Wildlife Service, published a final rule in the **Federal Register** on October 8, 2008 (73 FR 59448), to revise our regulations governing falconry in the United States. These regulations are found in title 50 of the Code of Federal Regulations (CFR) at § 21.29. The regulations provide that when a State meets the requirements for operating under the regulations, falconry permitting must be delegated to the State.

The States of Alaska, Arizona, Kansas, Kentucky, Massachusetts, New Hampshire, and North Dakota have submitted revised falconry regulations and supporting materials and have requested to be allowed to operate under the revised Federal regulations. We have reviewed the regulations administered by these States and have determined that their regulations meet the requirements of 50 CFR 21.29(b). According to the regulations at § 21.29(b)(4), we must issue a rule to add a State to the list at § 21.29(b)(10) of approved States with a falconry program. Therefore, we change the Federal regulations accordingly, and a Federal permit will no longer be required to practice falconry in the States of Alaska, Arizona, Kansas,