

Malfunions, Startup, and Shutdown,” from Steven A. Herman, Assistant Administrator for Enforcement and Compliance Assurance, and Robert Perciasepe, Assistant Administrator for Air and Radiation (the 1999 Memorandum).

As explained in these memoranda, because excess emissions might aggravate air quality so as to prevent attainment and maintenance of the NAAQS and compliance with other CAA requirements, EPA views all periods of excess emissions as violations of the applicable emission limitation. Therefore, EPA will disapprove SIP revisions that automatically exempt from enforcement excess emissions claimed to result from an equipment malfunction. In addition, as made explicit in the 1999 Memorandum, EPA will disapprove SIP revisions that give discretion to a state director to determine whether an instance of excess emissions is a violation of an emission limitation, because such a determination could bar EPA and citizens from enforcing applicable requirements.

Under EPA’s interpretations of the CAA as set forth in the 1982, 1983, and 1999 Memoranda, if a state chooses to address in its SIP violations that occur as a result of claimed malfunctions, the state may take two approaches. The first, the “enforcement discretion” approach, allows a state director to refrain from taking an enforcement action for a violation if certain criteria are met. The second, the “affirmative defense” approach, allows a source to avoid civil penalties if it can prove that certain conditions are met. Utah’s revised R307–107 follows the enforcement discretion approach.

We have evaluated Utah’s enforcement discretion provisions in revised R307–107 and find that they are consistent with EPA’s interpretations of the CAA as described in the memoranda above. In particular, the revised rule contains no automatic exemption from emission limits, and the criteria specified in R307–107–2 that the State will consider in deciding whether to pursue an enforcement action generally parallel the criteria outlined in the 1982 and 1983 Memoranda. In addition, revised R307–107 only addresses the State’s exercise of its enforcement discretion and contains no language that suggests that a State decision not to pursue an enforcement action for a particular violation bars EPA or citizens from taking an enforcement action. Therefore, EPA interprets the rule, consistent with EPA’s interpretations of the CAA, as not barring EPA and citizen enforcement of violations of applicable

requirements when the State declines enforcement.

IV. EPA’s Proposed Action

We are proposing to approve the revisions to rule R307–107 of the Utah SIP that the State submitted to us on August 16, 2012. We are proposing that these revisions correct the deficiencies outlined in our April 18, 2011 SIP call. If we finalize this proposed approval, the mandatory sanctions clocks described in our SIP call and the clock for EPA to promulgate a FIP will end.

V. Statutory and Executive Order Reviews

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

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable 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.

List of Subjects in 40 CFR Part 52

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

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

Dated: April 23, 2013.

Judith Wong,

Acting Regional Administrator, EPA Region 8.

[FR Doc. 2013–10934 Filed 5–8–13; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[Docket EPA–R10–OAR–2009–0340; FRL–9794–1]

Approval and Promulgation of Air Quality Implementation Plans; Alaska: Mendenhall Valley PM₁₀ Nonattainment Area Limited Maintenance Plan and Redesignation Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the Limited Maintenance Plan (LMP) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀) submitted by the State of Alaska on May 8, 2009 for the Mendenhall Valley nonattainment area (Mendenhall Valley NAA), and the State’s request to redesignate the area to attainment for the National Ambient Air Quality Standards (NAAQS).

DATES: Comments must be received on or before June 10, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–

OAR–2009–0340, by any of the following methods:

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

- *Email*: R10-Public_Comments@epa.gov

- *Mail*: Mr. Keith Rose, U.S. EPA Region 10, Office of Air, Waste and Toxics, AWT–107, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101

- *Hand Delivery/Courier*: U.S. EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101. Attention: Keith Rose, Office of Air, Waste and Toxics, AWT–107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Keith Rose at telephone number: (206) 553–1949, email address: rose.keith@epa.gov, or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: For further information, please see the direct final action, of the same title, which is located in the Rules section of this **Federal Register**. The EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If the EPA receives no adverse comments, the EPA will not take further action on this proposed rule.

If the EPA receives adverse comments, the EPA will withdraw the direct final rule and it will not take effect. The EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: March 12, 2013.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2013–10938 Filed 5–8–13; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Chapter I

[Docket No. PHMSA–2013–0027; Notice No. 13–5]

Regulatory Flexibility Act Review

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of regulatory review; request for comments.

SUMMARY: PHMSA seeks comments on the economic impacts of its Hazardous Materials Regulations on small entities. In accordance with section 610 of the Regulatory Flexibility Act and as published in the Unified Agenda and Regulatory Plan, PHMSA is reviewing and analyzing the regulations applicable to the Hazardous Materials Program Procedures to identify requirements which may have a significant impact on a substantial number of small entities. The Unified Agenda and Regulatory plan for the Department of Transportation can be found at the following URL: <http://www.gpo.gov/fdsys/pkg/FR-2013-01-15/pdf/2013-00597.pdf>.

DATES: Comments must be received by July 8, 2013.

FOR FURTHER INFORMATION CONTACT: Ben Supko, Office of Hazardous Materials Safety, Standards and Rulemaking Division (202) 366–8553, 1200 New Jersey Avenue SE., Washington, DC 20590. For more information on the Hazardous Materials Regulations contact the Hazardous Materials Information Center at 1–800–467–4922 (in Washington, DC call 202–366–4488).

SUPPLEMENTARY INFORMATION: The complete analysis of the rules in the 2012–2013 Review Year, the Unified Agenda and Regulatory Plan, and comment submission can be found at: <http://www.regulations.gov> (Docket No. PHMSA–2013–0027).

I. Section 610 of the Regulatory Flexibility Act

A. Background and Purpose

Section 610 of the Regulatory Flexibility Act requires periodic reviews

of existing regulations with significant economic impact (5 U.S.C. 610(c)). The purpose of the 610 reviews is to assess the following: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

B. Review Schedule

The Department of Transportation (DOT) published its Unified Agenda and Regulatory Plan on December 21, 2012 listing in Appendix D—Review Plans for Section 610 and Other Requirements (78 FR 3299) those regulations that each operating administration will review under section 610 during the next 12 months. Appendix D also contains DOT's 10-year review plan for all its existing regulations.

PHMSA has divided its Hazardous Materials Regulations (HMR; 49 CFR parts 100–185) into 10 groups by subject area. Each group will be reviewed once every 10 years. Each group of regulations is reviewed in a two-stage process: (1) Analysis Year; and (2) Section 610 Review Year. In the Analysis Year, PHMSA conducts a review of the group regulations to determine whether any rule has a significant impact on a substantial number of small entities; and thus requires review in accordance with section 610 of the Regulatory Flexibility Act. In each Regulatory Agenda, PHMSA publishes the results of the analyses completed for the previous year. For those rules that may have negative findings, a brief rationale is provided. For parts, subparts or sections of the HMR that do have a significant impact on a substantial number of small entities, PHMSA will announce that it will be conducting a formal section 610 review during the following year. For the purposes of this review, the 2012–2013 610 review year began in the Fall of 2012 and PHMSA's analysis will conclude in the Fall of 2013. The following table shows the 10-year analysis and review schedule: