

DATES: This deviation is effective from April 15, 2006 through April 29, 2006.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Commander (dpb) First Coast Guard District, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223-8364. The Commander (dpb), First Coast Guard District, maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Joe Arca, Project Officer, First Coast Guard District, at (212) 668-7069.

SUPPLEMENTARY INFORMATION: The AK Railroad Bridge has a vertical clearance in the closed position of 31 feet at mean high water and 35 feet at mean low water. The existing drawbridge operating regulations are listed at 33 CFR 117.747.

The owner of the bridge, New York Economic Development Corporation, requested a temporary deviation from the drawbridge operating regulations to facilitate the replacement of railroad ties on the bridge lift span. The bridge will not be able to open for vessel traffic during the performance of this vital maintenance. The Coast Guard is approving this deviation to assure the continued safe operation of the bridge and to prevent an unscheduled closure due to component failure that might occur in the absence of these repairs.

Under this temporary deviation the AK Railroad Bridge may remain in the closed position as follows:

On April 15, 2006, 10 a.m. to 2 p.m.

On April 22, 2006, 10:30 a.m. to 2:30 p.m.

On April 29, 2006, 10:42 a.m. to 2:44 p.m.

The bridge shall open on signal during any of the bridge closure periods upon a 30-minute notice from the U.S. Coast Guard.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 31, 2006.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 06-3513 Filed 4-11-06; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2006-0227; FRL-8054-8]

Revisions to the Arizona State Implementation Plan, Arizona Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Arizona Department of Environmental Quality (ADEQ) portion of the Arizona State Implementation Plan (SIP). These revisions concern procedures for the calculation of sulfur emissions from copper smelters. We are approving a local rule that helps regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on June 12, 2006 without further notice, unless EPA receives adverse comments by May 12, 2006. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2006-0227, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions.
- E-mail: steckel.andrew@epa.gov.
- Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes

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

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

FOR FURTHER INFORMATION CONTACT: Al Petersen, EPA Region IX, (415) 947-4118, petersen.alfred@epa.gov.

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

Table of Contents

- I. The State’s Submittal
 - A. What Rule Did the State Submit?
 - B. Are There Other Versions of the Rule?
 - C. What is the Purpose of the Submitted Rule Amendments?
- II. EPA’s Evaluation and Action
 - A. How is EPA Evaluating the Rule?
 - B. Do the Rule Amendments Meet the Evaluation Criteria?
 - C. Public Comment and Final Action
- III. Statutory and Executive Order Reviews

I. The State’s Submittal

A. What Rule Did the State Submit?

Table 1 lists the rule we are approving with the date that the amended rule became effective and was submitted by the ADEQ.

TABLE 1.—SUBMITTED RULE

Agency	Rule No.	Rule title	Amended effective	Submitted
ADEQ	R18-2-Appendix 8	Procedures for Utilizing the Sulfur Balance Method for Determining Sulfur Emissions.	07/18/05	03/01/06

ADEQ submitted this amended rule (final but not yet codified) originally on January 18, 2006 together with public hearing and State rulemaking documentation. On February 22, 2006, this rule submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. On March 1, 2006, ADEQ submitted the codified version of this final rule as a supplement to the original January 18, 2006 submittal.

B. Are There Other Versions of the Rule?

We approved a version of ADEQ Rule R18–2–Appendix 8 into the SIP on November 1, 2004 (69 FR 63321).

C. What Is the Purpose of the Submitted Rule Amendments?

Section 110(a) of the Clean Air Act (CAA) requires states to submit regulations that control volatile organic compounds, nitrogen oxides, particulate matter, sulfur oxides, and other air pollutants which harm human health and the environment. This rule was developed as part of the ADEQ's program to control sulfur oxides.

Rule R18–2–appendix 8 was granted a limited approval and limited disapproval on November 1, 2004. The deficiencies in Rule R18–2–appendix 8 that conflict with section 110 and part D of the CAA and prevented full approval of the rule are summarized below in the brackets, which are followed by the amendments made to correct the deficiencies:

- [Sections A.8.1.2 and A.8.2 contain excessive Director's discretion by allowing the Director to approve an equivalent method to calculate the sulfur content without providing the criteria that will be used to determine approvability.] The amended rule corrects the deficiency by requiring the written approval by EPA in addition to the Director of alternative methods of obtaining sulfur content and removed sulfur.

- [Sections A.8.1.2.1.1, A.8.1.2.1.2, and A.8.1.2.1.3 should clarify how a representative sample should be taken from belt feeders, railcars, and trucks so that the sampling process is not biased. ADEQ may wish to investigate possible ASTM methods or other industry sampling methods.] This recommendation by EPA for further clarification was optional, and the methods as stated along with the sample preparation methods in section A.8.1.2.2 will be accepted.

- [Sections A.8.1.2.3.1 and A.8.1.2.3.2 should provide specific test methods for the "barium sulfate" and "potassium iodine" procedures.] The

amended rule corrects the deficiency by requiring specific test methods for barium sulfate and potassium iodide in section A8.4.3.

- [Section A.8.2.5.5 should provide a specific test method for "chemical gravimetric means." Apparently it is intended to be the "barium sulfate" method from section A.8.1.2.3.1. Also the accuracy is stated as +50%, but it should be a $\pm$ number. The accuracy of a gravimetric procedure is normally about $\pm 1\%$, not $\pm 50\%$.] The amended rule corrects the deficiency by requiring the barium sulfate gravimetric method in section A8.4.3 and states the required accuracy to be $\pm 50\%$ instead of +50%. The actual accuracy is normally much better than $\pm 50\%$, but the lesser accuracy required is not cause to disapprove the rule.

- [The reference in A8.3.1 should be changed from R18–2–715(C)(4) to R18–2–715.01(K)–(O). Also, the reference in A.8.3.2 should be changed from R18–2–715(c)(7)(v) to R18–2–715.01(Q).] The amended rule changes these references appropriately.

EPA's technical support document (TSD) has more information about this rule.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rule?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(1) and 193). There are no specific reasonably available control measures (RACM) or best available control measures (BACM) for administrative rules.

Guidance and policy documents that we used to help evaluate specific enforceability and RACT requirements consistently include the following:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans*, U.S. EPA, 40 CFR part 51.

- *Guidance Document for Correcting Common VOC & Other Rule Deficiencies*, EPA Region IX (August 21, 2001). (The Little Bluebook)

B. Do the Rule Amendments Meet the Evaluation Criteria?

We believe the rule is consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, BACM, and RACM. We also believe that the submitted rule adequately addresses the deficiencies identified in our November 1, 2004 limited disapproval. The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted ADEQ Rule R18–2–Appendix 8 because we believe it fulfills all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rule. If we receive adverse comments by May 12, 2006, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on June 12, 2006. This will incorporate this rule into the federally enforceable SIP and permanently terminate all sanctions and FIP implications of our 2004 limited disapproval.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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, as specified by Executive Order 13175

(65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action 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. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. This, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 rule 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 June 12, 2006.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Reporting and recordkeeping requirements.

Dated: March 22, 2006.

Wayne Nastri,

Regional Administrator, Region IX.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations 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)(130) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(130) An amended regulation was submitted on March 1, 2006, by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Department of Environmental Quality.

(1) Rule R18-2-Appendix 8, adopted on December 22, 1976 and amended effective on July 18, 2005.

[FR Doc. 06-3405 Filed 4-11-06; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2006-0227, FRL-8054-9]

Interim Final Determination To Stay and/or Defer Sanctions, Arizona Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: EPA is making an interim final determination to stay and/or defer

imposition of sanctions based on a direct final approval of a revision to the Arizona Department of Environmental Quality (ADEQ) portion of the Arizona State Implementation Plan (SIP) published elsewhere in today's **Federal Register**. The revisions concern ADEQ Rule R18-2-Appendix 8.

DATES: This interim final determination is effective on April 12, 2006. However, comments will be accepted until May 12, 2006.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2006-0227, by one of the following methods:

- Federal eRulemaking Portal: www.regulations.gov. Follow the on-line instructions.

- E-mail: steckel.andrew@epa.gov.

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

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail.

www.regulations.gov is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

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

FOR FURTHER INFORMATION CONTACT: Al Petersen, EPA Region IX, (415) 947-4118, petersen.alfred@epa.gov.