

compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect

on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in the National Environmental Policy Act of 1969 (NEPA). A “Categorical Exclusion Determination” is available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.

2. Add § 165.822 to read as follows:

§ 165.822 Security Zone; Ohio River Mile 119.0 to 119.8 Natrium, WV.

(a) *Location.* The following area is a security zone: the waters of the Ohio River extending 200 feet from the water’s edge of the left descending bank between mile markers 119.0 and 119.8.

(b) *Regulations.* (1) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Pittsburgh or a designated representative.

(2) Persons or vessels desiring to transit the area of the security zone may contact the Captain of the Port Pittsburgh at telephone number 412–644–5808 or on VHF channel 16 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Pittsburgh or a designated representative.

(c) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

Dated: March 10, 2003.

Steve L. Hudson,

Commander, U.S. Coast Guard, Captain of the Port, Pittsburgh.

[FR Doc. 03–6916 Filed 3–21–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 078–0068; FRL–7460–9]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of a revision to the Arizona Department of Environmental Quality (ADEQ) portion of the Arizona State Implementation Plan (SIP). This action was proposed in the **Federal Register** on October 11, 2002 and concerns definitions, volatile organic compound (VOC) emissions from dry cleaning plants, VOC emissions from spray painting operations, and particulate matter (PM–10) emissions from mobile sources. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action directs Arizona to correct the deficiencies in the submitted rules. EPA is also finalizing a full approval of a revision to the Arizona Department of Environmental Quality (ADEQ) portion of the Arizona SIP. This action was proposed in the **Federal Register** on October 11, 2002 and concerns VOC emissions from petroleum storage vessels and PM–10 emissions from mobile sources.

EFFECTIVE DATE: Today’s final rule is effective on April 23, 2003.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA’s Region IX office during normal business hours. You can inspect a copy of the submitted rule revisions at the following locations:

Environmental Protection Agency, Region IX,
75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

Arizona Department of Environmental Quality, 1110 West Washington Street, Phoenix, AZ 85007.

A copy of the rule may also be available via the Internet at http://www.sosaz.com/public_services/Title18/18-02.htm. Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX; (415) 947-4118.

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

I. Proposed Action

On October 11, 2002 (67 FR 63354), EPA published a notice of proposed rulemaking (NPRM) proposing a limited approval and limited disapproval of the rules in table 1 that were submitted for incorporation into the Arizona SIP.

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
ADEQ	R18-2-701	Definitions	11/15/93	07/15/98
ADEQ	R18-2-725	Standards of Performance for Existing Dry Cleaning Plants	11/15/93	07/15/98
ADEQ	R18-2-727	Standards of Performance for Spray Painting Operations	11/15/93	07/15/98
ADEQ	R18-2-801	Classification of Mobile Sources	11/15/93	07/15/98
ADEQ	R18-2-802	Off-Road Machinery	11/15/93	07/15/98

A summary of the deficiencies identified in these rules follows. Rule R18-2-701 has the following deficiencies:

- “Calcine” should not be limited to only lime plants.
- “Process Weight” should be eliminated, because it has no meaning unless it is given for a specific time period.
- “Process Weight Rate” should be defined in the rule and not be based on Rule R18-2-702, which is not in the SIP.

Rule R18-2-725 has the following deficiencies:

- The enforceability is limited, because there are no monitoring and recordkeeping requirements.
- The enforceability is limited, because there is no test method given for the efficiency of recovery of solvent emissions.

Rule R18-2-727 has the following deficiencies:

- The enforceability is limited, because there are no monitoring and recordkeeping requirements.
 - The enforceability is limited, because there is no test method given for the efficiency of recovery of overspray.
- Rules R18-2-801 and R18-2-802 have the following deficiencies:
- The rules should be restricted to apply to used or in-use nonroad engines and not to new nonroad engines. Section 209(e) of the CAA prohibits states from adopting or attempting to enforce any standard relating to the control of emissions from (A) new engines which are used in construction equipment or vehicles or used in farm equipment or vehicles and which are smaller than 175 horsepower and (B) new (or remanufactured) locomotives or new (or remanufactured) engines which are used in locomotives. States are not precluded under section 209(e) from regulating the use and operation of nonroad engines, including regulating daily mass emission limits (such as

through an opacity standard), once the engine is no longer new, according to 40 CFR part 89, subpart A, appendix A.

- The rules should exclude from applicability locomotives or engines which are used in locomotives. Locomotives are required to be in compliance with federal emission standards throughout their useful life.
- The rules should exempt nonroad engines from any potential requirement to retrofit in order to meet the opacity standard unless California has an identical retrofitting requirement. States are precluded from requiring retrofitting of used nonroad engines to meet emission standards, except that States may adopt and enforce retrofitting requirements identical to California retrofitting requirements which have been authorized by EPA, according to 40 CFR part 89, subpart A, appendix A.

At the same time, EPA published a notice of proposed rulemaking (NPRM) proposing a full approval of the rules in table 2 that were submitted for incorporation into the Arizona SIP.

TABLE 2.—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
ADEQ	R18-2-710	Standards of Performance for Existing Vessels for Petroleum Liquids	11/15/93	07/15/98
ADEQ	R18-2-803	Heater-Planer Units	11/15/93	07/15/98
ADEQ	R18-2-804	Roadway and Site cleaning Machinery	11/15/93	07/15/98
ADEQ	R18-2-805	Asphalt or Tar Kettles	11/15/93	07/15/98

The NPRM contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

EPA’s proposed action provided a 30-day public comment period. During this period, we did not receive any comments.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in sections 110(k)(3) and 301(a) of the CAA, EPA is finalizing a limited approval of submitted Rules 701, 725, 727, 801, and 802. This action incorporates the submitted rules into the Arizona SIP,

including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rules. Sanctions will not be imposed under section 179 of the CAA according to 40 CFR 52.31, because the rules are not required submittals. Note that the submitted rules have been adopted by the ADEQ, and EPA’s final limited

disapproval does not prevent the local agency from enforcing them.

As authorized in sections 110(k)(3) and 301(a) of the CAA, EPA is also finalizing a full approval of submitted Rules 710, 803, 804, and 805. This action incorporates the submitted rules into the Arizona SIP.

IV. Statutory and Executive Order Reviews

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. 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).

C. Unfunded Mandates Reform Act

Under sections 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 promulgated 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. 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 final 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.

F. 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.

G. 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.

H. 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.

I. Congressional Review Act

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). This rule will be effective April 23, 2003.

J. Petitions for Judicial Review

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 May 23, 2003. 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 19, 2003.

Laura Yoshii,

Acting 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)(110) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(110) New and amended regulations were submitted on July 15, 1998, by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Department of Environmental Quality.

(1) Rules R18-2-701, R18-2-710, R18-2-725, R18-2-727, R18-2-801, R18-2-802, R18-2-803, R18-2-804, and R18-2-805, amended on November 15, 1993.

* * * * *

[FR Doc. 03-6817 Filed 3-21-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA188-4204a; FRL-7465-3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO_x RACT Determinations for PPG Industries, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for PPG Industries, Inc. (PPG). PPG is a major source of nitrogen oxides (NO_x) located in Greenwood Township, Crawford County, Pennsylvania. EPA is approving these revisions to establish NO_x RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on May 23, 2003, without further notice, unless EPA receives adverse written comment by April 23, 2003. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to Makeba Morris, Acting Branch Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; and Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814-2182, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the CAA, the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major volatile organic compound (VOC) and NO_x sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

II. Summary of SIP Revision

On October 30, 2002, PADEP submitted a formal revision to its SIP to establish and impose case-by-case RACT for three major sources of VOC and NO_x. This rulemaking pertains to one of those sources. The other sources are subject to separate rulemaking actions. The RACT determinations and requirements are included in the operating permit issued by PADEP. PPG is a facility that produces flat glass using float bath technology. PPG is located in Greenwood Township, Crawford