

number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve 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 (Public Law 104-4). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed 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 (64 FR 43255, August 10, 1999), 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. This proposed rule also is not subject to Executive Order 13045 (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. Thus, 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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.*).

#### 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, Sulfur oxides, Volatile organic compounds.

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

Dated: December 13, 2002.

**Bharat Mathur,**

*Acting Regional Administrator, Region 9.*

For the reasons stated in the preamble, part 52, chapter I, of 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.*

2. Section 52.1870 is amended by adding paragraph (c)(127) to read as follows:

#### § 52.1870 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(127) On July 18, 2002, Ohio submitted revisions to its Permit to Install rules as a revision to the State implementation plan.

(i) Incorporation by reference.

(A) Ohio Administrative Code Rules 3745-31-01, 3745-31-02, 3745-31-03, 3745-31-05, and 3745-31-07 effective November 30, 2001.

[FR Doc. 03-1235 Filed 1-21-03; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[AZ 106-0064; FRL-7418-8]

#### Approval and Promulgation of Implementation Plans; Arizona; Motor Vehicle Inspection and Maintenance Programs

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving two State Implementation Plan (SIP) revisions submitted by the Arizona Department of Environmental Quality (ADEQ). These revisions consist of several changes that have been made to Arizona's Basic and Enhanced Vehicle Emissions Inspection

and Maintenance Programs after the programs were approved by EPA in 1995. Arizona's Basic Vehicle Emissions Inspection (VEI) Program is implemented in the Tucson Air Planning Area carbon monoxide (CO) nonattainment area (Area B). The Enhanced VEI Program is implemented in the Maricopa County ozone and CO nonattainment area (the Phoenix area or Area A).

**EFFECTIVE DATE:** February 21, 2003.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA's Region 9 office at 75 Hawthorne Street, San Francisco, California 94105.

This document and the Technical Support Document (TSD) for this rulemaking are also available as electronic files on EPA's Region 9 Web page at <http://www.epa.gov/region09/air>.

#### FOR FURTHER INFORMATION CONTACT:

Sylvia Dugré, Office of Air Planning (AIR-2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105. Phone: (415) 947-4149; e-mail: [dugre.sylvia@epa.gov](mailto:dugre.sylvia@epa.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Background

On August 12, 2002 (67 FR 52433), EPA published a notice of proposed rulemaking for the State of Arizona. The notice proposed approval of revisions to the SIP for Arizona's Basic and Enhanced VEI programs.

ADEQ submitted the changes to its Basic and Enhanced VEI Programs as a revision to its SIP on July 6, 2001. The July 6, 2001 SIP revision package includes, among various other program changes, ADEQ's revised rule which extends the exemption for newer model year vehicles from the current model year to the first five model year vehicles and the revised rules incorporating legislative changes to the provisions for issuing a waiver. Also included in the SIP revision is State legislation that discontinues the remote sensing program that had been implemented in Area A and authorizes a study to determine the most effective on-road testing program for Arizona.

A SIP revision supplementing the July 6, 2001 SIP revision was submitted by ADEQ on April 10, 2002. This submittal contains the ADEQ rule revisions incorporating on-board diagnostics (OBD) testing and, in accordance with the State legislation, deleting the previously approved remote sensing program from the ADEQ regulations. It also contains a modeling demonstration, with adjustments for the IM147