

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.

H. 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.

I. 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.

J. 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 December 1, 2004.

K. 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 January 3, 2005.

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, Sulfur oxides.

Dated: September 14, 2004.

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 paragraphs (c)(110)(i)(A)(2) and (c)(116) to read as follows:

§ 52.120 Identification of plan.

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*   *   *   *   *
(c) * * *
(110) * * *
(i) * * *
(A) * * *
(2) Rules R18-2-715.02 and R18-2-715, Appendix 8 amended on November 15, 1993.

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(116) New and amended regulations were submitted on September 12, 2003, by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Department of Environmental Quality.

(1) Rules R18-2-715 (sections F, G, and H) and R18-2-715.01 amended on August 9, 2002.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[ID-02-003; FRL-7825-3]

Approval and Promulgation of Air Quality Implementation Plans; Idaho; Correcting Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendments.

SUMMARY: This action corrects the incorporation by reference provisions in the approval of the Idaho PM₁₀ State Implementation Plan (SIP) maintenance plan for the Ada County/Boise, Idaho area published on October 27, 2003.

DATES: This action is effective November 1, 2004.

ADDRESSES: Copies of the supporting documentation used in developing this action and the action being corrected are available for inspection during normal business hours at the following locations: U.S. Environmental Protection Agency, Region 10, Office of Air, Waste and Toxics (AWT-107), 1200 Sixth Avenue, Seattle, Washington 98101; Idaho Operations Office, 1435 North Orchard Street, Boise, Idaho 83706.

FOR FURTHER INFORMATION CONTACT: Colleen Huck at (206) 553-1770 or Donna Deneen at (206) 553-6706 or at the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: On October 27, 2003, (68 FR 61106), EPA approved an Idaho SIP maintenance plan which addressed the attainment and maintenance of the National Ambient Air Quality Standard (NAAQS) for PM₁₀ in the Ada County/Boise, Idaho area. PM₁₀ air pollution is suspended particulate matter with a diameter less than or equal to a nominal ten micrometers.

In approving the Ada County/Boise, Idaho PM₁₀ maintenance plan, EPA incorporated by reference specific permit conditions limiting particulate matter emissions for a number of facilities in the Ada County/Boise Idaho area (68 FR 61110). In doing so, EPA inadvertently incorporated by reference permit conditions relating to the installation of a beet cleaning system, a transformer evaporator, and mill heaters in the State of Idaho Air Pollution Operating Permit for the Amalgamated Sugar Company LLC, Permit No. 027-00010, issued September 30, 2002.

Idaho subsequently provided information to EPA indicating that the installation of the beet cleaning system,

transformer evaporator, and mill heaters are preliminary steps required for installation and operation of a steam dryer system and, based on its analysis, should have no impact on actual or potential PM₁₀ emissions rates. Based on the State's information, EPA has determined that the permit conditions addressing the installations were unnecessarily incorporated by reference for the Ada County/Boise, Idaho PM₁₀ maintenance plan. This action corrects the incorporation by reference of these conditions. Specifically, this action removes permit conditions 13.5, 13.5.2, 13.5.3, 13.6, 13.6.1, and 13.6.2 and provisions 13.5 and 13.6 in Table 13.1 from the list of permit conditions that are incorporated by reference. The incorporation by reference of the deadline for the installation and operation of the steam dryer system, which will result in a reduction of the rate of pollutants emitted by the facility, has not changed.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA is merely correcting a previous rulemaking action that had been subject to notice and comment procedures. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

Moreover, since today's action does not create any new regulatory requirements, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3).

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). Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility

Act (5 U.S.C. 601 *et seq.*) or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA.

This corrective action 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 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). This action 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.

This corrective action does not involve technical standards; 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. This action 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 (CRA), 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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of November 1, 2004. 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**. 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 3, 2005. 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: September 27, 2004.

Ronald A. Kreizenbeck,
Acting Regional Administrator, Region 10.

■ 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 N—Idaho

■ 2. Section 52.670 is amended by revising paragraph (c)(38)(i)(A)(12) to read as follows:

§ 52.670 Identification of Plan.

* * * * *

(a) * * *
(38) * * *
(i) * * *
(A) * * *

(12) State of Idaho Air Pollution Operating Permit for The Amalgamated Sugar Company LLC, Permit No. 027-00010, issued September 30, 2002, the following conditions: 2 (heading only), (2.7, Table 2.2 as it applies to PM₁₀), 2.10, 2.10.1, 2.10.2, 2.11, 2.11.1, 2.11.2, 2.11.3, 2.11.4, 2.11.5, 2.12, 2.12.1, 2.12.2, 2.12.3, 2.13, 2.13.1, 2.13.2, 2.13.3, 2.14, 2.14.1, 2.14.2, 2.16, 3 (heading only), (3.3, Table 3.2 as it applies to PM₁₀), 3.5, 3.7, 3.8, 3.8.1, 3.8.2, 3.8.3, 3.8.4, 3.8.5, 3.8.6, 3.8.7, 3.8.8, 3.9, 4 (heading only), (4.3, Table 4.1 as it applies to PM₁₀), 4.5, 4.6, 4.7,

5 (heading only), (5.3, Table 5.3 as it applies to PM₁₀), 5.5, 5.9, 5.9.1, 5.9.2, 5.9.3, 5.9.4, 5.9.5, 5.9.6, 5.9.7, 5.9.8, 5.9.9, 5.10, 5.11, 6 (heading only), 6.3, Table 6.1, 6.5, 6.6, 6.7, 6.7.1, 6.7.2, 6.8, 7 (heading only), (7.3, Table 7.1 as it applies to PM₁₀), 7.5, 7.7, 7.7.1, 7.7.2, 7.8, 8 (heading only), 8.3, Table 8.1, 8.5, 8.7, 8.7.1, 8.7.2, 8.8, 9 (heading only), 9.3, Table 9.1, 9.5, 9.7, 9.7.1, 9.7.2, 9.8, 10 (heading only), 10.3, Table 10.1, 10.6, 10.8, 10.8.1, 10.8.2, 10.9, 11 (heading only), 11.3, Table 11.2, 11.6, 11.8, 11.8.1, 11.8.2, 11.9, 12 (heading only), 12.3, Table 12.1, 12.5, 12.7, 12.7.1, 12.7.2, 12.8, 13 (heading only), 13.1 (except as it applies to conditions 13.3, 13.3.1, 13.3.2, 13.5, 13.5.1, 13.5.2, 13.5.3, 13.6, 13.6.1, 13.6.2 and 13.9), Table 13.1 (except conditions 13.3, 13.5 and 13.6), (13.2, Table 13.2 as it applies to PM₁₀), 13.2.1, 13.4, 13.4.1, 13.4.2, 13.4.3, 13.7, 13.7.1, 13.7.2, 13.8, 13.8.1, 13.8.2, 13.8.3, 13.10, and 13.11.

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DEPARTMENT OF DEFENSE

48 CFR Parts 201 and 202

[DFARS Case 2003-D090]

Defense Federal Acquisition Regulation Supplement; Procedures, Guidance, and Information

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to define a companion resource to the DFARS that contains mandatory and non-mandatory internal DoD procedures, non-mandatory guidance, and supplemental information. This new resource, entitled Procedures, Guidance, and Information, is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Effective November 1, 2004.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0311; facsimile (703) 602-0350. Please cite DFARS Case 2003-D090.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change

the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dfars/transf.htm>.

This final rule is a result of the DFARS Transformation initiative. The rule establishes the framework for a new DFARS companion resource, Procedures, Guidance, and Information (PGI), which contains mandatory and non-mandatory internal DoD procedures, non-mandatory guidance, and supplemental information. PGI will not be published in the Code of Federal Regulations, but will be available electronically at <http://www.acq.osd.mil/dpap/dars/index.htm>. Use of PGI will enable DoD to more rapidly convey internal administrative and procedural information to the acquisition workforce. The HTML version of the DFARS available at <http://www.acq.osd.mil/dpap/dfars/index.htm> will contain computerized links to the corresponding PGI sections.

DoD published a proposed rule at 69 FR 8145 on February 23, 2004. DoD received one comment on the proposed rule. The comment recommended additional policy and procedures relating to interagency acquisitions under the Economy Act (31 U.S.C. 1535). The comment is considered to be outside the scope of this case, but will be considered with other changes being developed for DFARS Part 217, which addresses the Economy Act. DoD has adopted the proposed rule as a final rule without change.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the new DFARS companion resource will contain only procedures, guidance, and information that have no significant effect beyond the internal operating procedures of DoD and no

significant cost or administrative impact on contractors or offerors.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 201 and 202

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

■ Therefore, 48 CFR parts 201 and 202 are amended as follows:

■ 1. The authority citation for 48 CFR parts 201 and 202 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

■ 2. Section 201.105-3 is revised to read as follows:

201.105-3 Copies.

The DFARS and the DFARS Procedures, Guidance, and Information (PGI) are available electronically via the World Wide Web at <http://www.acq.osd.mil/dpap/dars/index.htm>.

■ 3. Section 201.201-70 is added to read as follows:

201.201-70 Maintenance of Procedures, Guidance, and Information.

The DAR Council is also responsible for maintenance of the DFARS Procedures, Guidance, and Information (PGI).

■ 4. Section 201.301 is amended by revising paragraph (a) to read as follows:

201.301 Policy.

(a)(1) DoD implementation and supplementation of the FAR is issued in the Defense Federal Acquisition Regulation Supplement (DFARS) under authorization and subject to the authority, direction, and control of the Secretary of Defense. The DFARS contains—

- (i) Requirements of law;
- (ii) DoD-wide policies;
- (iii) Delegations of FAR authorities;
- (iv) Deviations from FAR requirements; and
- (v) Policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors.