

E. 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 final 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).

F. Unfunded Mandates

Under Section 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 annual costs to State, local, or tribal governments in the aggregate; or to 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 annual 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.

G. Submission to Congress and the Comptroller General

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**. This rule is not a “major” rule as defined by 5 U.S.C. 804(2).

H. 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 November 19, 1999. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 3, 1999.

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)(94) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(94) New and amended rules and regulations for the Maricopa County Environmental Services Department-Air Pollution Control were submitted on August 4, 1999, by the Governor's designee.

(i) Incorporation by reference.

(A) Rule 336, adopted on July 13, 1988 and revised on April 7, 1999 and Rule 348, adopted on April 7, 1999.

[FR Doc. 99–24431 Filed 9–17–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[AZ 086–0017c; FRL–6438–3]

Interim Final Determination that State Has Corrected the Deficiency State of Arizona; Maricopa County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final determination.

SUMMARY: Elsewhere in today's **Federal Register**, EPA has published a direct final rulemaking fully approving the State of Arizona's submittal of Maricopa County's Rule 336—Surface Coating Operations. EPA has also published a proposed rulemaking to provide the public with an opportunity to comment on EPA's action. If a person submits adverse comments on EPA's final action, EPA will withdraw its direct final rule and will consider any comments received before taking final action on the State's submittal. Based on the full approval, EPA is making an interim final determination by this action that the State has corrected the deficiency for which a sanctions clock began on March 11, 1998. This action will defer both the imposition of the offset sanction and the imposition of the highway sanction. Although this action is effective upon publication, EPA will take comment. If no comments are received on EPA's approval of the State's submittal, the direct final action published in today's **Federal Register** will also finalize EPA's determination that the State has corrected the deficiency that started the sanctions clock. If comments are received on EPA's proposed approval and this interim final action, EPA will publish a final action taking into consideration any comments received.

DATES: *Effective date:* September 20, 1999.

Comment date: Comments must be received by October 20, 1999.

ADDRESSES: Written comments should be sent to Andrew Steckel at the Region IX office listed below. The state submittal and EPA's analysis for that submittal, which are the basis for this action, are available at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for public review at the following locations:

Rulemaking Office (AIR-4), Air Division,
U.S. Environmental Protection Agency,
Region IX, 75 Hawthorne Street, San
Francisco, CA 94105;

Environmental Protection Agency, Air
Docket (6102), 401 "M" Street, SW.,
Washington, D.C. 20460;

Arizona Department of Environmental
Quality, 3003 North Central Avenue,
Phoenix, AZ 85012; and,

Maricopa County Environmental Services
Department, 1001 North Central Ave.,
Phoenix, AZ 85004

FOR FURTHER INFORMATION CONTACT:

Jerald S. Wamsley, Rulemaking Office,
AIR-4, Air Division, U.S.
Environmental Protection Agency,
Region IX, 75 Hawthorne Street, San
Francisco, CA 94105, Telephone: (415)
744-1226.

SUPPLEMENTARY INFORMATION:

I. Background

On February 26, 1997, Arizona submitted Maricopa County Rule 336—Surface Coating Operations, which EPA disapproved in part on February 9, 1998. (See 63 FR 6487.) Beginning on March 11, 1998, EPA's disapproval action started an 18-month clock for the imposition of one sanction (followed by a second sanction 6 months later) and a 24-month clock for promulgation of a Federal Implementation Plan (FIP).

The State submitted a revised rule on August 4, 1999. EPA has taken direct final action on this submittal pursuant to its modified direct final policy set forth at 59 FR 24054 (May 10, 1994). In the Rules section of today's **Federal Register**, EPA has issued a direct final full approval of Arizona's submittal of Maricopa County Rule 336. In addition, in the Proposed Rules section of today's **Federal Register**, EPA has proposed full approval of the State's submittal.

Based on the direct final full approval set forth in today's **Federal Register**, EPA believes that it is more likely than not that Maricopa County has corrected the original disapproval deficiency. Therefore, EPA is taking this final rulemaking action, effective on publication, finding that Maricopa County has corrected the deficiency. However, EPA is also providing the public with an opportunity to comment

on this final action. If, based on any comments on this action and any comments on EPA's proposed full approval of the State's submittal, EPA determines that the State's submittal is not fully approvable and this final action was inappropriate, EPA will either propose or take final action finding that the State has not corrected the original disapproval deficiency. As appropriate, EPA will also issue an interim final determination or a final determination that the deficiency has been corrected.

This action does not stop the sanctions clock that started for this area on March 11, 1998. However, this action will defer the imposition of the offsets sanction and will defer the imposition of the highway sanction. See 59 FR 39832 (August 4, 1994). If EPA's direct final action fully approving the State's submittal becomes effective, such action will permanently stop the sanctions clock and will permanently lift any imposed, stayed or deferred sanctions. If EPA must withdraw the direct final action based on adverse comments and EPA subsequently determines that the State, in fact, did not correct the disapproval deficiency, EPA will also determine that the State did not correct the deficiency and the sanctions consequences described in the sanctions rule will apply. See 59 FR 39832, to be codified at 40 CFR 52.31.

II. EPA Action

EPA is taking interim final action finding that Maricopa County has corrected the disapproval deficiency that started the sanctions clock. Based on this action, imposition of the offset sanction will be deferred and imposition of the highway sanction will be deferred until EPA's direct final action fully approving the State's submittal becomes effective or until EPA takes action proposing or finally disapproving in whole or part the State submittal. If EPA's direct final action fully approving the State submittal becomes effective, at that time any sanctions clocks will be permanently stopped and any imposed, stayed or deferred sanctions will be permanently lifted.

Because EPA has determined preliminarily that the State has an approvable rule, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception to the 30-day notice requirement of the Administrative Procedure Act because the purpose of this action is to relieve a restriction. See 5 U.S.C. 553(d)(1).

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13045

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.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

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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).

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EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual 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.

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H. Petitions for Judicial Review

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States Court of Appeals for the appropriate circuit by November 19, 1999. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 3, 1999.

Laura Yoshii,

Acting, Regional Administrator, Region IX.
[FR Doc. 99-24433 Filed 9-17-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 62**

[NV 015-MSWa; FRL-6440-4]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the Nevada State Plan for implementing the emissions guidelines (EG) applicable to existing municipal solid waste (MSW) landfills. The Plan was submitted by the Nevada Division of Environmental Protection (NDEP) for the State of Nevada to satisfy requirements of section 111(d) of the Clean Air Act (the Act).

DATES: This direct final rule is effective on November 19, 1999 without further notice, unless EPA receives relevant adverse comments by October 20, 1999. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the submitted Plan and EPA's evaluation report are available for public inspection at EPA's Region IX