responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This rule does not contain 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this 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.*).

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. However, section 808 provides that any rule for which the issuing agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 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 August 12, 2002. 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).

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Intergovernmental regulations, Particulate matter, Reporting and recordkeeping requirements.

Dated: July 16, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 02–20222 Filed 8–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 112–0052a; FRL–7253–5]

Revision to the Arizona State Implementation Plan, Maricopa County Environmental Services Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Maricopa County Environmental Services Department (MCESD) portion of the Arizona State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are approving a local rule that regulates open outdoor fires.

DATES: This rule is effective on October 11, 2002, without further notice, unless EPA receives adverse comments by September 11, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect copies of the submitted SIP revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see a copy of the submitted SIP revision at the following locations:

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

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

Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Suite 201, Phoenix, AZ 85004.

A copy of the rule may also be available via the Internet at *http://www.maricopa.gov/envsvc/air/ruledesc.asp.* This is not an EPA Web site and it may not contain the same version of the rule that was submitted to EPA. Readers should verify that the adoption date of the rule listed is the same as the rule submitted to EPA for approval and be aware that the official submittal is only available at the agency addresses listed above.

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.

Table of Contents

I. The State's Submittal

A. What Rule Did the State Submit?

Table 1 lists the rule we are approving with the dates that it was revised by the local air agency and submitted by the Arizona Department of Environmental Quality.

TABLE 1.—SUBMITTED RULE

Local agency	Rule No.	Rule title	Revised	Submitted
MCESD	314	Open Outdoor Fires	12/19/01	03/22/02

On June 12, 2002, 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.

B. Are There Other Versions of This Rule?

A version of Rule 314 was finalized as a limited approval into the SIP and limited disapproval with sanctions on January 4, 2001 (66 FR 730).

C. What Is the Purpose of the Submitted Rule?

Rule 314 prohibits open outdoor fires unless a permit is obtained and the Control Officer has not declared a restricted burn period. The following are exemptions from these requirements:

- Fires for cooking, warmth for humans, recreation, branding of animals, the use of orchard heaters for frost protection, and fire extinguisher training.

Exemptions from only the permit requirement are as follows:

- Disposal of dangerous material, testing of explosive or flammable material, and fire fighting training.

The 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(l) and 193). Section 189(a) of the CAA requires moderate PM–10 nonattainment areas to implement reasonably available control measures (RACM), including reasonably available control technology (RACT) for stationary sources of PM–10. Section 189(b) requires that serious PM–10 nonattainment areas, in addition to meeting the RACM/RACT requirements, implement best available control measures (BACM), including best available control technology (BACT). The Phoenix metropolitan area is a serious PM–10 nonattainment area. The MCESD regulates certain sources of PM–10 in the nonattainment area.

EPA's guidance for both moderate and serious PM–10 nonattainment areas provides that RACM/RACT and BACM/BACT are required to be implemented for all source categories unless the State demonstrates that a particular source category does not contribute significantly to PM–10 levels in excess of the NAAQS (*i.e.,* de minimis sources). *See Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,* 59 FR 41998, 42011 (August 16, 1994). PM–10 emissions from the source categories that are the subject of this direct final action are de minimis according to the December 1999 *Revised MAG 1999 Serious Area Particulate Plan for PM–10 for the Maricopa County Nonattainment Area* (PM–10 Plan). Therefore, Rule 314 is not required to meet BACM/BACT control levels. However, the State submitted Rule 314 as a RACM/RACT rule on which the PM–10 Plan relies to achieve attainment. Thus EPA is evaluating Rule 314 to determine if it meets RACM/RACT requirements, but not for BACM/BACT.

B. Does the Rule Meet the Evaluation Criteria?

We believe the rule is consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and fulfilling RACM/RACT. All of the deficiencies identified in our previous limited approval and limited disapproval action of Rule 314 on January 4, 2001 have been adequately addressed as follows:

- We disapproved the exemption to burn dangerous materials, because the ''dangerous material'' is not defined. A satisfactory definition was added to the rule. § 314.202.
- We disapproved the exemption permitting open burning with a stipulation of conditions and time of day, because criteria for allowing exemptions were not specified and were subject to the discretion of the Control Officer. A requirement was added for a permittee to call the fire agency with jurisdiction and the Control Officer for permission to commence burning. The Control Officer must base his decision to allow burning on National Weather Service forecasts or other meteorological analyses. We have determined that this approach fulfills the requirements of RACM/RACT. § 314.302.
- We disapproved an exemption to burn with an air curtain destructor, because the Control Officer had unrestricted discretion. An appendix was added to Rule 314 to describe procedures and guidelines for air curtain destructors and burn pits to make the rule approvable.

The TSD has more information about our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements and corrects the deficiencies in the previous version. 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 September 11, 2002, 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 October 11, 2002. This will incorporate this rule into the federally enforceable SIP and will terminate all sanctions and sanction clocks associated with our January 4, 2001 action.

III. Background Information

A. Why Was This Rule Submitted?

PM–10 harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control PM–10 emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency PM–10 rules.

TABLE 2.—PM–10 NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the Clean Air Act, as amended in 1977. 43 FR 8964; 40 CFR 81.305.
July 1, 1987 ...	EPA replaced the TSP standards with new PM standards applying only up to 10 microns in diameter (PM–10). 52 FR 24672.
November 15, 1990.	Clean Air Act Amendments of 1990 were enacted, Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671*q*.
November 15, 1990.	PM–10 areas meeting the qualifications of section 107(d)(4)(B) of the CAA were designated non-attainment by operation of law and classified as moderate pursuant to section 188(a). States are required by section 110(a) to submit rules regulating PM–10 emissions in order to achieve the attainment dates specified in section 188(c).

IV. Administrative Requirements

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 CAA. 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 CAA. 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 CAA. 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 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. section 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. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 11, 2002. 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: July 16, 2002.

Keith Takata,

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)(105) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(105) Amended rule for the following agency was submitted on March 22, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Maricopa County Environmental Services Department.

(*1*) Rule 314, revised on December 19, 2001.

* * * * *

[FR Doc. 02–20223 Filed 8–9–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

49 CFR Part 1

[OST Docket No. OST 1999–6189]

RIN 9991–AA26

Organization and Delegation of Powers and Duties; Delegation to the Federal Highway Administrator

AGENCY: Office of the Secretary, U.S. DOT.

ACTION: Final rule.

SUMMARY: In this action, the Secretary of Transportation delegates to the Federal Highway Administrator limited authority to determine a Federal share of the costs, other than 80 percent, for Federal Highway Administration (FHWA) transportation research projects or activities that are funded under section 5001 of the Transportation Equity Act for the 21st Century (TEA–21). The Federal Highway Administrator is delegated this authority only with respect to the use of section 5001(b) funds for FHWA projects and activities, and exercises no authority with regard to cost share determinations with respect to projects or activities administered by the other U.S. Department of Transportation operating administrations. This delegation of authority is necessary because the Federal Highway Administration has the expertise and staff to administer the Highway Research Program and to make funding decisions in accordance with the statutory requirements. The Federal Highway Administrator may further redelegate this authority.

EFFECTIVE DATE: This rule is effective August 12, 2002.

FOR FURTHER INFORMATION CONTACT: Wilbert Baccus, Office of the Chief Counsel (HCC–40), Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–0780.