

22, 2001). This action merely approves state rules 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 state rules implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. 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 approves a state rule implementing a Federal standard.

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. 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. 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 July 9, 2007. 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: April 19, 2007.

**Jane Diamond,**

*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 DD—Nevada

■ 2. Section 52.1470 is amended by:  
 ■ a. Adding paragraphs (c)(14)(x) and (c)(25)(iv);  
 ■ b. Revising paragraphs (c)(56)(i)(A)(3)(i), (ii), and (iii); and  
 ■ c. Adding paragraph (c)(56)(i)(A)(3)(viii) to read as follows:

#### § 52.1470 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(14) \* \* \*

(x) Previously approved on June 18, 1982 in paragraph (c)(14)(viii) of this section and now deleted without replacement: Article 16: Rules 16.3.3.1.

\* \* \* \* \*

(25) \* \* \*

(iv) Previously approved on March 27, 1984 in paragraph (c)(25)(i)(A) of this section and now deleted without replacement: Nevada Administrative Code (NAC) section: 445.535.

\* \* \* \* \*

(56) \* \* \*

(i) \* \* \*

(A) \* \* \*

(3) \* \* \*

(i) October 3, 1995: 445B.005, 445B.059, 445B.077, 445B.112, 445B.116, 445B.130, 445B.145, 445B.152, 445B.177, 445B.180, and 445B.22037.

(ii) January 22, 1998: 445B.011, 445B.0425, 445B.058, 445B.22027, and 445B.22033.

(iii) September 9, 1999: 445B.2203 and 445B.22047.

\* \* \* \* \*

(viii) October 4, 2005: 445B.22017 (effective April 1, 2006) and 445B.2202 (effective April 1, 2006).

\* \* \* \* \*

[FR Doc. E7-8693 Filed 5-7-07; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2006-0827; FRL-8302-9]

### Revisions 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). This revision concerns particulate matter (PM-10) emissions from open burning. We are approving a local rule under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on July 9, 2007 without further notice, unless EPA receives adverse comments by June 7, 2007. If we receive such comments, we will publish a timely withdrawal in the

**Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA–R09–OAR–2006–0827, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

- *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

- *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

**Instructions:** All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail

<http://www.regulations.gov> is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

**Docket:** The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, EPA Region IX, (415) 947–4118, [petersen.alfred@epa.gov](mailto:petersen.alfred@epa.gov).

#### **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?
  - B. Are there other versions of this rule?
  - C. What are the purposes of the submitted rule revision?
- II. EPA’s Evaluation and Action
  - A. How is EPA evaluating the rule?
  - B. Does the rule meet the evaluation criteria?
  - C. Public Comment and Final Action
- III. Statutory and Executive Order Reviews

#### **I. The State’s Submittal**

##### *A. What rule did the State submit?*

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

TABLE 1.—SUBMITTED RULE

Local agency	Rule #	Rule title	Revised	Submitted
MCESD .....	314 .....	Open Outdoor Fires .....	04/20/05	06/08/06

On December 7, 2006, the submittal of MCESD Rule 314 was determined by operation of law 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 these rules?*

A version of MCESD Rule 314 was approved into the SIP on August 12, 2002 (67 FR 52416).

##### *C. What are the purposes of the submitted rule revision?*

Section 110(a) of the Clean Air Act (CAA) requires states to submit regulations that control volatile organic compounds, nitrogen oxides, particulate matter, and other air pollutants which harm human health and the environment. These rules were developed as part of local air districts’ programs to control these pollutants.

The purposes of the submitted MCESD Rule 314 revision are as follows:

- (314.200): The rule revises various definitions in order to improve clarity.
- (314.302.6 and 314.302.7): The rule adds the requirements that an air curtain destructor (a) be used to burn vegetative material greater than 6 inches

diameter and (b) not operate closer than 500 feet from the nearest dwelling.

- (314.402.3 and 314.402.4): The rule adds the requirements that (a) a permittee must comply with the regulations of the local fire agency and (b) Maricopa County must obtain a permit for its own burning from ADEQ. EPA’s technical support document (TSD) has more information about these rules.

#### **II. EPA’s Evaluation and Action**

##### *A. How is EPA evaluating the rules?*

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). SIP rules in serious PM–10 nonattainment areas must require for significant sources best available control measures (BACM), including best available control technology (BACT) (see section 189(b)). MCESD regulates a serious PM–10 nonattainment area (see 40 CFR part 81), so MCESD Rule 314 must fulfill the requirements of BACM/BACT.

Guidance and policy documents that we used to help evaluate rules consistently include the following:

- *Requirements for Preparation, Adoption, and Submittal of*

*Implementation Plans*, U.S. EPA, 40 CFR part 51.

- *PM–10 Guideline Document* (EPA–452/R–93–008).

##### *B. Does the rule meet the evaluation criteria?*

We believe MCESD Rule 314 is consistent with the relevant policy and guidance regarding enforceability, BACM/BACT, and SIP relaxations. The TSD has more information on 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. 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 June 7, 2007, 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 July 9, 2007. This will incorporate the rule into the federally enforceable SIP.

### III. 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). 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 Clean Air Act. 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 approves a state rule implementing a Federal standard.

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. 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. 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 July 9, 2007. 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: March 23, 2007.

**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)(135) to read as follows:

#### § 52.120 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(135) An amended regulation was submitted on June 8, 2006, by the Governor’s designee.

(i) Incorporation by reference.

(A) Maricopa County Environmental Services Department.

(1) Rule 314, adopted on July 13, 1988 and amended on April 20, 2005.

\* \* \* \* \*

[FR Doc. E7–8689 Filed 5–7–07; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R07–OAR–2007–0249; FRL–8310–6]

### Approval and Promulgation of Implementation Plans; Missouri; Interstate Transport of Pollution

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is revising the Missouri State Implementation Plan (SIP) for the purpose of approving the Missouri Department of Natural Resources’ (MDNR) actions to address requirements of section 110(a)(2)(D)(i) of the Clean Air Act. Section 110(a)(2)(D)(i) requires each state to submit a SIP that prohibits emissions that adversely affect another state’s air quality through interstate transport. MDNR has adequately addressed the four distinct elements related to the impact of interstate transport of air pollutants. These include prohibiting significant contribution to downwind nonattainment of the National Ambient Air Quality Standards (NAAQS), interference with maintenance of the NAAQS, interference with plans in