Mecklenburg, Middlesex, New Kent, Northhampton, Northumberland, Prince George, Richmond, Southampton, Suffolk, Surry, Sussex, Westmoreland, and York counties, and the cities of Charles City, Chesapeake, Colonial Heights, Emporia, Franklin, Hampton, Hopewell, Portsmouth, Newport News, Norfolk, Richmond, Virginia Beach, Williamsburg, and Poquoson.

Applying for Waivers/Extensions

A submission to the PBGC to which a waiver or an extension is applicable under this notice should be marked in bold print ''HURRICANE FALL 1999, [name of county], [name of state]'' at the top center.

Issued in Washington, DC, this 17th day of November 1999.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 99–30467 Filed 11–22–99; 8:45 am]

BILLING CODE 7708–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 49 and 52

[TRI–FIP–003a; FRL–6479–8]

Source Specific Federal Implementation Plan for Tri-Cities Landfill; Salt River Pima-Maricopa Indian Community

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is promulgating a direct final, source-specific Federal Implementation Plan (FIP) to regulate emissions from a proposed gas-to-energy project at the Tri-Cities landfill. This facility is located on the reservation of the Salt River Pima-Maricopa Indian Community (SRPMIC), within the Phoenix area designated by EPA as nonattainment for CO, PM–10, and ozone. This facility will be owned and operated by the Salt River Project (SRP) under the terms of an agreement and lease entered into with the SRPMIC.

DATES: This direct final rule is effective on January 24, 2000 unless adverse or critical comments are received by December 23, 1999. If EPA receives such comments, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments should be addressed to: Steve Branoff, Air Division (AIR–3), U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

FOR FURTHER INFORMATION CONTACT: Steve Branoff, Air Division (AIR–3), U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1290.

SUPPLEMENTARY INFORMATION:

I. EPA's Authority To Promulgate a FIP in Indian Country

The Clean Air Act Amendments of 1990 greatly expanded the role of Indian tribes in implementing the provisions of the Clean Air Act in Indian country. Section 301(d) of the Act authorizes EPA to issue regulations specifying the provisions of the Clean Air Act for which Indian tribes may be treated in the same manner as states. EPA promulgated the final rule under section 301(d) of the Act, entitled ''Indian Tribes: Air Quality Planning and Management,'' on February 12, 1998. 63 FR 7254. This rule is generally referred to as the ''Tribal Authority Rule'' or ''TAR.''

In the preamble to the proposed [1] and final TAR, EPA discussed generally the legal basis under the CAA by which EPA and tribes are authorized to regulate sources of air pollution in Indian country. EPA concluded that the CAA constitutes a statutory grant of jurisdictional authority to eligible Indian tribes that allows them to develop CAA programs for EPA approval in the same manner as states for all air resources within the exterior boundaries of a reservation. 63 FR 7254–7259; 59 FR 43958–43960. In addition, the CAA authorizes eligible tribes to develop CAA programs for non-reservation areas over which a tribe can demonstrate jurisdiction under Federal Indian law. 63 FR 7258–7259.

EPA also concluded that the CAA authorizes EPA to protect air quality throughout Indian country. See 63 FR 7262; 59 FR 43960–43961 (citing to CAA sections 101(b)(1), 301(a), and 301(d)); see also 63 FR 8247, 8250 (citing to CAA sections 301(d)(4) and 301(d)(2)(B)). In fact, in promulgating the TAR, EPA specifically provided that, pursuant to the discretionary authority explicitly granted to EPA under sections 301(a) and 301(d)(4) of the Act, EPA:

shall promulgate without unreasonable delay such federal implementation plan provisions as are necessary or appropriate to protect air quality, consistent with the provisions of sections 304(a) and 301(d)(4), if a tribe does not submit a tribal implementation plan meeting the completeness criteria of 40 CFR part 51, appendix V, or does not receive EPA approval of a submitted tribal implementation plan.

63 FR 7273 (codified at 40 CFR 49.11(a)). [2]

It is EPA's policy to aid tribes in developing comprehensive and effective air quality management programs by providing technical and other assistance to them. EPA recognizes, however, that just as it required many years to develop state and federal programs to cover lands subject to state jurisdiction, it will also require time to develop tribal and federal programs to cover Indian country. 59 FR 43961.

The Salt River Pima-Maricopa Indian Community has expressed an interest in seeking authority under the TAR to regulate sources of air pollution located on the Reservation under the Clean Air Act. EPA has been informed by the SRPMIC that it will not be ready to apply under the TAR for Clean Air Act permitting responsibilities before the desired date of construction of the proposed gas-to-energy project at the Tri-Cities landfill.

Therefore, in this FIP, EPA is exercising its discretionary authority under section 301(a) and 301(d) of the CAA and 40 CFR 49.11(a) to promulgate such FIP provisions as are necessary or appropriate to regulate the Tri-Cities landfill project. Given the fact that this project will be a new source of greater than 100 tons per year of CO emissions within the boundaries of a designated CO nonattainment area, EPA believes that the FIP provisions are both necessary and appropriate to protect air quality on the Reservation.

II. EPA Action

The Tri-Cities landfill is located within the Phoenix area which EPA has designated as serious nonattainment for three pollutants: CO, PM–10, and ozone. The proposed project involves the installation of electricity-producing equipment at the Tri-Cities landfill. This equipment would run on the landfill gas currently being collected and flared at this facility. Based on the preliminary emissions data submitted to EPA by SRP, this equipment would be considered a major source of CO emissions, according to the definition of ''major source'' in section 302(j) of the

[1] *See* 59 FR 43956 (August 25, 1994).

[2] In the preamble to the final TAR, EPA explained that it believed it was inappropriate to treat tribes in the same manner as states with respect to section 110(c) of the Act, which directs EPA to promulgate a FIP within two years after EPA finds a state has failed to submit a complete state plan or within two years after EPA disapproval of a state plan. EPA promulgated 40 CFR 49.11(a) to clarify that EPA will continue to be subject to the basic requirement to issue any necessary or appropriate FIP provisions for affected tribal areas within some reasonable time. See 63 FR 7264–7265.

Act, since it would have a potential to emit more than 100 tons per year of CO.

Since this project would be a major source of CO emissions located within an area designated by EPA as serious nonattainment for CO, EPA believes that it is appropriate to apply the requirements of section 173 of the Act. Thus, in order to obtain a nonattainment New Source Review (NSR) preconstruction permit, this project will be required to meet the requirements found at the end of this notice with respect to CO emissions. These requirements include: the use of emissions controls which constitute the Lowest Achievable Emissions Rate (LAER), the requirement to obtain emissions reductions to offset the potential emissions of CO, preparation of an alternative siting analysis, and demonstration that all other sources under the same ownership or operation on the Reservation are in compliance with all requirements under the Clean Air Act.

All requirements included in this rulemaking have been taken directly from existing EPA permit regulations or from the Clean Air Act. In addition to the requirements of section 173 of the Act listed above, this FIP incorporates requirements from 40 CFR 51.165, which have been adapted to reflect that this source is located in Indian country. This FIP also incorporates by reference the public participation requirements of 40 CFR part 124, which are the regulations implemented by EPA when issuing permits for major sources of air pollution under the Prevention of Significant Deterioration (PSD) program. Therefore, this FIP does not establish any new requirements for the review of new or modified major sources located in nonattainment areas, except insofar as it gives EPA the authority to permit a major source in a nonattainment area that is in Indian country.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal for this FIP should adverse comments be filed. This rule will be effective January 24, 2000 without further notice unless the Agency receives adverse comments by December 23, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule is effective on January 24, 2000 and no further action will be taken on the proposed rule.

III. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify 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 government entities with jurisdiction over populations of less than 50,000. The federal implementation plan for the Tri-Cities landfill promulgated today does not impose any new requirements on small entities. See Mid-Tex Electric Cooperative, Inc. v. FERC, 773 F.2d 327 (D.C. Cir. 1985) (agency's certification need only consider the rule's impact on entities subject to the requirements of the rule). Therefore, pursuant to 5 U.S.C. 605(b), EPA certifies that today's action does not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995, Public Law 04–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed rules and for final rules for which EPA published a notice of proposed rulemaking, if those rules contain ''federal mandates'' that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If section 202 requires a written statement, section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives. Under section 205, EPA must adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Administrator publishes with the final rule an explanation why EPA did not adopt that alternative. The provisions of section 205 do not apply when they are inconsistent with applicable law. Section 204 of UMRA requires EPA to develop a process to allow elected officers of state, local, and tribal governments (or their designated, authorized employees), to provide meaningful and timely input in the development of EPA regulatory proposals containing significant Federal intergovernmental mandates.

EPA has determined that this FIP contains no federal mandates on state, local or tribal governments, because it will not impose any enforceable duties on any of these entities. EPA further has determined that this FIP is not likely to result in the expenditure of $100 million or more by the private sector in any one year. Although the FIP would impose enforceable duties on an entity in the private sector, the costs are expected to be minimal. Consequently, sections 202, 204, and 205 of UMRA do not apply to this FIP.

Before EPA establishes any regulatory requirements that might significantly or uniquely affect small governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that the FIP will not significantly or uniquely affect small governments, because it imposes no requirements on small governments. Therefore, the requirements of section 203 do not apply to this FIP. Nonetheless, EPA worked closely with representatives of the Tribe in the development of today's action.

D. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, OMB must approve all ''collections of information'' by EPA. The Act defines ''collection of information'' as a requirement for ''answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons * * *'' 44 U.S.C. 3502(3)(A). Because the FIP only applies

to one company, the Paperwork Reduction Act does not apply.

E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This executive order applies to any rule that: (1) is determined to be ''economically significant'' as that term is defined in 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.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This FIP is not subject to Executive Order 13045 because it implements previously promulgated health or safety-based federal standards.

F. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, 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 by 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, any written communications from the governments, and EPA's position 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.''

As stated above, the FIP will not create a mandate on state, local or tribal governments because it will 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. Nonetheless, EPA worked closely with representatives of the Tribe during the development of today's action.

G. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, 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 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.''

The FIP does not impose substantial direct compliance costs on the communities of Indian tribal governments. The FIP imposes obligations only on the owner or operator of the project. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

As discussed above, EPA worked closely with representatives of the Tribe during the development of today's action.

H. 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.

I. 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).

J. 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 24, 2000. 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).)

K. Executive Order 13132

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the

process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the Office of Management and Budget (OMB) in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This final 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

List of Subjects

40 CFR Part 49

Environmental protection, Air pollution control, Carbon monoxide, Indians, New source review, Reporting and recordkeeping requirements.

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Indians, New source review, Reporting and recordkeeping requirements.

Dated: November 16, 1999.

Carol M. Browner,

Administrator.

Title 40, Chapter I of the Code of Federal Regulations is hereby amended as follows:

PART 49—TRIBAL CLEAN AIR ACT AUTHORITY

1. The authority citation for part 49 continues to read as follows:

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

2. Part 49 is hereby amended by adding § 49.22 to read as follows:

§ 49.22 Federal Implementation Plan for Tri-Cities landfill, Salt River Pima-Maricopa Indian Community.

(a) *Applicability.* This section applies to the owner or operator of the project located on the Reservation of the Salt River Pima Maricopa Indian Community (SRPMIC) in Arizona, including any new owner or operator in the event of a change in ownership of the project.

(b) *Definitions.* The following definitions apply to this section. Except as specifically defined herein, terms used in this section retain the meaning accorded them under the Clean Air Act.

Actual emissions means the actual rate of emissions of a pollutant from an emissions unit as determined in paragraphs (1)–(3) of this definition:

(1) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. EPA shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) EPA may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(3) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

Begin actual construction means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

Building, structure, facility, or installation means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (*i.e.,* which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101–0065 and 003–005–00176–0, respectively).

Commence as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has: (1) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(2) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

Construction means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

EPA means United States Environmental Protection Agency, Region 9.

Fugitive emissions means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

Lowest achievable emission rate means the more stringent rate of emissions based on the following:

(1) The most stringent emissions limitation which is contained in any State, Tribal, or federal implementation plan for such class or category of stationary source, unless the owner or operator of the project demonstrates that such limitations are not achievable; or

(2) The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within a stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

Major stationary source means a stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant

subject to regulation under the Act. The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this project whether it is a major stationary source.

Potential to emit means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

Project means the construction of electricity-generating engines owned and operated by the Salt River Project at the Tri-Cities landfill, which are fueled by collected landfill gas.

Secondary emissions means emissions which would occur as a result of the construction or operation of a major stationary source, but do not come from the major stationary source itself. For the purpose of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction of operation of the major stationary source. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Stationary source means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act.

(c) *Requirement to submit an application.* The owner or operator of the project shall submit an application for a permit to construct to EPA which contains all information necessary to perform any analysis or make any determination as required by this Federal Implementation Plan.

(d) *Source obligations.* (1) The owner or operator of the project shall not begin actual construction on the project without obtaining a nonattainment New Source Review permit regulating emissions of air pollutants. The EPA Region 9 Regional Administrator has the authority to issue such a permit. Any permit issued by EPA shall ensure that the project meets the following requirements:

(i) By the time the project is to commence operation, the owner or operator of the project must have obtained sufficient reductions in actual emissions from existing facilities within the same nonattainment area which satisfy the requirements of section 173 of the Clean Air Act, to offset the potential to emit of the project;

(ii) The owner or operator of the project must comply with the lowest achievable emissions rate;

(iii) The owner or operator of the project must demonstrate that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) located on the reservation of the SRPMIC are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under the Act; and

(iv) The owner or operator of the project has provided an analysis of alternative sites, sizes, production processes, and environmental control techniques for the proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location or construction.

(2) If the owner or operator constructs or operates the project not in accordance with the application submitted pursuant to this section or with the terms of any approval to construct, or if the owner or operator subject to this section commences construction after January 24 , 2000 without applying for and receiving approval under this section, then the owner or operator shall be subject to appropriate enforcement action.

(3) Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Administrator may extend the 18-month period upon a satisfactory showing that an extension is justified.

(4) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the Federal implementation plan and any other requirements under Tribal or Federal law.

(e) *Public participation.* (1) When issuing a permit for the project, the EPA Region 9 Regional Administrator shall follow the procedures for decision making for PSD permits contained in 40 CFR part 124, including the requirements for public notice, consideration of and response to public comment, and the opportunity for public hearing.

(2) Within 30 days after the EPA Region 9 Regional Administrator has issued a final permit decision, any person who filed comments on the draft permit or participated in the public hearing, if one has been held, may petition the Environmental Appeals Board to review any condition of the permit. Review of the permit decision will be governed by the regulations for review of PSD permits contained in 40 CFR part 124.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart D—Arizona

2. Subpart D is hereby amended by adding § 52.142 to read as follows:

§ 52.142 Federal Implementation Plan for Tri-Cities landfill, Salt River Pima-Maricopa Indian Community.

The Federal Implementation Plan regulating emissions from an Energy Project at the Tri-Cities landfill located on the Salt River Pima-Maricopa Indian Community near Phoenix, Arizona is codified at 40 CFR 49.22.

[FR Doc. 99–30401 Filed 11–22–99; 8:45 am]

BILLING CODE 6560–50–P