date of the calendar call for that trial session, the offer delivered on May 31st was E's last qualified offer. The August 31st offer is not a qualified offer for purposes of this rule. Consequently, E is not a prevailing party under the qualified offer rule. Therefore, E must satisfy the full requirements of section 7430(c)(4)(A) to qualify for any award of reasonable administrative and litigation costs.

Example 10. When a qualified offer can be made and to whom it must be made. During the examination of Taxpayer F's return, the Internal Revenue Service issues a notice of deficiency without having first issued a 30-day letter. After receiving the notice of deficiency F timely petitions the Tax Court. The next day F mails an offer to the office that issued the notice of deficiency, which offer satisfies the requirements of paragraphs (c)(3), (4), (5) and (6) of this section. This is the only written offer made by F during the administrative or court proceeding, and by its terms it is to remain open for a period in excess of 90 days after the date of mailing to the office issuing the notice of deficiency. The office that issued the notice of deficiency transmitted the offer to the field attorney with jurisdiction over the Tax Court case. After answering the case, the field attorney refers the case to Appeals pursuant to Rev. Proc. 87–24 (1987–1 C.B. 720). After careful consideration, Appeals rejects the offer and holds a conference with F where some adjustments are settled. The remainder of the adjustments are tried in the Tax Court and F's liability resulting from the Tax Court's determinations, when added to F's liability resulting from the settled adjustments, is less than F's liability would have been under the offer rejected by Appeals. Because the Tax Court case had not yet been answered when the offer was sent, F properly mailed the offer to the office that issued the notice of deficiency. Thus, F's offer satisfied the requirements of paragraph (c)(2) of this section. Furthermore, even though F did not receive a 30-day letter, F's offer was made after the beginning of the qualified offer period, satisfying the requirements of paragraph (c)(7) of this section, because the issuance of the statutory notice provided F with notice of the Internal Revenue Service's determination of a deficiency, and the docketing of the case provided F with an opportunity for administrative review in the Internal Revenue Service Office of Appeals under Rev. Proc. 87–24 (1987–1 C.B. 720). Because F's offer satisfied all of the requirements of paragraph (c) of this section, the offer was a qualified offer and F is a prevailing party.

Example 11. Last qualified offer. Assume the same facts as in *Example 10* except that at the Appeals conference F makes a new qualified offer concerning the remaining issues. Because this subsequent qualified offer is closer in time to the end of the qualified offer period than the offer made one day after the petition was filed, the subsequent offer would be the last qualified offer made by F and it is F's liability under this offer which would be compared to F's liability under the judgment to determine whether F was a prevailing party under the qualified offer rule.

Example 12. Substitution of parties permitted under last qualified offer. Taxpayer G receives a 30-day letter and participates in a conference with the Office of Appeals but no agreement is reached. Subsequently, G receives a notice of deficiency and petitions the Tax Court. Upon receiving the Internal Revenue Service's answer to the petition, G sends a qualified offer to the field attorney that signed the answer, by United States mail. The qualified offer stated that it would remain open for more than 90 days. Thirty days after making the offer, G dies and, on motion under Rule 63(a) of the Tax Court's Rules of Practice and Procedure by G's personal representative, H is substituted for G as a party in the Tax Court proceeding. H makes no qualified offers to settle the case and the case proceeds to trial, with the Tax Court issuing an opinion partially in favor of H. Even though H was not a party when the qualified offer was made, that offer constitutes a qualified offer because by its terms, when made, it was to remain open until at least the earlier of the date it is rejected, the date of trial, or 90 days. If the liability of H under that last qualified offer, as determined under paragraph (b)(2) of this section, equals or exceeds the liability under the judgment of the Tax Court, as determined under paragraph (b)(3) of this section, H will be a prevailing party for purposes of an award of reasonable litigation costs under section 7430.

(f) *Effective date.* This section is applicable with respect to qualified offers made in administrative or court proceedings described in section 7430 after January 3, 2001 and before January 5, 2004.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: December 6, 2000.

Jonathan Talisman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 01–198 Filed 1–3–01; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 004–0033; FRL–6896–8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of a revision to the Maricopa County Environmental Services Department (MCESD) portion of the Arizona State Implementation Plan (SIP) concerning particulate matter (PM–10) emissions from open outdoor fires. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves local rules that regulate these emission sources and directs Arizona State to correct rule deficiencies. EPA is also finalizing a limited approval and a full approval of revisions to the MCESD portion of the Arizona SIP concerning PM–10 emissions from abrasive blasting and non-metallic mineral mining and processing, respectively. The limited approval notifies Arizona State that there are rule deficiencies. These actions were proposed in the **Federal Register** on July 11, 2000.

EFFECTIVE DATE: This rule is effective on February 5, 2001.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted rule revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

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

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012.

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

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1135.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On July 11, 2000 (65 FR 42649), EPA proposed a limited approval and limited disapproval of the following rule that was submitted for incorporation into the Arizona SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
MCESD	314	Open Outdoor Fires	07/18/88	01/04/90

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the Act. These provisions include the following:

• Dangerous materials in paragraph 302.2 not defined.

• Control Officer discretion in paragraphs 302.3 and 302.5.

On July 11, 2000, EPA also proposed a limited approval of the following rule that was submitted for incorporation into the Arizona SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
MCESD	312	Abrasive Blasting	07/13/88	01/04/90

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA requirements. The approval is limited, because some rule provisions conflict with section 110 of the Act, but there is no disapproval. These provisions include the following:

• Control Officer discretion in paragraphs 302.4.

On July 11, 2000, EPA also proposed a full approval of the following rule that was submitted for incorporation into the Arizona SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
MCESD	316	Nonmetallic Mineral Mining and Processing	04/21/99	08/04/99

The rule meets all of the requirements of the Act.

Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we did not receive any comments.

III. EPA Action

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a limited approval of Rule 314. This action incorporates the submitted rule into the Arizona SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rule. As a result, sanctions will be imposed unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months of the effective date of this action. These sanctions will be imposed under section 179 of the Act as described in 59 FR 39832 (August 4, 1994). In addition, EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months. Note that the submitted rule has been adopted by the MCESD, and EPA's final limited disapproval does not prevent the local agency from enforcing it.

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a limited approval of Rule 312. This action incorporates the submitted rule into the Arizona SIP, including those provisions identified as deficient. Sanctions and FIP requirements are not triggered by this action.

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a full approval of Rule 316.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13045

Executive Order 13045, entitled 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 E.O. 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 E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. 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 affects 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. If the mandate is unfunded, EPA must provide to OMB, 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, E.O. 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.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. E.O. 13132 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 E.O. 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.

This 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 E.O. 13132, because it merely acts on 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

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 act on 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.

EPA's disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, 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 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 costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action acts on 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. 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.

EPA believes that VCS are inapplicable to today's action because it does not require the public to perform activities conducive to the use of VCS.

H. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

I. 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 March 5, 2001. 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: October 4, 2000.

Felicia Marcus,

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 F—California

2. Section 52.120 is amended by adding paragraphs (c)(67)(i)(D) and (c)(94)(i)(D) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(67) * * *

(i) * * *

(D) Rules 312 and 314, adopted on July 13, 1998.

* * * * *

(94) * * *

(i) * * *

(D) Rule 316, adopted on April 21, 1999.

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[FR Doc. 01–117 Filed 1–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6925–1]

Indiana: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is granting Indiana final authorization of revisions to their hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Agency published a proposed rule on July 26, 2000 at 65 FR 45955 and provided for public comment. The public comment period ended on August 25, 2000. We received one comment, addressed below. No further opportunity for comment will be provided. EPA has determined that Indiana's revisions satisfy all the requirements needed to qualify for final authorization, and is authorizing the State's changes through this final action.

DATES: This final authorization will become effective on January 4, 2001.

ADDRESSES: You can view and copy Indiana's application from 9 am to 4 pm at the following addresses: Indiana Department of Environmental Management, 100 North Senate, Indianapolis, Indiana, (mailing address P.O. Box 6015, Indianapolis, Indiana 46206) contact Lynn West (317) 232–3593, and EPA Region 5, contact Gary Westefer at the following address.

FOR FURTHER INFORMATION CONTACT: Gary Westefer, Indiana Regulatory Specialist, U.S. EPA Region 5, DM–7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–7450.

SUPPLEMENTARY INFORMATION: On July 26, 2000, U.S. EPA published an immediate final rule granting Indiana authorization for changes to its Resource Conservation and Recovery Act program, listed in section E of that notice, which was subject to public comment. Subsequently we received one adverse comment, and therefore published a withdrawal of the immediate final rule on October 23, 2000. After reviewing the adverse comment, we hereby determine that Indiana's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization.

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Indiana's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Indiana Final authorization to operate its hazardous waste program with the changes described in the authorization application. Indiana has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before EPA authorizes the State for these requirements. Thus, EPA will implement those requirements and prohibitions in Indiana, including issuing permits, until EPA authorizes the State for these requirements and prohibitions.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Indiana subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent federal requirements. Indiana has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Conduct inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements and suspend or revoke permits;
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations EPA is authorizing by today's action are already effective, and are not changed by today's action.

D. Proposed Rule

On July 26, 2000 (65 FR 45955) EPA published a proposed rule. In that rule we proposed granting authorization of changes to Indiana's hazardous waste program and opened our decision to public comment. The Agency received one comment that stated that granting additional regulatory powers to the State of Indiana could not be supported. The comment criticized Indiana's handling of Clean Water Act and Clean Air Act matters, however. It did not cite any specific RCRA issues, or establish a basis for withholding authorization of a RCRA revision. U.S. EPA annually reviews the RCRA program at which