

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 October 25, 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 6, 2002.

**Wayne Nastri,**

*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 52.222 is amended by adding paragraph (a)(3)(ii) to read as follows:

**§ 52.222 Negative declarations.**

(a) \* \* \*

(3) \* \* \*

(ii) Synthetic Organic Chemical Manufacturing Industry (SOCMI) Batch

Processing, SOCMI Reactors, and SOCMI Distillation; and Wood Furniture Manufacturing Operations were submitted on April 9, 2002 and adopted on February 21, 2002.

\* \* \* \* \*

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**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[AZ 100-0056a; FRL-7266-3]

**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 revisions to the Maricopa County Environmental Services Department (MCESD) portion of the Arizona State Implementation Plan (SIP). These revisions concern negative declarations for volatile organic compound (VOC) source categories regulated by the MCESD. We are approving these negative declarations under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on October 25, 2002 without further notice, unless EPA receives adverse comments by September 25, 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 94105-3901.

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

- Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, Arizona 85012.
- Maricopa County Environmental Services Department, 1001 North Central, No. 595, Phoenix, Arizona 85004.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Rose, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 947-4126. e-mail: [Rose.julie@EPA.gov](mailto:Rose.julie@EPA.gov).

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

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**I. The State's Submittal**

*A. What Negative Declarations Did the State Submit?*

Table 1 lists the negative declarations we are approving with the dates that they were adopted by the Maricopa County Environmental Services Department (MCESD) and submitted by the Arizona Department of Environmental Quality (ADEQ).

TABLE 1.—SUBMITTED NEGATIVE DECLARATIONS

| Local agency | Title   | Adopted  | Submitted |
|--------------|---|----------|-----------|
| MCESD .....  | Refinery Sources .....<br>Automobile and Light Duty Trucks.<br>Magnet Wire.<br>Flatwood Paneling.<br>Synthesized Pharmaceutical Products.<br>Rubber Tire Manufacturing.<br>Polymer Manufacturing.<br>SOCMI.<br>Batch Processes.<br>Industrial Wastewater.<br>Ship Building Repair.<br>SOCMI Reactor/Distillation. | 04-26-00 | 12-14-00  |

On September 3, 2000, this submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

*B. What Is the Purpose of the Submitted Negative Declarations?*

The negative declarations were submitted to meet the requirements of CAA section 182(a)(2)(A). Nonattainment areas are required to adopt volatile organic compound (VOC) regulations for the published Control Technique Guideline (CTG) categories. If a nonattainment area does not have stationary sources for which EPA has published a CTG, then the area is required to submit a negative declaration. The negative declarations were submitted because there are no applicable sources within the MCESD jurisdiction.

**II. EPA's Evaluation and Action**

*A. How Is EPA Evaluating the Negative Declarations?*

The negative declarations are submitted as SIP revisions and must be consistent with Clean Air Act requirements for Reasonable Available

Control Technology (RACT) (see section 182(a)(2)(A)) and SIP relaxations (see sections 110(1) and 193.) To do so, the submittal should provide reasonable assurance that no sources subject to the CTG requirements currently exist or are planned for the MCESD.

*B. Do the Negative Declarations Meet the Evaluation Criteria?*

We believe these negative declarations are consistent with the relevant policy and guidance regarding RACT 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 Act, EPA is fully approving the submitted negative declarations as additional information to the SIP because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of these negative declarations. If we receive adverse comments by September 25, 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 25, 2002.

**III. Background Information**

*Why Were These Negative Declarations Submitted?*

These negative declarations were submitted to fulfill the requirements of CAA section 182(a)(2)(A). Section 182 requires that ozone nonattainment areas adopt VOC regulations found in the Control Techniques Guideline Series for all major sources in their geographic area. Maricopa County is a nonattainment area for ozone and thus is required to adopt regulations for all major sources of VOCs. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency negative declarations.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

| Date                    | Event   |
|-------------------------|---|
| March 3, 1978 .....     | EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.  |
| May 26, 1988 .....      | EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act. |
| November 15, 1990 ..... | Clean Air Act Amendments of 1990 were enacted. Pub. L. 101- 549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q.  |
| May 15, 1991 .....      | Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.   |

**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 (Public Law 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 action responding to a Federal requirement, 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 is not economically significant.

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. 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 October 25, 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 6, 2002.

**Keith A. 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. Subpart D is amended by adding § 52.122 to read as follows:

##### § 52.122 Negative declarations.

(a) The following air pollution control districts submitted negative declarations for volatile organic compound source categories to satisfy the requirements of section 182 of the Clean Air Act, as amended. The following negative declarations are approved as additional information to the State Implementation Plan.

(1) Maricopa County Environmental Services Department.

(i) Refinery Sources (Refinery Process Turnarounds), Automobile and Light Duty Trucks, Magnet Wire, Flatwood Paneling, Pharmaceuticals and Cosmetic Manufacturing Operations, Rubber Tire Manufacturing, Polymer Manufacturing, Industrial Wastewater, Ship Building and Repair, Synthetic Organic Chemical Manufacturing Industry (SOCMI) Batch Processing, SOCMI Reactors, and SOCMI Distillation were adopted on April 26, 2000 and submitted on December 14, 2000.

(b) [Reserved]

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**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 80

[AMS-FRL-7265-4]

RIN 2060-AJ71

#### Control of Air Pollution From New Motor Vehicles; Second Amendment to the Tier 2/Gasoline Sulfur Regulations; Partial Withdrawal of Direct Final Rule

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

**ACTION:** Partial withdrawal of direct final rule.

**SUMMARY:** Due to receipt of adverse comments, EPA is withdrawing certain amendments that were included in the direct final rule published on June 12, 2002 (67 FR 40169), related to the Tier 2/Gasoline Sulfur program. The only provisions being withdrawn are the changes to the section concerning the generation of credits beginning in 2004. Because these provisions are being withdrawn, the existing provisions

regarding this matter remain in effect. We will address the adverse comments in a subsequent final action based on the parallel proposal published on June 12, 2002 (67 FR 40256).

**DATES:** The following provisions of the direct final rule published at 67 FR 40169 (June 12, 2002) are withdrawn as of August 26, 2002:

1. The revision to 40 CFR 80.310(a),
2. The amendment of 40 CFR 80.310(b), and
3. The addition of 40 CFR 80.310(d).

**ADDRESSES:** All comments and materials relevant to today's action are contained in Public Docket No. A-97-10 at the following address: EPA Docket Center (EPA/DC), Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC. Dockets may be inspected from 8:30 a.m. to 4:30 p.m., Monday through Friday, except on government holidays. You can reach the Air Docket by telephone at (202) 566-1742 and by facsimile at (202) 566-1741. You may be charged a reasonable fee for photocopying docket materials, as provided in 40 CFR part 2.

**FOR FURTHER INFORMATION CONTACT:** Mary Manners, U.S. EPA, National Vehicle and Fuels Emission Laboratory, Assessment and Standards Division, 2000 Traverwood, Ann Arbor, MI 48105; telephone (734) 214-4873, fax (734) 214-4051, e-mail: [manners.mary@epa.gov](mailto:manners.mary@epa.gov).

**SUPPLEMENTARY INFORMATION:** We stated in the direct final rule published at 67 FR 40169 (June 12, 2002) that if we received adverse comment on one or more distinct amendments, paragraphs, or sections of the rulemaking by July 12, 2002, we would publish a timely withdrawal in the **Federal Register** indicating which provisions would become effective on September 10, 2002, and which provisions would be withdrawn due to adverse comment. We received adverse comments on the amendments to 40 CFR 80.310.

The direct final rule eliminated the anti-backsliding provision under the Geographic Phase-in Area (GPA) program for GPA gasoline. Specifically, we replaced the variable average standard for GPA gasoline<sup>1</sup> with a flat average standard of 150 ppm sulfur for 2004 through 2006. In addition, to

<sup>1</sup> The anti-backsliding requirement defined the average standard for GPA gasoline as the least of (1) 150 ppm, (2) the refinery's or importer's 1997/1998 average gasoline sulfur level, calculated in accordance with § 80.295, plus 30 ppm, or (3) the lowest average sulfur content for any year in which the refinery generated allotments or credits under § 80.275(a) or § 80.305 plus 30 ppm, not to exceed 150 ppm.