which the OT agreement becomes effective. Costs that were incurred for a prototype project by the business units of an awardee or subawardee after the beginning of negotiations, but prior to the date the OT agreement becomes effective, may be counted as non-Federal amounts if and to the extent that the Agreements Officer determines in writing that:

(1) The awardee or subawardee incurred the costs in anticipation of entering into the OT agreement; and

(2) It was appropriate for the awardee or subawardee to incur the costs before the OT agreement became effective in order to ensure the successful implementation of the OT agreement.

(b) As a matter of policy, these limitations on cost-sharing apply any time cost-sharing may be recognized when using OT authority for prototype projects.

8. Newly redesignated § 3.7 is amended by revising the section heading to read as follows:

§ 3.7 Comptroller General access.

* * * * *

Dated: August 14, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–21267 Filed 8–26–02; 8:45 am]

BILLING CODE 5001–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 111–0050a; FRL–7261–7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

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

DATES: This rule is effective on October 28, 2002, without further notice, unless EPA receives adverse comments by September 26, 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 Gerardo Rios, Permits Office Chief (AIR–3), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

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

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

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

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

A courtesy copy of the rule may be available via the Internet at *http://www.maricopa.gov/envsvc/air/ruledesc.asp.* However, this version of the rule may be different than the version submitted to EPA for approval. Readers are cautioned to verify that the adoption date of the rule listed is the same as the rule submitted to EPA for approval. The official submittal is only available at the agency addresses listed above.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

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

Table of Contents

I. The State's Submittal

A. What Rule Did the State Submit?

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

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Revised	Submitted
MCESD	140	Excess Emissions	09/05/01	02/22/02

On April 12, 2002 this rule submittal was found to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are There Other Versions of This Rule?

There is no previous version of Rule 140 in the SIP.

C. What Is the Purpose of the Submitted Rule?

The purpose of Rule 140 is to provide an owner and/or operator of a source who has been charged with a violation for excess emissions with an affirmative defense to a civil or administrative enforcement penalty. To qualify for the limited affirmative defense to a penalty action, the source must demonstrate compliance with listed criteria and reporting requirements set forth in Rule 140. Moreover, the affirmative defense does not apply to a SIP provision required by federally promulgated performance standards or emission limits, such as new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAPS). The defense also does not apply to violations in areas where a single source has the potential to cause an exceedence of the National Ambient Air Quality Standards (NAAQS) or

Prevention of Significant Deterioration (PSD) increments. The TSD has more information about this rule.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rule?

This rule contains administrative provisions and standards that apply to emission controls found in other local agency requirements. In combination with those other requirements, this rule must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). EPA policy that we used to define specific enforceability requirements includes:

- *State Implementation Plans: Policy Regarding Excess Emissions during Malfunctions, Startup, and Shutdown,* EPA Memorandum from Steven Herman and Robert Perciasepe to Regional Administrators, Regions I–X (September 20, 1999).
- *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D,* November 24, 1987 **Federal Register** Notice, (Blue Book), notice of availability published in the May 25, 1988 **Federal Register.**

B. Does the Rule Meet the Evaluation Criteria?

Rule 140 excludes injunctive relief, federally promulgated emission standards or limitations, and violations in areas with single sources have the potential to exceed the NAAQS from the rule's affirmative defense to enforcement penalties. Rule 140 excludes any violation of standards and limitations included in a permit to meet requirements for pollutant significance levels in adjacent nonattainment areas where primary or secondary ambient air quality standards are being violated. These exclusions assure that Rule 140 will not interfere with the NAAQS and PSD increments, as required by sections 110(a) and (l) of the CAA.

We believe Rule 140 is consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and EPA's policy regarding excess emissions. 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 September 26, 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 28, 2002. This will incorporate this rule into the federally enforceable SIP.

III. Background Information

A. Why Was This Rule Submitted?

Section 110(a) of the CAA requires states to submit regulations that control volatile organic compounds, oxides of nitrogen, particulate matter, and other air pollutants which harm human health and the environment. This rule was developed as part of the local agency's program to control these pollutants.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 28, 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. Section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 25, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(106) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(106) Amended rule for the following agency was submitted on February 22, 2002, by the governor's designee.

(i) Incorporation by reference.

(A) Maricopa County Environmental Services Department.

(*1*) Rule 140, revised on September 5, 2001.

* * * * *

[FR Doc. 02–21663 Filed 8–26–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 160–1160a; FRL–7267–6]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the state of Missouri. This revision to the state's construction permits rule exempts incinerators used for the on-site noncommercial incineration of dead animals from the construction permit requirements. We are approving this revision to ensure consistency between the state and Federally-approved rules, and to ensure Federal enforceability of the state's revised rule.

DATES: This direct final rule will be effective October 28, 2002, unless EPA receives adverse comments by September 26, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

On May 30, 2002, we received a request from the Missouri Department of Natural Resources (MDNR) to amend the Missouri SIP. This request pertained to rule 10 C.S.R. 10–6.060, Construction Permits Required. This rule defines sources which are required to obtain permits to construct and establishes requirements to be met prior to