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 November 26, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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: August 24, 2012.

Alexis Strauss,

Acting Regional Administrator, EPA 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)(150) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(150) The following plan was submitted on August 24, 2012, by the Governor's designee.

(i) [Reserved]

(ii) Additional material.

(A) Arizona Department of Environmental Quality.

(*1*) ''Final 2012 State Implementation Plan Nogales PM_{10} Nonattainment Area,'' dated August 24, 2012, including Appendices A–K, adopted on August 24, 2012.

* * * * *

[FR Doc. 2012–23118 Filed 9–24–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2007–1034; FRL–9732–1]

Disapproval and Promulgation of Air Quality Implementation Plans; State of Utah; Revisions To Open Burning Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is disapproving a State Implementation Plan (SIP) revision submitted by the State of Utah on December 10, 1999. This revision to R307–202 Emission Standards: General Burning authorizes the State to extend the time period for open burning. EPA is disapproving the submitted revision because it does not meet the requirements of section 110(l) of the Clean Air Act (CAA). This action is being taken under section 110 of the CAA.

DATES: This final rule is effective October 25, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2007–1034. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Program, U.S. Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Crystal Freeman, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129, (303) 312–6602, *freeman.crystal@epa.gov.*

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The initials *AQS* mean or refer to Air Quality System.

(ii) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(iii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iv) The initials *NAAQS* mean or refer to the National Ambient Air Quality Standards.

(v) The initials *SIP* mean or refer to State Implementation Plan.

(vi) The words *Utah* or *State* mean the State of Utah.

Table of Contents

I. Background

On December 10, 1999, the State of Utah submitted a SIP revision to Rule R307–202 Emission Standards: General Burning. This rule contains the following provisions: definitions and exclusions, community waste disposal, general prohibitions, permissible burning—without permit, permissible burning with permit, and special conditions.

The proposed revision is found within the 'permissible burning with permit' in section R307–202–5(3)(e)(i). The revision extends the time period during which open burning could be authorized. The current burning period in the rule is from March 30 to May 30, the revision would extend the beginning of the burning period to March 1. This would allow an additional 30 days to the open burning period. The revision to the rule is based on a request from the Washington County Mayors Association to change the beginning date to accommodate areas of the State that were dry enough to burn earlier in the year.

In our analysis of ambient air quality monitoring data, as described in our June 19, 2012 (77 FR 36443) proposed rule, EPA found that the relaxation of the open burning rule could contribute to further degradation of air quality within the State of Utah. Specifically, the analysis demonstrates that further degradation of air quality could occur in Utah's $PM_{2.5}$ nonattainment areas where

violations of the $PM_{2.5}$ standard have been recorded during periods covered by the State's proposed extension of the open burning period. In the absence of a section 110(l) analysis or demonstration by the State of Utah showing that extending the burning period would not cause a $PM_{2.5}$ violation, EPA cannot determine that this revision would not interfere with attainment and maintenance of the NAAQS.

II. Response to Comments

EPA did not receive comments on our June 19, 2012 **Federal Register** proposed action regarding the disapproval of Utah's SIP revision to their R307–202 Emission Standards: General Burning rule.

III. Section 110(l) of the CAA

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress toward attainment of the National Ambient Air Quality Standards (NAAQS) or any other applicable requirements of the Act. The revision to Utah's R307–202 Emission Standards: General Burning could relax the existing SIP requirements by extending the open burn window. Because the State has not analyzed the effect of the extension of the open burn window, EPA cannot conclude that the revision would or would not interfere with attainment and maintenance of the NAAQS. As a result, EPA is disapproving the proposed revision pursuant to section 110(l).

IV. Final Action

EPA is disapproving the SIP revision to R307–202 Emission Standards: General Burning submitted by the State on December 10, 1999. Without a section 110(l) analysis or demonstration, EPA finds that the revision relaxes the control on open burning and could potentially interfere with the attainment and maintenance of the NAAQS.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve or disapprove state choices, depending on whether they meet the criteria of the Clean Air Act. With this final action EPA is merely disapproving a state law as not meeting Federal requirements, and is not imposing additional requirements beyond those imposed by state law.

A. Executive Order 12866: Regulatory Planning and Review

Because this disapproval only applies to a date change for Utah's General Burning window, the action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). The disapproval only applies to a date change for Utah's General Burning window.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

EPA's final rule consists of a disapproval of Utah's General Burning rule submission. The revision would extend the General Burning window an extra month, which requires a CAA section 110(l) analysis to show no relaxation of the rule. Since Utah did not submit a section 110(l) analysis for this revision EPA is disapproving the submittal. The disapproval of the SIP, merely disapproves the state law as not meeting federal requirements and does not imposes any additional requirements.

D. Unfunded Mandates Reform Act (UMRA)

This action 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).

Under Title II of UMRA, EPA has determined that this final rule does not contain a federal mandate that may result in expenditures that exceed the inflation-adjusted UMRA threshold of $100 million by State, local, or Tribal governments or the private sector in any one year. In addition, this final rule does not contain a significant federal intergovernmental mandate as described by section 203 of UMRA nor does it contain any regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

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

This rule will not have substantial direct effects on the State, on the relationship between the national government and the State, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely addresses the State not fully meeting its obligation under section 110(l) of the CAA. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13045: *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 Executive Order 12866; and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. EPA interprets EO 13045 as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it implements specific standards established by Congress in statutes. However, to the extent this final rule is disapproving a possible relaxation to Utah's General Burning rule, it will have a beneficial effect on children's health by not allowing additional air pollution.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involved technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994), establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

We have determined that this final rule will not have a disproportionately high and adverse human health or environmental effects on minority or low-income populations because it disapproves a possible relaxation of Utah's rule where increases in emissions are possible.

In addition, this final action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP being disapproved would not apply in Indian country located in the state, and it would not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 November 26, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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) of the CAA.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: September 10, 2012.

James B. Martin,

Regional Administrator, Region 8.

[FR Doc. 2012–23516 Filed 9–24–12; 8:45 am]

BILLING CODE 6560–50–P