

State law that will provide the necessary assurances that it (or the districts) can fully implement the required NSR and PSD programs for all major sources, including agricultural sources, within the State. If EPA determines that the State has failed to amend State law by November 23, 2003, or if EPA subsequently finds the correction does not adequately provide such assurances, EPA will make a finding under section 179 of the Act that will start a sanctions clock as specified under 40 CFR 52.31.² There are two types of sanctions: highway funding sanctions (section 179(b)(1)) and offset sanctions (section 179(b)(2)). Pursuant to our regulations at 40 CFR 52.31, offset sanctions will apply 18 months following a finding by EPA under section 179(a); highway funding sanctions would apply six months later. However, we expect that the State will make the necessary corrections to avoid sanctions.

II. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

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

B. Paperwork Reduction Act

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.*)

C. 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.

Today's SIP call does not establish requirements applicable to small entities. Instead, it requires the State of California to develop, adopt, and submit SIP revisions that would provide the necessary assurances that the applicable NSR and PSD programs do not exempt major agricultural sources.

² EPA is using its authority in section 110(k)(5) to set a deadline for a corrective submittal that is less than 18 months. We believe the November 23, 2003, deadline for beginning the 18 month sanctions clock is reasonable because action by this date is otherwise required to address the title V problems noted above.

This rule will not have a significant impact on a substantial number of small entities because the rule does not establish requirements applicable to small entities. Therefore, the Administrator certifies that this action will not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), 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 the 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 this final action 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 action will require the State of California to revise laws and regulations governing exemptions for agricultural sources. This requirement, even if considered a Federal mandate,³ would not result in aggregate costs over \$100 million to either the state or local districts. In addition, this final action will not significantly or uniquely impact 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

³ It is unclear whether a requirement to submit a SIP revision would constitute a federal mandate. The obligation for a state to revise its SIP that arises out of sections 110(a) and 110(k)(5) of the CAA is not legally enforceable by a court of law, and at most is a condition for continued receipt of highway funds. Therefore, it is possible to view an action requiring such a submittal as not creating any enforceable duty within the meaning of section 421(5)(9a)(I) of UMRA (2 U.S.C. 658 (a)(I)). Even if it did, the duty could be viewed as falling within the exception for a condition of Federal assistance under section 421(5)(a)(i)(I) of UMRA (2 U.S.C. 658(5)(a)(i)(I)).

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 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, because it does not impose a new enforceable duty on the State, 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.

F. Executive Order 13175, 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, 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. Thus, Executive Order 13175 does not apply to this rule.