



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2017-0661; FRL-9976-18-Region 9]

Air Plan Approval; Arizona; Hayden and Miami Areas; Lead and Sulfur Dioxide Control

Measures—Copper Smelters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Arizona State Implementation Plan (SIP). These revisions concern emissions of lead and sulfur dioxide (SO₂) from the copper smelter at Hayden, AZ and SO₂ from the copper smelter at Miami, AZ. We are proposing to approve State rules to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by [insert date 30 days after the date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2017-0661 at <http://www.regulations.gov>, or via email to Kevin Gong, at Gong.Kevin@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information

(CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Kevin Gong, EPA Region IX, (415) 972 3073, *Gong.Kevin@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State's SubmittalA. *What rules did the State submit?*

Table 1 lists the Arizona Administrative Code rules and regulatory appendix addressed by this proposal with their effective dates and the dates they were submitted by the Arizona Department of Environmental Quality (ADEQ).¹

TABLE 1 - SUBMITTED RULES

Rule Citation	Rule Title	Effective	Submitted
R18-2-B1301	Limits on Lead Emissions from the Hayden Smelter	7/1/2018 or 180 calendar days after completion of all Converter Retrofit Project improvements authorized by Significant Permit Revision No. 60647	4/6/2017
R18-2-C1302	Limits on SO ₂ Emissions from the Miami Smelter	On the later of the effective date of the EPA Administrator's action approving it as part of the state implementation plan or January 1, 2018	4/6/2017
Appendix 14	Procedures for Sulfur	5/7/2017	4/6/2017

¹ In addition to the rules addressed in this proposal, ADEQ's April 6, 2017 submittal also included R18-2-B1301.01 - Limits on Lead-Bearing Fugitive Dust from the Hayden Smelter; R18-2-B1302 - Limits on SO₂ Emissions from the Hayden Smelter; R18-2-715 - Standards of Performance for Existing Primary Copper Smelters: Site-Specific Requirements; and R18-2-715.01 - Standards of Performance for Existing Primary Copper Smelters; Compliance and Monitoring. The EPA has already approved R18-2-B1301.01 into the SIP, 83 FR 7614 (February 22, 2018) and intends to take action on the remaining rules in a separate rulemaking.

Rule Citation	Rule Title	Effective	Submitted
	Dioxide and Lead Fugitive Emissions Studies for the Hayden Smelter		
R18-2-715.02	Standards of Performance for Existing Primary Copper Smelters; Fugitive Emissions	5/7/2017	4/6/2017

On July 17, 2017, the EPA determined that the submittal for the rules and documents in Table 1 met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

There are no previous versions of Rules R18-2-B1301, R18-2-C1302 or Appendix 14 in the SIP. We approved an earlier version of Rule R18-2-715.02 into the SIP on November 1, 2004 (69 FR 63321).

C. What is the purpose of the submitted rules and rule revisions?

On November 12, 2008, the EPA published a final rule revising the lead National Ambient Air Quality Standards (NAAQS). On June 22, 2010, the EPA promulgated a new 1-hour primary sulfur dioxide (SO₂) NAAQS. CAA section 172(c)(1) requires SIPs for nonattainment areas to provide for implementation of all reasonably available control measures (RACM), including reasonably available control technology (RACT), and provide for attainment of the NAAQS. The EPA designated the Hayden area as nonattainment for lead in 2014 (79 FR 52205) and designated the Hayden and Miami areas as nonattainment for SO₂ in 2013 (78 FR 47191). Rule R18-2-B1301 establishes control requirements for lead emissions from the copper

smelter located in the Hayden, AZ nonattainment area (“Hayden Smelter”). Rule R18-2-C1302 establishes control requirements for SO₂ emissions from the copper smelter located in the Miami, AZ nonattainment area (“Miami Smelter”). Appendix 14 requires the evaluation and characterization of fugitive lead and SO₂ emissions from the Hayden Smelter. Rule R18-2-715.02 contains the existing requirements for fugitive SO₂ emissions studies at both smelters. These requirements will sunset after: (1) the revisions to Rule R18-2-715.02 are approved into the SIP, and (2) Rule B1302 (for the Hayden Smelter) and Rule R18-2-C1302 (for the Miami Smelter) take effect. The EPA’s technical support documents (TSDs) have more information about these rules.

II. The EPA’s Evaluation and Action

A. How is the EPA evaluating the rules?

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193). The EPA will address the overall RACM/RACT requirement for the Hayden lead nonattainment area in the context of our action on ADEQ’s lead plan (“SIP Revision: Hayden Lead Nonattainment Area,” submitted by ADEQ to the EPA on March 3, 2017), and we will address the RACM/RACT requirement for the Miami SO₂ nonattainment area in the context of our action on ADEQ’s SO₂ plan (“Arizona SIP Revision: Miami Sulfur Dioxide Nonattainment Area for the 2010 SO₂ NAAQS,” submitted by ADEQ to the EPA on March 8, 2017). Therefore, our stringency evaluations here consider whether Rules R18-2-B1301 and R18-2-C1302

implement reasonable controls for the two subject criteria pollutants at the Hayden and Miami smelters.²

Guidance and policy documents that we use to evaluate enforceability, rule stringency, and SIP revision requirements for the applicable criteria pollutants include the following:

1. “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
2. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9 (the Little Bluebook, August 21, 2001).
3. “Implementation of the 2008 Lead National Ambient Air Quality Standards: Guide to Developing Reasonably Available Control Measures (RACM) for Controlling Lead Emissions,” EPA Office of Air Quality Planning and Standards (March 2012).
4. “Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions,” EPA Office of Air Quality Planning and Standards (April 23, 2014).
5. National Emission Standard for Hazardous Air Pollutants for Primary Copper Smelting (40 CFR part 63, subpart QQQ).
6. National Emission Standard for Hazardous Air Pollutants for Secondary Lead Smelting (40 CFR part 63, subpart X).

B. Do the rules meet the evaluation criteria?

² Appendix 14 does not establish control requirements, so it is not subject to a stringency evaluation. Appendix 14 is still subject to enforceability and SIP consistency evaluations, which we describe in our TSD. The revisions to sunset the existing requirements of Rule R18-2-715.02, are evaluated in context with Appendix 14. See the TSD evaluating Appendix 14 for more information on Rule R18-2-715.02. Rule R18-2-B1302 regulates SO₂ emissions at the Hayden Smelter, and will be evaluated in a separate rulemaking. The revisions to sunset the existing requirements of Rules R18-2-715 and R18-2-715.01 in relation to the Hayden Smelter will be evaluated in context with R18-2-B1302.

These rules are consistent with CAA requirements and relevant guidance regarding enforceability, rule stringency, and SIP revisions. The TSDs have more information on our evaluation.

C. EPA recommendations to further improve the rules

The TSDs describe additional rule revisions that we recommend for the next time the State modifies the rules.

D. Public comment and proposed action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rules because they fulfill all relevant requirements. We will accept comments from the public on this proposal until **[insert date 30 days after the date of publication in the Federal Register]**. If we take final action to approve the submitted rules, our final action will incorporate these rules into the federally enforceable SIP.

III. Incorporation by Reference

In this rule the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the ADEQ rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the CAA, 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, the EPA's role is to approve state choices, provided that they meet the criteria of the Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: March 19, 2018.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

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