



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2019-0497; FRL-10002-13-Region 9]

Air Plan Approval; Arizona; Maricopa County Air Quality Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Maricopa County Air Quality Department (MCAQD) portion of the Arizona State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs) and particulate matter (PM) from brick and structural clay products manufacturing, rubber sports ball manufacturing, and vegetable oil extraction processes. We are approving the rescission of local rules that regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: These rule rescissions will be effective on **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2019-0497. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available

through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Robert Schwartz, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3286 or by email at schwartz.robert@epa.gov.

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

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I. Proposed Action

On September 9, 2019 (84 FR 47211), the EPA proposed to approve the rescission of the following rules from the Arizona SIP.

Local Agency	Rule #	Rule Title	Adopted/ Revised	Rescission submitted
MCAQD	325	Brick and Structural Clay Products (BSCP) Manufacturing	08/10/2005	12/18/2017
MCAQD	334	Rubber Sports Ball Manufacturing	06/19/1996	12/18/2017
MCAQD	339	Vegetable Oil Extraction Processes	11/16/1992	12/18/2017

We proposed to approve the rescission of these rules because we determined that the SIP revisions, i.e., rule rescissions, comply with the relevant CAA requirements, including CAA sections 110(l) and 193. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received one anonymous comment.

Comment: The EPA should not approve this submission until Maricopa County and Arizona move to strike the aforementioned regulations from each applicable approved plan. These plans were approved with these regulations incorporated in them and now must be updated to account for the fact that these regulations no longer exist. The EPA should require Maricopa County and Arizona to submit new plans to replace the old approved plans so the EPA can ensure the county and state's plans still meet the necessary requirements just as the old plans did previously. The EPA must require that the plans be updated to the most recent regulations.

The EPA's Response: The SIP revision that is the subject of our September 9, 2019 proposed rule rescinds three MCAQD rules from the Arizona SIP. As noted in our September 9, 2019 proposed rule, MCAQD rescinded these three rules from the local rulebook on December 13, 2017, and ADEQ adopted the rule rescissions as a revision to the Maricopa County portion of the Arizona SIP on December 18, 2017. 84 FR 47211/column 3. The three rules are being rescinded, and not replaced, because the rules no longer apply to any sources. The sources for which the rules were originally developed and adopted have closed, and no new sources of the types covered by the rules are expected to establish operations in Maricopa County. As such, we

find that no replacement of the rules is necessary to avoid interference with attainment or maintenance of any of the national ambient air quality standards in Maricopa County or any other requirement of the CAA.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving these rule rescissions from the Arizona SIP.

IV. Incorporation by Reference

In this document, as described in the amendments to 40 CFR part 52 set forth below, the EPA is removing provisions of the EPA Approved Maricopa County rules from the Arizona State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

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, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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 Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable 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).

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. The 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 **[insert date 60 days after date of publication in the Federal Register]**. 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, Ozone, Particulate matter, Reporting and recordkeeping
requirements, Volatile organic compounds.

Dated: November 4, 2019.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

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

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart D – [Amended]

2. Section 52.120 is amended in paragraph (c), Table 4, by removing the entries for “Rule 325,” “Rule 334” and “Rule 339”.

[FR Doc. 2019-25058 Filed: 11/21/2019 8:45 am; Publication Date: 11/22/2019]