



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2019-0423; FRL-10004-66-Region 9]

Air Plan Conditional Approval; Arizona; Maricopa County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to conditionally approve revisions to the Maricopa County Air Quality Department (MCAQD or the “County”) portion of the Arizona State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs) from surface coating operations. We are proposing to conditionally approve a local rule to regulate these emission sources under the Clean Air Act (CAA or the “Act”) and to conditionally approve the County’s demonstration regarding Reasonably Available Control Technology requirements for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) in the Phoenix-Mesa ozone nonattainment area, with respect to surface coating operations. 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-2019-0423 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed

from Regulations.gov. 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

<https://www.epa.gov/dockets/commenting-epa-dockets>.

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

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I. The State’s Submittal

A. *What did the State submit?*

Table 1 lists the documents addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the Arizona Department of Environmental Quality (ADEQ or the “State”).

TABLE 1 - SUBMITTED DOCUMENTS

Local Agency	Document	Revised	Submitted
MCAQD	Analysis of Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) State Implementation Plan (RACT SIP)	06/16/2017	06/22/2017
MCAQD	Rule 336: Surface Coating Operations	11/02/2016	06/22/2017

On December 22, 2017, the submittal containing the documents listed in Table 1 was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review. In addition to these SIP submittals, the County and the ADEQ transmitted a commitment letter to EPA^{1,2} to adopt and submit specific enforceable

¹ Letter dated January 28, 2019, from Philip A. McNeely, Director, Maricopa County Air Control Department, to Misael Cabrera, Director, Arizona Department of Environmental Quality.

² Letter dated May 17, 2019, from Misael Cabrera, Director, Arizona Department of Environmental Quality, to Michael Stoker, Region Administrator, EPA, Region IX.

measures within a year of our final action that would remedy the deficiencies identified in this notice and further described in the associated TSD for this action.

B. Are there other versions of these SIP revisions?

We approved an earlier version of Rule 336 listed in Table 1 into the SIP on September 20, 1999 (64 FR 50759). There is no previously approved version of the RACT SIP for the 2008 8-hour ozone standard in the MCAQD portion of the Arizona SIP. The ADEQ previously submitted the documents in Table 1 in a SIP revision on December 19, 2016, along with the County's RACT SIP. However, this submittal did not include documentation that showed the entirety of the County's SIP revision had met the public notice requirements required for completeness under 40 CFR Part 51 Appendix V. The County's June 22, 2017 submittal was provided to address this issue, and the State withdrew the December 19, 2016 submittal on May 17, 2019.

C. What is the purpose of the SIP revisions?

Emissions of VOCs contribute to ground-level ozone, or smog, and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Section 182(b)(2) requires that SIPs for ozone nonattainment areas classified as Moderate or above implement RACT for any source covered by a Control Techniques Guideline (CTG) document and for any major sources of VOCs. The MCAQD is subject to this requirement as it regulates a portion of the Phoenix-Mesa ozone nonattainment area, which is classified as Moderate for the 2008 8-hour ozone NAAQS (40 CFR 81.303). The rule and RACT SIP in Table 1 were submitted to control VOC emissions from CTG

VOC source categories of surface coating operations.

Section III.D of the preamble to the EPA's final rule to implement the 2008 ozone NAAQS (80 FR 12264, March 6, 2015) discusses RACT requirements. It states in part that RACT SIPs must contain adopted RACT regulations; certifications where appropriate that existing provisions are RACT; and/or negative declarations that no sources in the nonattainment area are covered by a specific CTG.³ It also provides that states must submit appropriate supporting information for their RACT submissions as described in the EPA's implementation rule for the 1997 ozone NAAQS. *See Id.* and 70 FR 71612, 71652 (November 29, 2005). The submitted RACT SIP and negative declarations provide MCAQD's analyses of its compliance with the CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS. The EPA's technical support document (TSD) has more information about the submitted rules and RACT SIP.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating these SIP revisions?

Rules in the SIP 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).

Generally, SIP rules must require RACT for each category of sources covered by a CTG document as well as each major source of VOCs in ozone nonattainment areas classified as

³ (80 FR 12278), March 6, 2015.

Moderate or above (see CAA section 182(b)(2)). The MCAQD regulates a portion of the Phoenix-Mesa ozone nonattainment area, which is classified as Moderate for the 2008 8-hr ozone NAAQS. 40 CFR 81.303. Therefore, these rules must implement RACT.

We are also evaluating the County's RACT SIP with respect to the source categories covered by the CTGs listed in numbers four through eleven below. Those CTG sources are regulated by Rule 336. Thus, our evaluation of the approvability of the MCAQD RACT SIP with respect to those CTG VOC source categories is dependent on the approvability of Rule 336. Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "Control of Volatile Organic Emissions from Existing Stationary Sources -Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks," EPA-450/2-77-008, May 1977.
5. "Control of Volatile Organic Emissions from Existing Stationary Sources -Volume III: Surface Coating of Metal Furniture," EPA-450/2-77-032, December 1977.

6. “Control of Volatile Organic Emissions from Existing Stationary Sources -Volume IV: Surface Coating of Large Appliances,” EPA-450/2-77-034, December 1977.
7. “Control of Volatile Organic Emissions from Existing Stationary Sources -Volume VI: Surface Coating of Miscellaneous Metal Parts and Products,” EPA-450/2-78-15, June 1978.
8. “Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings,” EPA-453/R-08-003, September 2008.
9. “Control Techniques Guidelines for Metal Furniture Coatings,” EPA-453/R-07-005 September 2007.
10. “Control Techniques Guidelines for Paper, Film, and Foil Coatings,” EPA-453/R-07-003, September 2007.
11. “Control Techniques Guidelines for Large Appliance Coatings,” (EPA 453/R-07-004, September 2007)

B. Do the SIP revisions meet the evaluation criteria?

Rule 336 applies to sources of VOC emissions from surface coating operations in the Phoenix-Mesa nonattainment area. Rule 336 is as stringent as the applicable CTGs, and has requirements for surface coating operations that are generally consistent with other local air district rules for these source categories and are largely consistent with the applicable CAA requirements. However, as identified below, the rule contains deficiencies that preclude full approval. In a letter dated January 28, 2019 and modified on December 5, 2019 (the “commitment letter”), the County committed to revise those provisions in accordance with EPA guidance, and

submit the revised rule within eleven months of a conditional approval.⁴ On February 25, 2019, the ADEQ provided their own commitment to submit the County's revised rule to the EPA within one month after the County's action and request for SIP revision.⁵ Because the commitments by the County would remedy the identified rule deficiencies, we propose to conditionally approve Rule 336 and the RACT SIP with respect to VOC sources covered by Rule 336. Summaries of the specific rule deficiencies and the County's commitments to address those deficiencies are included in the following sections. The EPA's TSD for Rule 336 provides further details on our evaluation for this conditional approval.

C. What are the rule deficiencies?

The following provisions of Rule 336 do not fully satisfy the requirements of section 110 and part D of title I of the Act and prevents full approval of Rule 336.

1. Section 300, Standards, Table 336-2 contains VOC content limits for the categories of End Sealing Compound: Food or Beverage, End Sealing Compound: Non Food, Sheet Basecoat (Interior and Exterior) and Overvarnish, Two Piece Can Interior Body Spray, Three Piece Can Interior Body Spray, Two Piece Can Exterior Base Coat Overvarnish, and Two Piece Can Exterior End (Spray or Roll Coat), which comply with the 1977 CTG, "EPA-450/2-77-008, Control of Volatile Organic Emissions from Existing Stationary Sources- Volume II: Surface Coating of Cans, Coils, Paper, Fabrics Automobiles and Light Duty Trucks," May 1977, but are generally

⁴ Letter dated January 28, 2019, from Philip A. McNeely, Director, Maricopa County Air Control Department, to Misael Cabrera, Director, Arizona Department of Environmental Quality, and letter dated December 5, 2019, from Philip A. McNeely to Doris Lo, Manager, Rules Office, Air and Radiation Division, U.S. EPA Region IX.

⁵ Letter dated May 17, 2019, from Misael Cabrera, Director, Arizona Department of Environmental Quality, to Michael Stoker, Region Administrator, EPA, Region IX.

significantly higher than the same limits in currently SIP-approved rules such as SCAQMD Rule 1125, Sacramento AQMD Rule 452, BAAQMD Rule 8-11, and SJVUAPCD Rule 4604. Because the lower limits have been achieved in other areas for some time, the limits in Rule 336 do not demonstrate current RACT.

2. Section 103.2 exempts Extreme Performance Coatings from the VOC limits when used on:
 - a) internal combustion engines components that are normally above 250 degrees Fahrenheit during use or
 - b) items that are used at temperatures above 250 degrees Fahrenheit that are included under various NAICS codes for telecommunications equipment and are electronic products in space vehicles and/or are communications equipment.

The 2008 Miscellaneous Metal and Plastic Parts (MMPP), 2007 Metal Furniture, and 2007 Large Appliance CTGs do not exempt Extreme Performance Coatings. In addition, Rule 336, Tables 336-1, 336-3, 336-5 contain the appropriate VOC content limits for this category and are consistent with the CTGs.

3. Section 103.5.e exempts Tactical Military-Equipment coatings that are in a District-approved permit based on a demonstration that no compliant substitute exists. The rule does not define "Tactical Military-Equipment" and the 2008 MMPP CTG does not include this exemption.
4. Rule 336 is missing the VOC limits and categories for "Motor Vehicle Materials" as is found in Table 6 Motor Vehicle Materials VOC Content Limits of the MMPP CTG.

Rule 336 Table 336-4 "Coating Limits for Business Machines" is missing the VOC limits and categories for Automotive/Transportation Coatings as is found in the MMPP CTG Table 4 for "Automotive/Transportation and Business Machine Plastic Parts VOC Content Limits." The missing categories also do not appear in Maricopa Rule 345 Vehicle and Mobile Equipment Coating.

5. Section 300, Standards, Table 336-1 contains VOC limits for the category "Other Metal Parts and Products: Includes Non-Adhesive Coating, Adhesive, Adhesive Primer, Beaded Sealant, and Caulking" which does not comply with the 2008 CTG, "EPA-453/R-08-003, Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings" (MMPP) September 2008. Because the limits for General One Component and General Multi Component Coatings are lower in the CTG, the limits in Rule 336 do not meet the presumptive RACT standard established in the CTG.
6. Section 300, Standards Table 336-3 contains VOC limits for "Flexible Plastic Parts and Products" as well as "Plastic Parts and Products That Are Not Defined as Flexible." These categories are not in the 2008 MMPP CTG and contain higher VOC limits than some of the existing categories in the CTG.

D. *What are the commitments to remedy the deficiencies?*

The County's commitment letter included the following specific and enforceable commitments, outlined below, to address the above deficiencies for Rule 336.

1. The MCAQD commits to lower the VOC limits for the following can coating materials: end sealing compound, sheet basecoat (interior and exterior) and overvarnish, two-piece can interior body spray, three-piece can interior body spray,

two-piece can exterior base coat and overvarnish, and two-piece can exterior end spray or roll coat. The lower emission limits will be consistent with current RACT, based on a comparison of RACT rules in other nonattainment areas.

Proposed VOC Limits for Coating Cans and Coils in grams VOC per liter and pounds VOC per gallon:

Coating Category	g VOC/l	lb VOC/gal
Can Coating		
Can Printing Ink	300	2.5
End Sealing Compound	20	0.2
Sheet Basecoat (Exterior and Interior) and Overvarnish	250	2.1
Three-Piece Can Side-Seam Spray	660	5.5
Two and Three-Piece Can Interior Body Spray	440	3.7
Two-Piece Can Exterior (Basecoat and Overvarnish)	250	2.1
Two-Piece Can Exterior End (Spray or Roll Coat)	250	2.1
Coil Coating		
Strippable Booth Coating (applies to both can and coil coating categories)	240	2.0

2. The MCAQD commits to evaluate the exemption for extreme performance coatings. Following this evaluation, the MCAQD will either remove or constrain the exemption. If a narrower exemption for extreme performance coatings is included in the revised rule, the MCAQD will provide documentation justifying the exemption is RACT.

3. The MCAQD commits to evaluate the exemption for tactical military equipment coatings. Following this evaluation, the MCAQD will either remove the exemption or require EPA approval of non-compliant military specification coatings.
4. The MCAQD commits to evaluate the CTG categories for “Motor Vehicle Materials” and “Automotive/Transportation Coatings.” Following the evaluation of each category, the MCAQD will either submit a negative declaration for the category or incorporate RACT emission limits for the category.
5. The MCAQD commits to remove adhesives and adhesive primers from the "Other Metal Parts and Products" coating category in Table 336-1 (VOC Limits for Miscellaneous Metal Part and Product Coatings). The MCAQD also commits to lower the VOC limit for the "Other Metal Parts and Products" coating category to 340 grams VOC per liter (g/L) for air dried coatings and 280 g/L for baked coatings.
6. The MCAQD commits to remove the following coating categories from Table 336-3 (VOC Limits for Miscellaneous Plastic Part and Product Coatings):
 - Flexible Plastic Parts and Products (Basecoat, Clearcoat, Color Topcoat, and Primer); and
 - Plastic Parts and Products that are not Defined as Flexible.

E. EPA recommendations to further improve the rule

The TSD for Rule 336 describes additional rule revisions that we recommend for the next time the County modifies the rule.

F. Public comment and proposed action

Rule 336 largely fulfills the relevant CAA §110 and part D requirements, but the deficiencies, as discussed in section C, preclude full SIP approval pursuant to 110(k)(3) of the Act. Section 110(k)(4) authorizes the EPA to conditionally approve SIP revisions based on a commitment by the State to adopt specific enforceable measures by a date certain but not later than one year after the date of the plan approval. Because the MCAQD and the ADEQ have committed to provide the EPA with a SIP submission within one year of this final action that will include specific rule revisions that would adequately address the identified deficiencies, we are proposing to conditionally approve Rule 336 pursuant to section 110(k)(4) of the Act. We are also proposing to conditionally approve MCAQD's RACT demonstrations for the 2008 8-hr ozone NAAQS with respect to the VOC source categories covered by Rule 336. If the MCAQD and the ADEQ submit the required rule revisions by the specified deadline, and the EPA approves the submission, then the identified deficiencies will be cured. However, if these proposed conditional approvals are finalized, and MCAQD, through the ADEQ, fails to submit these revisions within the required timeframe, the conditional approval would be treated as a disapproval for those rules for which the revisions are not submitted (and the associated RACT SIP CTG source categories). We will accept comments from the public on this proposal until **[Insert date 30 days after 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 the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the MCAQD rules described in Table 1 of this preamble.

The EPA has made, and will continue to make, these materials available through <https://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

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563:

Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because actions such as SIP approvals are exempted under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA, because this proposed SIP conditional approval, if finalized, will not in-and-of itself create any new information collection burdens, but will simply conditionally approve certain State requirements for inclusion in the SIP.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small

entities. This proposed SIP conditional approval, if finalized, will not in-and-of itself create any new requirements but will simply conditionally approve certain State requirements for inclusion in the SIP.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action proposes to conditionally approve pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It 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.

G. Executive Order 13175: Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP revisions that the EPA is proposing to conditionally approve would not 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, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions

that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because this proposed SIP conditional approval, if finalized, will not in-and-of itself create any new regulations, but will simply conditionally approve certain State requirements for inclusion in the SIP.

I. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority

Populations and Low-Income Population

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

List of Subjects in 40 CFR Part 52

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

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

Dated: January 13, 2020.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

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