



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R09-OAR -2020-0358; FRL-10014-09-Region 9]**

**Air Plan Partial Approval and Partial Disapproval; Arizona; Maricopa County Air Quality Management Department; Reasonably Available Control Technology State Implementation Plan**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to partially approve and partially disapprove a revision to the Maricopa County Air Quality Department (MCAQD or County) portion of the Arizona State Implementation Plan (SIP) concerning the MCAQD's demonstration regarding reasonably available control technology (RACT) requirements and negative declarations for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS or "standards") in the portion of the Phoenix-Mesa ozone nonattainment area under the jurisdiction of the MCAQD. We are proposing action on a SIP revision 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:** Comments must be received on or before [**Insert date 30 days after date of publication in the *Federal Register***].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2020-0358 at <http://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 <http://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Nicole Law, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4126 or by email at [law.nicole@epa.gov](mailto:law.nicole@epa.gov).

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

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**I. The State’s Submittal**

*A. What documents did the State submit?*

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

TABLE 1 - SUBMITTED DOCUMENTS

Local Agency	Document	Adopted	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)	05/24/2017	06/22/2017
MCAQD	Appendix 1A: Negative Declarations	05/24/2017	06/22/2017

On December 22, 2017, the submittal for the MCAQD RACT SIP and Negative Declarations were 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.

*B. Are there other versions of these documents?*

There are no previous versions of the RACT SIP and negative declarations in the

MCAQD portion of the Arizona SIP for the 2008 ozone NAAQS. The ADEQ previously submitted the RACT SIP and negative declarations in a SIP revision on December 19, 2016. However, this submittal did not include documentation that showed that 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 in response to this feedback, and the State withdrew the December 19, 2016 submittal on May 17, 2019.

*C. What is the purpose of the RACT SIP submission?*

Emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>) contribute to the production of ground-level ozone, 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 and NO<sub>x</sub> emissions. Sections 182(b)(2) and (f) require that SIPs for ozone nonattainment areas classified as Moderate or above implement RACT for any source covered by a Control Techniques Guidelines (CTG) document and for any major source of VOCs or NO<sub>x</sub>. The MCAQD is subject to this requirement as it regulates the Maricopa County portion of the Phoenix-Mesa ozone nonattainment area that is currently designated and classified as a Moderate nonattainment area for the 2008 8-hour ozone NAAQS. Therefore, the MCAQD must, at a minimum, adopt RACT-level controls for all sources covered by a CTG document and for all major non-CTG sources of VOCs or NO<sub>x</sub> within the ozone nonattainment area that it regulates. Any stationary source that emits or has the potential to emit at least 100 tons per year (tpy) of VOCs or NO<sub>x</sub> is a major stationary source in a Moderate ozone nonattainment area (CAA section 182(b)(2), (f) and 302(j)).

Section III.D of the preamble to the EPA's final rule to implement the 2008 ozone

NAAQS discusses RACT requirements.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> The submitted RACT SIP ("2016 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 MCAQD's RACT SIP, negative declarations, and the EPA's evaluations thereof.

*D. What portion of the RACT SIP submittal is addressed in this notice?*

Due to its size and complexity, the EPA is acting on the MCAQD 2016 RACT SIP submittal in five separate actions. The other four actions are as follows:

- 1) On August 27, 2019 (84 FR 44701), the EPA approved Rule 342 into the SIP, finding that the rule met current RACT. This rulemaking also approved Rule 337, which had been submitted earlier and was not part of the 2016 RACT SIP submittal. Although we approved Rules 337 and 342, and found that they established RACT level controls, we did not in that action approve the 2016 RACT SIP for the associated CTG source categories. We now propose to do so in today's action.
- 2) On January 28, 2020 (85 FR 4928), the EPA proposed conditional approval of Rule 336 into the SIP, as well as conditional approval of the associated CTG source categories for

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<sup>1</sup> 80 FR 12264, March 6, 2015

<sup>2</sup> Id. at 12278

<sup>3</sup> Id. and 70 FR 71612, 71652 (November 29, 2005)

the County's 2016 RACT SIP: "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), "Control of Volatile Organic Emissions from Existing Stationary Sources- Volume III: Surface Coating of Metal Furniture" (EPA-450/2-77-032), "Control of Volatile Organic Emissions from Existing Stationary Sources- Volume V: Surface Coating of Large Appliances" (EPA-450/2-77-034), "Control of Volatile Organic Emissions from Existing Stationary Sources- Volume VI: Surface Coating of Miscellaneous Metal Parts and Products" (EPA-450/2-78-15), "Control Techniques Guidelines for Metal Furniture Coatings" (EPA-453/R-07-005), "Control Techniques Guidelines for Large Appliance Coatings" (EPA-453/R07-004), "Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings" (EPA-453/R-08-003), and "Control Techniques Guidelines For Paper, Film, and Foil Coatings" (EPA-453/R-07-003). MCAQD has committed to correct the EPA's identified deficiencies, and ADEQ has committed to submit the updated rule within one year of the EPA's final conditional approval. If MCAQD corrects the identified deficiencies and the EPA approves the updated rule, the County will have met its RACT obligation for this rule, and the associated CTGs. We do not propose to act on rule 336 in this action.

However, as explained in greater detail in our TSD, in this action, we are proposing to approve negative declarations for some of the source categories covered by Rule 336. If approval of these negative declarations is finalized as proposed, MCAQD will have met its RACT obligation for these source categories.

- 3) On February 26, 2020 (85 FR 10986), the EPA conditionally approved Rules 350, 351, 352, and 353 into the SIP, and also conditionally approved the associated CTG source

categories for the MCAQD 2016 RACT SIP: “Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks” (EPA-450/2-77-036), “Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks” (EPA-450/2-78-047), “Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals” (EPA-450/2-77-026), “Control of Volatile Organic Emissions from Bulk Gasoline Plants” (EPA-450/2-77-035), “Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems” (EPA-450/2-78-051), and “Design Criteria for Stage I Vapor Control Systems—Gasoline Service Stations” (EPA-450/R-75-102). MCAQD has committed to correct the EPA’s identified deficiencies, and ADEQ has committed to submit the updated rules within one year of the EPA’s final conditional approval. If MCAQD corrects the identified deficiencies and the EPA approves the updated rules, MCAQD will have met its RACT obligation for these rules, and the associated CTGs. We do not propose to act on rules 350, 351, 352, and 353, or the associated CTG categories in the MCAQD’s 2016 RACT SIP in this action.

- 4) On July 20, 2020 (85 FR 43692), the EPA conditionally approved Rules 323 and 324 into the SIP and disapproved Rule 322. The EPA did not propose to act on the major NO<sub>x</sub> portion of the MCAQD 2016 RACT SIP in the July 20, 2020 action. MCAQD has committed to correct the EPA’s identified deficiencies in rules 323 and 324, and ADEQ has committed to submit the updated rules within one year of the EPA’s final conditional approval. If MCAQD corrects the identified deficiencies and the EPA approves the updated rules, MCAQD will have met its RACT obligation for the sources covered by Rules 323 and 324. However, because Rule 322 was disapproved, MCAQD has not

established RACT level controls for the major sources covered by Rule 322. Therefore, in today's action, the EPA is proposing to disapprove the MCAQD's RACT obligation for major sources of NO<sub>x</sub>.

Today's proposed action addresses the remainder of the 2016 RACT SIP submission. Additional details about the submission and the EPA's different actions are available in the TSD.

## **II. EPA's Evaluation and Action**

### *A. How is the EPA evaluating the RACT SIP submission?*

SIP rules must require RACT for each category of sources covered by a CTG document and for each major source of VOCs or NO<sub>x</sub> in ozone nonattainment areas classified as Moderate or above (CAA section 182(b)(2)). The MCAQD regulates a Moderate ozone nonattainment area (40 CFR 81.305) so MCAQD's rules must implement RACT.

States should also submit for SIP approval negative declarations for those source categories for which they have not adopted RACT-level regulations (because they have no sources above the CTG-recommended applicability threshold) regardless of whether such negative declarations were made for an earlier SIP.<sup>4</sup> To do so, the submittal should provide reasonable assurance that no sources subject to the CTG requirements currently exist in the portion of the ozone nonattainment area that is regulated by the MCAQD.

The County's analysis must demonstrate that each major source of VOCs or NO<sub>x</sub> in the ozone nonattainment area is covered by a RACT-level rule. In addition, for each CTG source category, the County must either demonstrate that a RACT-level rule is in place or submit a negative declaration. Guidance and policy documents that we use to evaluate CAA section 182 RACT requirements include the following:

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<sup>4</sup> 57 FR 13498, 13512 (April 16, 1992).

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. EPA Office of Air Quality Planning and Standards, “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” May 25, 1988 (“the Bluebook,” revised January 11, 1990).
3. EPA Region IX, “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” August 21, 2001 (“the Little Bluebook”).
4. “State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,” (the NO<sub>x</sub> Supplement), 57 FR 55620, (November 25, 1992).
5. Memorandum dated May 18, 2006, from William T. Harnett, Director, Air Quality Policy Division, to Regional Air Division Directors, Subject: “RACT Qs & As—Reasonably Available Control Technology (RACT): Questions and Answers.”
6. “Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard—Phase 2,” 70 FR 71612 (November 29, 2005).
7. “Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements,” 80 FR 12264 (March 6, 2015).

*B. Does the RACT SIP submission meet the evaluation criteria?*

MCAQD's 2016 RACT SIP provides the County's demonstration that the applicable SIP for the MCAQD satisfies CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS. This conclusion is based on MCAQD's analysis of SIP-approved requirements that apply to the following: (1) source categories for which a CTG has been issued, and (2) major non-CTG stationary sources of VOC or NO<sub>x</sub> emissions.

With respect to CTG source categories, MCAQD evaluated rules as establishing RACT-level controls for the CTGs covering solvent metal cleaning, industrial cleaning solvents, miscellaneous metal and plastic parts coating, can coating, fabric coating, film and foil coating, rotogravure and flexography, lithographic printing and letter press printing, wood furniture manufacturing operations, storage of petroleum liquids, tank truck gasoline loading terminals, bulk gasoline plants, gasoline tank trucks and vapor collection systems, and gasoline service stations. Some of these categories have existing SIP-approved rules that implement RACT: Rule 331 Solvent Cleaning and Rule 337 Graphic Arts. MCAQD also submitted for SIP approval several rules to implement RACT for some of these categories: Rule 336 Surface Coating Operations, Rule 342 Coating Wood Furniture and Fixtures, Rule 350 Storage and Transfer of Organic (Non-Gasoline) at an Organic Liquid Distribution Facility, Rule 351 Storage and Loading of Gasoline at Bulk Gasoline Plants and Bulk Gasoline Terminals, Rule 352 Gasoline Cargo Tank Testing and Use, and Rule 353 Storage and Loading of Gasoline at Gasoline Dispensing Facilities. As discussed in section I.D of this notice, we have evaluated these rule submittals, and finalized or proposed action in separate rulemaking actions. Those actions and their TSDs have more information about our evaluation of Rules 336, 337, 342, 350, 351, 352, and 353.

In this rulemaking, we propose to find that Rules 331, 337, and 342 establish RACT-level controls for the sources within the following CTG source categories: “Control of Volatile Organic Emissions from Solvent Metal Cleaning” (EPA-450/2-77-022), “Control Techniques Guidelines: Industrial Cleaning Solvents” (EPA-453/R-06-001), “Control of Volatile Organic Emissions from Existing Stationary Sources- Volume VIII: Graphic Arts- Rotogravure and Flexography” (EPA-430/2-78-033) and “Offset Lithographic Printing and Letterpress Printing”

(EPA-453/R06-002), and “Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations” (EPA-453/R-96-007). Our TSD has additional information about our evaluation of these rules.

Where there are no existing sources covered by a particular CTG document, or no major non-CTG sources of NO<sub>x</sub> or VOC, states may, in lieu of adopting RACT requirements for those sources, adopt negative declarations certifying that there are no such sources in the relevant nonattainment area. Appendix A of the 2016 RACT SIP Analysis and Appendix 1A of the submittal lists MCAQD's negative declarations where there are no sources subject to the applicable CTG for the 2008 8-hour ozone NAAQS. These negative declarations are re-listed in Table 2 below. MCAQD concludes that it has no sources subject to the CTGs based on a review of its permit files and emission inventory as well as use of standard industrial classification (SIC) codes and standard classification codes (SCC) to identify applicable businesses.

In addition, MCAQD determined it had sources exceeding the 100 tpy major source threshold for both VOC and NO<sub>x</sub>. As described in more detail in our TSD, we conclude that MCAQD properly identified all major non-CTG sources requiring RACT. We also conclude that MCAQD has established that RACT-level controls apply to all non-CTG major sources of VOCs.

We reviewed MCAQD's list of major source facilities and list of negative declarations in the 2016 RACT SIP and associated appendices. We also searched the EPA's National Emissions Inventory for 2011 and 2014 and Maricopa's list of title V permit sources to verify MCAQD's conclusion that it has identified all major sources of VOC and NO<sub>x</sub> and that MCAQD has identified that there are no stationary sources subject to the CTG source categories for which it has adopted a negative declaration. We generally agree with MCAQD's negative declarations in

the 2016 RACT SIP Appendix A. However, our review found that there are sources in categories where the MCAQD incorrectly made a negative declaration. Those categories are aerospace coating and industrial adhesives. These approvability issues preclude full approval of the 2016 RACT SIP. Our TSD has more information on our evaluation of the 2016 RACT SIP.

*Table 2—MCAQD Negative Declarations*

<b>EPA document No.</b>	<b>Title</b>
EPA-450/2-77-008	Surface Coating of Coils
EPA-450/2-77-008	Surface Coating of Paper
EPA-450/2-77-008	Surface Coating of Automobiles and Light-Duty Trucks
EPA-450/2-77-025	Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds
EPA-450/2-77-032	Surface Coating of Metal Furniture
EPA-450/2-77-033	Surface Coating of Insulation of Magnet Wire
EPA-450/2-77-034	Surface Coating of Large Appliances
EPA-450/2-77-037	Cutback Asphalt
EPA-450/2-78-029	Manufacture of Synthesized Pharmaceutical Products
EPA-450/2-78-030	Manufacture of Pneumatic Rubber Tires
EPA-450/2-78-032	Factory Surface Coating of Flat Wood Paneling
EPA-450/2-78-036	Leaks from Petroleum Refinery Equipment
EPA-450/3-82-009	Large Petroleum Dry Cleaners

*Table 2—MCAQD Negative Declarations*

<b>EPA document No.</b>	<b>Title</b>
EPA-450/3-83-006	Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment
EPA-450/3-83-007	Leaks from Natural Gas/Gasoline Processing Plants
EPA-450/3-83-008	Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins
EPA-450/3-84-015	Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry
EPA-450/4-91-031	Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry
EPA-453/R-94-032	ACT Surface Coating at Shipbuilding and Ship Repair Facilities
61 FR 44050; 8/27/96	Shipbuilding and Ship Repair Operations (Surface Coating)
EPA-453/R-97-004*	Aerospace MACT and
59 FR 29216; 6/06/94*	Aerospace (CTG & MACT)
EPA-453/R-06-003	Flexible Package Printing
EPA-453/R-06-004	Flat Wood Paneling Coatings
EPA 453/R-07-003	Paper, Film, and Foil Coatings
EPA 453/R-07-004	Large Appliance Coatings

Table 2—MCAQD Negative Declarations

EPA document No.	Title
EPA 453/R-07-005	Metal Furniture Coatings
EPA 453/R-08-004	Fiberglass Boat Manufacturing Materials
EPA 453/R-08-005*	Miscellaneous Industrial Adhesives
EPA 453/R-08-006	Automobile and Light-Duty Truck Assembly Coatings
EPA 453/B16-001	Oil and Natural Gas Industry

\*The EPA is proposing to disapprove the negative declaration for these categories.

C. *What are the RACT deficiencies?*

The following provisions do not satisfy the requirements of section 110 and part D of title I of the Act and prevent full approval of the submitted 2016 RACT SIP.

1. Negative Declarations were incorrectly made for Aerospace Coating and Industrial Adhesives because there are applicable sources in MCAQD.
2. The requirement for RACT for major sources of NO<sub>x</sub> has not been demonstrated because the EPA has disapproved a NO<sub>x</sub> rule, Rule 322 Power Plant Operations. Therefore, there is no SIP-approved rule establishing RACT-level controls for major sources regulated by Rule 322.<sup>5</sup>

Our TSD has additional information on the deficiencies in the RACT SIP.

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<sup>5</sup> 85 FR 43692 (July 20, 2020). The EPA has also conditionally approved Rule 323 Fuel Burning Equipment from Industrial/Commercial/Institutional (ICI) Sources, and Rule 324 Stationary Internal Combustion (IC) Engines. *Id.* However, because the EPA has disapproved Rule 322, the EPA may not conditionally approve the major source NO<sub>x</sub> category, and must, instead, propose disapproval.

*D. EPA recommendations to further improve the RACT SIP*

On May 24, 2018, July 3, 2018, July 6, 2018, July 18, 2018, October 24, 2018, July 1, 2019, and August 30, 2019, the EPA provided comments to MCAQD on the approvability issues for the various submitted rules. In addition to the approvability issues, these comment letters included rule revisions that we recommend for the next time the local agency modifies the rules.<sup>6</sup>

*E. Proposed action and public comment*

For reasons discussed above and explained more fully in our TSD, the EPA proposes to partially approve and partially disapprove the ADEQ's June 22, 2017 submittal of the MCAQD 2016 RACT SIP and negative declarations as a revision to the Arizona SIP.

As authorized in section 110(k)(3) of the Act, we are proposing to approve the 2016 RACT SIP for the following source categories: "Control of Volatile Organic Emissions from Solvent Metal Cleaning" (EPA-450/2-77-022), "Control Techniques Guidelines: Industrial Cleaning Solvents" (EPA-453/R-06-001), "Control of Volatile Organic Emissions from Existing Stationary Sources- Volume VIII: Graphic Arts- Rotogravure and Flexography" (EPA-430/2-78-033) and "Offset Lithographic Printing and Letterpress Printing" (EPA-453/R06-002), "Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations" (EPA-453/R-96-007), and major non-CTG sources of VOCs.

In addition, we are proposing to approve negative declarations for the CTG source categories listed in Table 2, with the exception of the categories marked with an asterisk. These negative declarations, if finalized, will satisfy MCAQD's RACT obligation for these source categories.

Also under CAA section 110(k)(3), we propose to disapprove the 2016 RACT SIP as it

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<sup>6</sup> These comments can be found in the docket for this action.

pertains to major NO<sub>x</sub> sources and the following CTG sources: “National Emission Standards for Hazardous Air Pollutants for Source Categories: Aerospace Manufacturing and Rework” (59 FR 29216), “Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations” (EPA-453/R-97-004), “Control Techniques Guidelines for Miscellaneous Industrial Adhesives” (EPA-453/R-08-005) based on the EPA’s finding that these categories were not adequately addressed in the 2016 RACT SIP.

The EPA is committed to working with the ADEQ and MCAQD to resolve the identified RACT deficiencies. However, should we finalize the proposed partial disapproval of the above-enumerated elements of the 2016 RACT SIP, section 110(c) would require the EPA to promulgate a federal implementation plan within 24 months unless we approve subsequent SIP revisions that correct the deficiencies identified in the final approval. In addition, final disapproval would trigger the offset sanction in CAA section 179(b)(2) 18 months after the effective date of a final disapproval, and the highway funding sanction in CAA section 179(b)(1) six months after the offset sanction is imposed. A sanction will not be imposed if the EPA determines that a subsequent SIP submission corrects the deficiencies identified in our final action before the applicable deadline.

We will accept comments from the public on the proposed partial approval and partial disapproval for the next 30 days. If finalized, this action would incorporate the approved portions of the 2016 RACT SIP and negative declarations into the SIP.

### **III. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <http://www2.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 expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

*C. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

*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 beyond those imposed by state law.

*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 does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will 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 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, 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 it does not impose additional requirements beyond those imposed by state law.

*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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 26, 2020.

John Busterud,  
Regional Administrator,  
Region IX.

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