



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2024-0349; FRL-12130-02-R9]

Air Plan Revisions; Arizona; Maricopa County Air Quality Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a limited approval and limited disapproval of revisions to the Maricopa County Air Quality Department (MCAQD or “County”) portion of the Arizona State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs) from loading of organic liquids and gasoline. Under the authority of the Clean Air Act (CAA or “Act”), this action simultaneously approves local rules that regulate these emission sources and directs Arizona to correct rule deficiencies. We are also finalizing a disapproval of MCAQD’s reasonably available control technology (RACT) demonstration for the source categories associated with these rules for the 2008 8-hour ozone national ambient air quality standard (NAAQS) in the Phoenix-Mesa ozone nonattainment area.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket No. EPA-R09-OAR-2024-0349. 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. If you need assistance in a language other than English or if you are a person with a disability 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: Donnique Sherman, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4129; email at *sherman.donnique@epa.gov*.

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

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I. Proposed Action

On November 8, 2024 (89 FR 88690), the EPA proposed a limited approval and limited disapproval of the following rules that were submitted for incorporation into the Arizona SIP.

Table 1 - Submitted Rules

Local Agency	Rule #	Rule Title	Revised	Submitted
MCAQD	352	Gasoline Cargo Tank Testing and Use	11/18/2020	12/03/2020
MCAQD	353	Storage and Loading of Gasoline at a Gasoline Dispensing Facility (GDF)	11/18/2020	12/03/2020

We proposed a limited approval because we determined that these rules improve the SIP and are largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the Act. In addition, we proposed a disapproval of MCAQD’s RACT demonstration for the source categories listed in Table 2 for the 2008 8-hour ozone NAAQS in the Phoenix-Mesa ozone

nonattainment area.

Table 2 – Applicable Source Categories

CTG	Title/Source Category	Applicable MCAQD Rule
EPA-450/2-78-051	Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems	Rule 352
EPA-450/R-75-102	Design Criteria for Stage I Vapor Control Systems – Gasoline Service Stations	Rule 353

The following provisions of Rule 352 preclude full approval of the rule:

1. In addition to the annual certification test required by Section 301.1, Sections 502 and 503 of Rule 352 outline ongoing monitoring tests to perform to detect potential leaks. However, the rule does not identify any enforceable requirements to monitor using these tests on a periodic basis or any recordkeeping and reporting associated with this requirement.
2. Section 103.3(a) requires that an “owner or operator of a gasoline cargo tank provides documentation from the gasoline cargo tank testing company to the Control Officer that certifies that the gasoline cargo tank was tested and verified vapor tight using test methods at least as stringent as those in Section 501.1 (Maricopa County Vapor Tightness Test).” This provision allows the Control Officer authority to approve another test method, and without further specificity regarding how this authority will be exercised, it could functionally allow for a revision of the SIP without complying with the process for SIP revisions required by the CAA.

The following provisions of Rule 353 preclude full approval of the rule:

1. Rule 353 requires that control equipment or spill containment equipment at a stationary GDF or on a gasoline cargo tank be leak free and vapor tight, requiring weekly inspections. Rule 353 generally requires a facility to determine if there is a “potential vapor leak” prior to being required to conduct a more stringent vapor

tightness determination. Section 501 of Rule 353 allows for four different options to identify potential vapor leaks. Section 501.1 allows for the “use of sight, sound, or smell” as an acceptable method for identifying potential vapor leaks. Although using sight, sound, or smell can play a role in identifying potential vapor leaks, allowing for that to potentially be the only method used could functionally allow for potential leak identification to be left solely to the operator’s discretion and sensory inputs.

Therefore, without a provision to periodically utilize methods beyond sight, sound, or smell, this provision undermines the enforceability of the rule’s requirement for vapor tight compliance.

2. Section 500 of Rule 353 contains ongoing monitoring and recordkeeping requirements but does not specifically contain any requirements to report compliance information. However, reporting requirements are contained within Section 301 of the rule because it incorporates the applicable requirements from the National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities at 40 CFR part 63, subpart CCCCCC (“Subpart CCCCCC”), which includes reporting requirements.¹ However, Subpart CCCCCC is not applicable to the loading of aviation gasoline into storage tanks at airports and the subsequent transfer of aviation gasoline within the airport.² Rule 353 does apply to loading of aviation gasoline at airports, but it does not elsewhere require periodic reporting for these facilities. Given this framework, Rule 353 has a reporting gap, because there is no periodic compliance reporting required for loading of aviation gasoline at airports. Due to the lack of adequate reporting requirements (or some alternative means of ensuring enforceability) during loading of aviation gasoline into storage tanks, this

¹ See 40 CFR 63.11126 and Table 3 to Subpart CCCCCC. For example, Subpart CCCCCC requires annual reporting related to malfunctions (malfunction of process equipment and air pollution control equipment), requires all performance tests reports to be submitted, and requires advanced notification of performance tests.

² See 40 CFR Part 63.11111(g).

provision undermines the enforceability of the rule's requirement for vapor tight compliance, constitutes a SIP deficiency, and is inconsistent with the requirements of CAA Section 110.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

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 in support of EPA's November 8, 2024 proposed action. We thank the commenter for the comment.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, the EPA is finalizing a limited approval of the submitted rules. This action incorporates the submitted rules into the Arizona SIP, including those provisions identified as deficient. As authorized under sections 110(k)(3) and 301(a), the EPA is simultaneously finalizing a limited disapproval of the rules. The EPA is also finalizing a disapproval of the RACT demonstrations for the 2008 ozone NAAQS for the sources covered by the CTGs listed in Table 2.

As a result, the EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months.

In addition, the offset sanction in CAA section 179(b)(2) will be imposed 18 months after the effective date this action, and the highway funding sanction in CAA section 179(b)(1) will be imposed 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 identified deficiencies before the applicable deadline.

Note that the submitted rules have been adopted by the MCAQD, and the EPA's final

limited disapproval does not prevent the local agency from enforcing them. The limited disapproval also does not prevent any portion of the rules from being incorporated by reference into the federally enforceable SIP as discussed in a July 9, 1992 EPA memo found at:

<https://www.epa.gov/sites/production/files/2015-07/documents/procsip.pdf>.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of MCAQD Rule 352, “Gasoline Cargo Tank Testing and Use,” revised on November 18, 2020, which regulates VOC emissions during loading and unloading of gasoline to any gasoline cargo tank within Maricopa County. The EPA is also incorporating by reference MCAQD Rule 353, “Storage and Loading of Gasoline at a Gasoline Dispensing Facility,” revised on November 18, 2020, which regulates VOC emissions during storage and loading of gasoline at a gasoline dispensing facility. Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of this final rulemaking, and will be incorporated by reference in the next update to the SIP compilation.³ The EPA has made, and will continue to make, these documents 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).

V. 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 review state choices and approve those choices if they meet the minimum criteria of the Act. Accordingly, this final

³ 62 FR 27968 (May 22, 1997).

action is finalizing a limited approval and limited disapproval of state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law.

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. 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.

C. 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.

D. 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.

E. 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.

F. 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 it will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. 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. Therefore, this action is not subject to Executive Order 13045 because it is merely finalizing a limited approval and limited disapproval of state law as meeting federal requirements. Furthermore, the EPA’s Policy on Children’s Health does not apply to this action.

H. 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.

I. 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.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation’s Commitment to Environmental Justice for All

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on communities with environmental justice (EJ) concerns to the greatest extent practicable and permitted by law. Executive Order 14096 (Revitalizing Our Nation's Commitment to Environmental Justice for All, 88 FR 25251, April 26, 2023) builds on and supplements Executive Order 12898 and defines EJ as, among other things, “the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, Tribal affiliation, or disability, in agency decision-making and other Federal activities that affect human health and the environment.”

The State did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Orders 12898 and 14096 of achieving EJ for communities with EJ concerns.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

L. Petitions for Judicial Review

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 rule 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, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 19, 2024.

Martha Guzman Aceves,
Regional Administrator,
Region IX.

For the reasons stated in the preamble, the EPA amends part 52, chapter I, Title 40 of the Code of Federal Regulations 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—Arizona

2. Amend § 52.119 by removing and reserving paragraph (c)(1).

3. In § 52.120:

a. In paragraph (c), amend table 4, by revising the entries for “Rule 352” and “Rule 353”; and

b. In paragraph (e), amend table 1, under the subheading “Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas,” by revising the second entry for “Analysis of Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) State Implementation Plan (RACT SIP)” that appears just before the entry for “Reasonably Available Control Technology (RACT) Analysis, Negative Declaration and Rules Adoption.”

The revisions read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

Table 4 to Paragraph (c)—EPA-Approved Maricopa County Air Pollution Control Regulations

County citation	Title/subject	State effective date	EPA approval date	Additional explanation

Post-July 1998 Rule Codification				

Regulation III – Control of Air Contaminants				

Rule 352	Gasoline Cargo Tank Testing and Use	November 18, 2020	[INSERT DATE OF PUBLICATION], [INSERT FIRST PAGE OF <i>FEDERAL REGISTER</i> CITATION]	Submitted electronically on December 3, 2020, as an attachment to a letter dated November 24, 2020.
Rule 353	Storage and Loading of Gasoline at a Gasoline Dispensing Facility (GDF)	November 18, 2020	[INSERT DATE OF PUBLICATION], [INSERT FIRST PAGE OF <i>FEDERAL REGISTER</i> CITATION]	Submitted electronically on December 3, 2020, as an attachment to a letter dated November 24, 2020.

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(e) * * *

Table 1 – EPA-Approved Non-Regulatory and Quasi-Regulatory Measures

[Excluding certain resolutions and statutes, which are listed in tables 2 and 3, respectively]¹

Name of SIP provision	Applicable geographic or nonattainment area or title/subject	State submittal date	EPA approval date	Explanation
The State of Arizona Air Pollution Control Implementation Plan				

Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas				

Analysis of Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) State Implementation Plan (RACT SIP)	Maricopa County portion of Phoenix-Mesa nonattainment area for 2008 8-hour ozone NAAQS	June 22, 2017	February 26, 2020, 85 FR 10986 (conditionally approved); and December 9, 2024, 89 FR 97543.	Only those portions of the document beginning with “Gasoline Bulk Plants, Fixed Roof Petroleum Tanks, External Floating Roof Petroleum Tanks, And Gasoline Loading

				Terminals” on page 33 through the first full paragraph on page 34, and Appendix C: CTG RACT Spreadsheet, the rows beginning with “Gasoline Bulk Plants” on page 60, through “Gasoline Loading Terminals” on pages 64-65.
*	*	*	*	*

¹ Table 1 is divided into three parts: Clean Air Act Section 110(a)(2) State Implementation Plan Elements (excluding Part D Elements and Plans), Part D Elements and Plans (other than for the Metropolitan Phoenix or Tucson Areas), and Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas.

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4. Amend § 52.124 by adding paragraph (b)(2)(ii) to read as follows:

§ 52.124 Part D disapproval.

* * * *

(b) * * *

(2) * * *

(ii) The RACT demonstration titled “Analysis of Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) State Implementation Plan (RACT SIP),” only those portions of the document beginning with “Gasoline Tank Trucks And Vapor Collection System Leaks” on page 34 through the first full paragraph on page 35, and Appendix C: CTG RACT Spreadsheet, the rows beginning with “Gasoline Tank Trucks And Vapor Collection System Leaks” on page 65, through “Service Stations—Stage I” on pages 67-69. This demonstration represents the RACT requirement for the following source categories: 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).

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[FR Doc. 2024-31028 Filed: 1/8/2025 8:45 am; Publication Date: 1/10/2025]