



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2025-0458; FRL-12915-01-R9]

Air Plan Revisions; Arizona; Maricopa County Air Quality Department; Particulate Matter; Incinerators, Burn-off Ovens, and Crematories

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing an approval of revisions to the Maricopa County Air Quality Department (MCAQD) portion of the Arizona State Implementation Plan (SIP). These revisions concern emissions of particulate matter from incinerators, burn-off ovens, and crematories. We are proposing to approve revisions to a local rule that regulates these emissions sources under the Clean Air Act (CAA or “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-2025-0458 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>. 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: Eugene Chen, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; telephone number: (415) 947-4304; email address: chen.eugene@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 did the State submit?

On December 23, 2024, the Arizona Department of Environmental Quality (ADEQ) submitted a SIP revision for the MCAQD portion of the Arizona SIP (“2024 SIP submittal”). The 2024 SIP submittal requests that the EPA approve MCAQD Rule 313 - Incinerators, Burn-Off Ovens, and Crematories, revised December 11, 2024 (“Rule 313”). Additionally, the 2024 SIP submittal requests that the requirements in Rule 313 be used to replace two sets of

requirements from the SIP: the version of Rule 313 currently in the SIP and MCAQD Rule 35 – Incinerators, revised August 12, 1971 (“Rule 35”).

Table 1 lists the rule we are proposing for approval with the dates that it was adopted by the local air agency and submitted to the EPA by the ADEQ. Table 2 lists the rules proposed to be rescinded from the SIP with the dates that they were adopted by the local air agency and approved into the SIP.

Table 1–Submitted Rule for Approval

Local agency	Rule #	Rule title	Amended	Submitted
MCAQD	313	Incinerators, Burn-Off Ovens, and Crematories	December 11, 2024	December 23, 2024

Table 2–Rules To Be Rescinded

Local agency	Rule #	Rule title	Local revision date	SIP approved date	FR citation
MCAQD	313	Incinerators, Burn-Off Ovens, and Crematories	May 9, 2012	September 25, 2014	79 FR 57445
MCAQD	35	Incinerators	August 12, 1971	July 27, 1972	37 FR 15080

On June 23, 2025, the 2024 SIP submittal was deemed complete by operation of law. We have reviewed the submittal to ensure it meets the completeness criteria in 40 CFR part 51, appendix V.

B. Are there other related submittals?

In 2016, the EPA reformatted the Arizona SIP as codified in the Code of Federal Regulations (CFR) into a tabulated “notebook” format. While developing the updated SIP tables for that conversion, the EPA worked closely with ADEQ and the local air agencies to clarify what was in their applicable SIP, including older provisions that had not been updated or replaced to reflect local rulemakings. On September 13, 2017, because of that coordination, ADEQ submitted a SIP revision from MCAQD that requested to rescind or replace many obsolete rules in their federally enforceable SIP in favor of rules that reflect their current locally enforceable rulebook (“2017 SIP submittal”). The 2017 SIP submittal requested that the EPA rescind the SIP-approved version of Rule 35 and replace it with the version of Rule 313 currently in the SIP. However, the 2024 SIP submittal clarifies that this request has been superseded by the request to replace Rule 35 with the currently submitted revised version of Rule 313. If we finalize this rulemaking as proposed, the December 11, 2024 version of Rule 313 will replace the SIP-approved version of Rule 313 and Rule 35 in the MCAQD portion of the Arizona SIP.

C. What is the purpose of the submittal?

Rule 313 contains particulate matter (PM) and opacity standards for incinerators, burn-off ovens, and crematories. It also contains additional requirements such as work practice standards for specific cremation procedures (such as large charges or nighttime operations), as well as monitoring, recordkeeping, and reporting requirements. Rule revisions in the version adopted on December 14, 2024, include additional monitoring provisions and PM performance testing requirements, clarifications to several definitions, additional detail and clarity regarding recordkeeping requirements, and the addition of provisions or requirements established in Rule 35 to ensure that Rule 35 rescission does not result in interference with any existing CAA requirements. There are no revisions to the existing PM or opacity standards. In addition, MCAQD does not rely upon the standards established in Rule 313 to meet any nonattainment area requirements. A technical support document (TSD) that provides further analysis of Rule 313 revisions is included in the docket for this rulemaking. Rule 35 controls the emissions of PM

from any incinerators located in the MCAQD. The rule includes permit conditions, daily limits, and monitoring for PM and opacity. A separate TSD that provides further analysis of Rule 35 rescission is included in the docket for this rulemaking.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule and the request for rescission and replacement?

Emissions limitations in the SIP must be enforceable (see CAA section 110(a)(2)) and must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)). Once a rule has been approved as part of a SIP, the rescission of that rule from the SIP constitutes a SIP revision. To approve such a revision, the EPA must determine whether the revision meets relevant CAA criteria for stringency, if any, and complies with restrictions on relaxation of SIP measures under CAA section 110(l), and the General Savings Clause in CAA section 193 for SIP approved control requirements in effect before November 15, 1990.

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency 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, August 21, 2001 (the Little Bluebook).

B. Does the rule revision, and rule rescissions, meet the evaluation criteria?

Rule 313 strengthens the SIP by clarifying monitoring and recordkeeping provisions. This rule meets CAA requirements and is consistent with relevant guidance regarding enforceability and SIP revisions. A portion of Maricopa County regulated by MCAQD is designated nonattainment for the particulate matter with a diameter of 10 micrometers or smaller (PM₁₀) national ambient air quality standard. However, since the Rule 313 requirements are not

relied upon to meet any nonattainment area requirements, we have not evaluated it for stringency.

Additionally, we have concluded that Rule 35 is appropriate for rescission from the SIP. The requirements in Rule 35 will be replaced with analogous requirements in Rule 313 that are at least as stringent. For example, incineration is allowed during nighttime, requirements to test PM emissions are added, opacity testing now follows federal requirements, and monitoring and recordkeeping requirements are clearer. As such, the replacement of Rule 35 would not impact the overall stringency of the Arizona SIP.

The two TSDs in the docket have more detailed information on our evaluation.

C. Proposed action and public comment

As authorized in section 110(k)(3) of the Act, the EPA proposes to approve the submitted rule because it fulfills all relevant requirements. The EPA also proposes to approve the requested rescission of the rest of Rule 35, and replacement with Rule 313, because it fulfills all relevant requirements. 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 Rule 313, our final action will incorporate this rule into the federally enforceable SIP.

III. Incorporation by Reference

In this document, 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 Maricopa County Air Quality District, Rule 313, Incinerators, Burn-Off Ovens, and Crematories, revised December 11, 2024, which establishes emissions standards for particulate matter and opacity. In addition, the EPA is proposing to rescind Rule 35 and replace it with the submitted Rule 313 in the MCAQD portion of the Arizona SIP, because the requested replacement fulfills all relevant requirements. 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

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 CAA. 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 Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review 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 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it proposes to approve a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

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, Particulate matter, Reporting and recordkeeping requirements.

Dated: September 3, 2025.

Michael Martucci,
Acting Regional Administrator, Region IX.

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