



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2019-0497; FRL-9999-35-Region 9]

#### Air Plan Approval; Arizona; Maricopa County Air Quality Department

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing 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 proposing approval of the rescission of local rules that regulate these emission sources 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:** 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-2019-0497 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>.

**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](mailto:schwartz.robert@epa.gov).

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

## Table of Contents

- I. The State’s Submittal
  - A. What rules did the County rescind?
  - B. What is the purpose of the SIP-approved rules?
- II. The EPA’s Evaluation and Action
  - A. How is the EPA evaluating the request for rescission?
  - B. Do the rule rescissions meet the evaluation criteria?
  - C. Public comment and proposed action

III. Statutory and Executive Order Reviews

I. The State's Submittal

A. *What rules did the County rescind?*

Table 1 lists the rules addressed by this proposal with the dates that they were most recently adopted by MCAQD and approved by the EPA. MCAQD rescinded these rules on December 13, 2017, from the local rulebook, and forwarded the rescissions to the Arizona Department of Environmental Quality (ADEQ) for adoption and submittal to the EPA for approval. On December 18, 2017, ADEQ adopted the rule rescissions and submitted them to the EPA for approval.

TABLE 1 - MCAQD RULES FOR WHICH RESCISSION HAS BEEN SUBMITTED FOR APPROVAL

Local Agency	Rule #	Rule Title	Adopted/ Revised	SIP approval date
MCAQD	325	Brick and Structural Clay Products (BSCP) Manufacturing	08/10/2005	08/21/2007
MCAQD	334	Rubber Sports Ball Manufacturing	06/19/1996	02/09/1998
MCAQD	339	Vegetable Oil Extraction Processes	11/16/1992	02/09/1998

On June 18, 2018, the submittal of the rescission of MCAQD Rules 325, 334, and 339 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.

B. *What is the purpose of the SIP-approved rules?*

Emissions of VOCs contribute to ground-level ozone, smog and PM, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Rule 334 and Rule 339 were adopted to meet reasonably available control measures (RACM)/reasonably available control technology (RACT) requirements as a result of the 1990 Clean Air Act Amendments (CAAA), and they address specific, single sources in each rule that were emitting  $\geq 100$  tons of VOC/year. The purpose of Rule 334 is to limit VOC emissions from natural and synthetic rubber adhesives used in the manufacture of non-inflatable rubber balls. The source, Penn Racquet Sports, ceased rubber sports ball manufacturing operations in Maricopa County in 2009, and MCAQD closed Penn Racquet Sports' permit in 2009. The purpose of Rule 339 is to limit VOC emissions during the extraction of vegetable oil using solvents. MCAQD closed Western Cotton Services' permit (operated by Anderson Clayton Corp.) in 1999. MCAQD does not anticipate any new sources that would be subject to Rule 334 or Rule 339 to establish operations in Maricopa County. The EPA's technical support document (TSD) has more information about these rules.

Emissions of PM, including PM equal to or less than 2.5 microns in diameter ( $PM_{2.5}$ ) and PM equal to or less than 10 microns in diameter ( $PM_{10}$ ), contribute to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires states to submit regulations that control PM emissions. Rule 325 was adopted to meet the best available control measures (BACM)/most stringent measures (MSM) requirements for all significant sources of  $PM_{10}$  for the Phoenix planning area of Maricopa County, classified as Serious nonattainment in 1996 for the annual

and 24-hour PM<sub>10</sub> national ambient air quality standard (NAAQS). The purpose of Rule 325 is to limit particulate matter emissions from the use of tunnel kilns for curing in brick and structural clay products (BSCP) manufacturing processes. The source, Phoenix Brick Yard, ceased manufacturing operations in Maricopa County in 2012 and its air quality permit from MCAQD was closed in 2012. MCAQD does not anticipate any new sources that would be subject to Rule 325 to establish operations in Maricopa County. The EPA's TSD has more information about this rule.

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

### *A. How is the EPA evaluating the request for rescission?*

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.

*Stringency:* Generally, SIP rules must require RACT for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOCs in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2)). The MCAQD regulates an ozone nonattainment area classified as Moderate for the 2008 8-hour NAAQS (40 CFR 81.303).<sup>1</sup>

Additionally, SIP rules must implement BACM, including Best Available Control

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<sup>1</sup> The Phoenix-Mesa area, which includes the northern two-thirds of Maricopa County and small portions of Pinal County, is classified as Moderate nonattainment for the 2008 ozone NAAQS and Marginal nonattainment for the 2015 ozone NAAQS. See 40 CFR 81.303.

Technology (BACT), in Serious PM<sub>10</sub> nonattainment areas (see CAA section 189(b)(1)(B)). The MCAQD regulates a PM<sub>10</sub> nonattainment area classified as Serious for the PM<sub>10</sub> NAAQS (40 CFR 81.303).

*Plan Revisions:* States must demonstrate that SIP revisions would not interfere with attainment, reasonable further progress or any other applicable requirement of the CAA under the provisions of CAA section 110(l). Therefore, consistent with CAA section 110(l) requirements, MCAQD must demonstrate that the rescission of Rules 325, 334, and 339 would not interfere with attainment and reasonable further progress (RFP) of the NAAQS or any other applicable CAA requirement.

*General Savings Clause:* CAA section 193 prohibits the modification of any control requirement in effect, or required to be adopted by an order, settlement agreement or plan in effect before November 15, 1990, in areas designated as nonattainment for an air pollutant unless the modification ensures equivalent or greater emission reductions of the relevant pollutant.

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. “State Implementation Plans for Serious PM-10 Nonattainment Areas, and Attainment Date Waivers for PM-10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 59 FR 41998 (August 16, 1994).

5. “PM-10 Guideline Document,” EPA 452/R-93-008, April 1993.

B. *Do the rule rescissions meet the evaluation criteria?*

We have concluded that MCAQD Rules 325, 334, and 339 are appropriate for rescission, given that the sources for which the rules were originally developed have shut down and no longer perform manufacturing operations in the Phoenix-Mesa area, as evidenced by the surrender of their operating permits.<sup>2,3,4</sup> In addition, we find no other sources subject to these rules in Maricopa County, as evidenced by our review of the Maricopa County emissions inventories for PM<sub>10</sub> and VOCs.<sup>5</sup> MCAQD also documented<sup>6,7,8</sup> that these three rescissions will not result in any changes to allowable or actual emissions from existing sources of ozone precursors or particulate matter, and will not interfere with the attainment or maintenance of the

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<sup>2</sup> Letter dated April 7, 2016, from Richard Sumner, Manager, MCAQD Permitting Division, to Clinton-Campbell Contractor, Inc., Owner, Phoenix Brick Yard, “Your air quality permit #090298 was permanently relinquished on August 13, 2012 and has been closed.”

<sup>3</sup> MCAQD Permit Closeout Form, dated August 4, 2009, for Head Penn Racquet Sports permit #V95001, signed by Douglas L. Erwin, Manager, Permit Division, MCAQD.

<sup>4</sup> Email dated June 20, 2019, from Richard Sumner, Manager, MCAQD Permitting Division, to Lisa Beckham, U.S. EPA Region IX, with attachments detailing closeout of Western Cotton Services permit (operated by Anderson Clayton Corp.) on March 4, 1999.

<sup>5</sup> The EPA 2014 National Emissions Inventory (NEI), facility-level emissions.

<sup>6</sup> MCAQD, “Revision to Arizona’s State Implementation Plan, Rescission of Rule 325 from the Maricopa County Air Pollution Control Rules and Regulations,” December 2017, sections 2.2(c), 2.2(d), p.5-6.

<sup>7</sup> MCAQD, “Revision to Arizona’s State Implementation Plan, Rescission of Rule 334 from the Maricopa County Air Pollution Control Rules and Regulations,” December 2017, sections 2.2(c), 2.2(d), p.5-6.

<sup>8</sup> MCAQD, “Revision to Arizona’s State Implementation Plan, Rescission of Rule 339 from the Maricopa County Air Pollution Control Rules and Regulations,” December 2017, sections 2.2(c), 2.2(d), p.5-6.

applicable NAAQS in the Phoenix-Mesa area. We agree with MCAQD that no such changes or interference would result from the subject rule rescissions. Lastly, we note that Rules 325, 334, and 339 were SIP-approved post-1990; therefore, CAA section 193 does not apply to this action.

C. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to approve the rescission of MCAQD Rules 325 (Brick and Structural Clay Products (BSCP) Manufacturing), 334 (Rubber Sports Ball Manufacturing) and 339 (Vegetable Oil Extraction Processes) from the Maricopa County portion of the Arizona SIP because they are no longer necessary to meet any CAA requirement and because rescission would not interfere with reasonable further progress or attainment of any of the NAAQS. 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 rule rescissions, our final action will remove these rules from the federally enforceable SIP.

### **III. 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 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 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 disproportionate human health or environmental effects with practical, appropriate, 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 proposed 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 27, 2019.

Michael Stoker,  
Regional Administrator,  
Region IX.

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