

June, unless otherwise specified in the Coast Guard Local Notice to Mariners.

Dated: July 12, 1995.

**G. F. Woolever,**

*Rear Admiral, U.S. Coast Guard, Commander,  
Ninth Coast Guard District.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[AZ 43-1-6868; FRL-5264-6]

#### Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County Environmental Services Department

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** EPA is proposing to approve revisions to the Arizona State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from rubber sports ball manufacturing and metal casting operations.

The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this notice of proposed rulemaking (NPRM) will incorporate these rules into the federally approved SIP. EPA has evaluated each of these rules and is proposing to approve them under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

**DATES:** Comments must be received on or before August 25, 1995.

**ADDRESSES:** Comments may be mailed to: Daniel A. Meer, Rulemaking Section [A-5-3], Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012;

Maricopa County Department of Environmental Services, 2406 South 24th Street, Suite E-204, Phoenix, AZ 85034-6822.

**FOR FURTHER INFORMATION CONTACT:** Duane F. James, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1191.

#### SUPPLEMENTARY INFORMATION:

##### Applicability

The rules being proposed for approval into the Arizona SIP include: Maricopa County Environmental Services Department's (MCESD's) Rule 334, "Rubber Sports Ball Manufacturing," and Rule 341, "Metal Casting." These rules were submitted by the Arizona Department of Environmental Quality to EPA on August 16, 1994 (Rule 341) and December 19, 1994 (Rule 334).

##### Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act), that included the Maricopa County Area. 43 FR 8964; 40 CFR 81.303. On March 19, 1979, EPA changed the name and modified the geographic boundaries of the ozone nonattainment area of Maricopa County to the Maricopa Association of Governments (MAG) Urban Planning Area. 44 FR 16391, 40 CFR 81.303. On February 24, 1984, EPA notified the Governor of Arizona, pursuant to section 110(a)(2)(H) of the pre-amended ACT, that MCESD's portion of the Arizona SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call, 49 FR 18827, May 3, 1984). On May 26, 1988, EPA again notified the Governor of Arizona that MCESD's portion of the Arizona SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies relating to VOC controls and the application of reasonably available control technology (RACT) in the existing SIP be corrected (EPA's second SIP-Call, 53 FR 34500, September 7, 1988). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(b)(2)(C) of the CAA, Congress statutorily required nonattainment areas to submit RACT rules for all major stationary sources of VOCs by

November 15, 1992 (the RACT catch-up requirement).

The MAG Urban Planning Area is classified as moderate;<sup>1</sup> therefore, this area was subject to the RACT catch-up requirement and the November 15, 1992 deadline.<sup>2</sup>

The State of Arizona submitted many revised RACT rules for incorporation into its SIP on August 16, 1994, and December 19, 1994, including the rules being acted on in this document. This document addresses EPA's proposed action for MCESD's Rule 334, "Rubber Sports Ball Manufacturing," and Rule 341, "Metal Casting." The MCESD adopted Rule 334 on September 20, 1994, and Rule 341 on August 5, 1994. These submitted rules were found to be complete on August 16, 1994 (Rule 341) and January 19, 1995 (Rule 334) pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51 Appendix V<sup>3</sup> and are being proposed for approval into the SIP.

Rules 334 and 341 control VOC emissions from rubber sports ball manufacturing and metal casting operations by restricting the VOC content of materials used in these operations or by requiring emission control systems. VOCs contribute to the production of ground-level ozone and smog. The rules were adopted as part of the MCESD's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(b)(2)(C) CAA requirement. The following is EPA's evaluation and proposed action for these rules.

#### EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy

<sup>1</sup> The MAG Urban Planning Area retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

<sup>2</sup> Arizona did not make the required SIP submittal by November 15, 1992. On January 15, 1993, the EPA made a finding of nonsubmittal pursuant to section 179(a)(1), which started an 18-month sanction clock. The rules being acted upon in this NPRM were submitted in response to the EPA finding of failure to submit.

<sup>3</sup> EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

guidance documents.<sup>4</sup> Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "catch-up" their RACT rules. See section 182(b)(2). For some categories, such as rubber sports ball manufacturing and metal casting, EPA did not publish a CTG. In such cases, the state and local agencies may determine what controls are required by reviewing the operation of facilities subject to the regulation and evaluating regulations for similar sources in other areas. Therefore, the MCESD must determine the VOC control measures that are reasonable and available for the affected sources. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 4. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

MCESD's Rule 334, "Rubber Sports Ball Manufacturing," is a new rule that limits the VOCs from the manufacture of rubber sport balls. Compliance with the rule is obtained through one of two methods: (1) The use of adhesives with a VOC content of 288 grams per liter (2.4 lbs/gal), less water and exempt compounds, or (2) the use of an emission control system with an overall efficiency (capture and control) of at least 81%. Records are explicitly required for all operations, including any that are exempt from the emission standards of the rule due to low usage. All records must be maintained for at least 3 years. Good engineering practices are required for operations, including the proper storage and disposal of VOC materials. The test methods referenced are all EPA approved, and there are no

provisions for alternative methods. The rule required final compliance by May 31, 1995. Rule 334 is expected to achieve VOC reductions of at least 856 tpy. A more detailed discussion of the source controlled, the controls required, and the justification for why these controls represent RACT can be found in the Technical Support Document (TSD) for Rule 334, dated March 27, 1995.

MCESD's Rule 341, "Metal Casting," is a new rule that limits the emissions of VOCs from metal investment-casting operations. In metal investment-casting, a solvent such as ethanol is used to bind the grains of sand together until the silicate components are kiln-fired at 1800°F and fused into a permanent mold. Compliance with the rule is obtained through one of three methods: (1) The use of an emission control system with an overall efficiency (capture and control) of at least 81%, (2) the use of binder materials with a VOC content of 420 grams VOC per liter (3.5 lbs/gal), less water and exempt compounds, or (3) the use of binder materials such that their daily-weighted average does not exceed a VOC content of 420 grams VOC per liter (3.5 lbs/gal), less water and exempt compounds. Records are explicitly required for all operations, including any that are exempt from the emission standards of the rule due to low usage. All records must be maintained for at least 3 years. Good engineering practices are required for operations, including the proper storage and disposal of VOC materials. The test methods referenced are all EPA approved, and there are no provisions for alternative methods. The rule required final compliance by September 1, 1994. Rule 341 is expected to achieve VOC reductions of at least 271 tpy. A more detailed discussion of the source controlled, the controls required, and the justification for why these controls represent RACT can be found in the TSD for Rule 341, dated March 27, 1995.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, MCESD's Rule 334, "Rubber Sports Ball Manufacturing," and Rule 341, "Metal Casting," are being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic,

and environmental factors and in relation to relevant statutory and regulatory requirements.

### Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. Section 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

### Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 182(b)(2)(C) of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being proposed for approval by this action would impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this proposed or action

<sup>4</sup> Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTG's).

does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

The OMB has exempted this action from review under Executive Order 12866.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: July 10, 1995.

**Felicia Marcus,**

*Regional Administrator.*

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#### 40 CFR Part 180

[PP 3F2792/P622; FRL-4966-2]

RIN 2070-AC18

#### Pesticide Tolerance for Pendimethalin

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to establish tolerances for the combined residues of the herbicide pendimethalin (*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine) and its metabolite 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol in or on the raw agricultural commodities pea pods, shelled peas, pea vines, and peas plus pods each at 0.1 part per million (ppm). The American Cyanamid Co. requested this proposed regulation to establish a maximum permissible level for residues of the herbicide in a petition submitted under the Federal Food, Drug and Cosmetic Act (FFDCA).

**DATES:** Comments, identified by the document control number [PP 3F2792/P622], must be received on or before August 25, 1995.

**ADDRESSES:** By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as

“Confidential Business Information” (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 3F2792/P622]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

**FOR FURTHER INFORMATION CONTACT:** By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Rm. 241, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6800; e-mail: taylor.robert@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued a notice, published in the **Federal Register** of January 1, 1983 (48 FR 1350), which announced that American Cyanamid Co. had submitted pesticide petition (PP) 3F2792 to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), amend 40 CFR 180.361 by establishing a tolerance for the combined residues of the herbicide pendimethalin, in or on the raw agricultural commodities pea pods, shelled peas, pea vines, and peas plus pods each at 0.1 part per million (ppm). There were no comments or requests for referral to an advisory committee received in response to the notice of filing.

The petitioner subsequently amended the petition and proposed to establish a

tolerance for the combined residues of pendimethalin and its metabolite in or on the raw agricultural commodities of the legume vegetables (succulent or dried) group at 0.1 ppm and in or on the foliage of legume vegetables group at 0.1 ppm. The petition was later revised to propose tolerances for the combined residues of pendimethalin and its metabolite in or on peas (except field peas) pursuant to 40 CFR 180.1(h).

The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance include:

1. Results of acute oral, dermal and inhalation studies, primary eye irritation studies, and primary dermal irritation and sensitization studies placing technical-grade pendimethalin in Toxicity Category III.

2. A subchronic feeding study with rats fed dosages of 0, 10, 50, or 500 milligrams/kilogram/day (mg/kg/day) with no-observable-effect level (NOEL) of 50 mg/kg/day based on decreased hematocrit and hemoglobin levels in males, decreased body weight gain and food consumption, and hypertrophy of the liver accompanied by increased liver weights at 500 mg/kg/day.

3. A chronic feeding study in dogs fed dosages of 0, 12.5, 50, or 200 mg/kg/day with a NOEL of 12.5 mg/kg/day based on an increase in serum alkaline phosphatase and increased liver weights and hepatic lesions at 50 mg/kg/day.

4. A chronic feeding/carcinogenicity study in rats fed dosages of 0, 5, 25, or 50 mg/kg/day with a statistically significant increased trend and pairwise comparison between the high-dosed group and the control for thyroid follicular cell adenomas in male and female rats. The systemic NOEL is 5 mg/kg/day based on pigmentation of thyroid follicular cells in males and females.

5. A carcinogenicity study in male mice fed dosages of 0, 12.3, 62.3, or 622.1 mg/kg/day or female mice fed dosages of 0, 15.6, 783, or 806.9 mg/kg/day with no carcinogenic effects observed under the conditions of the study up to 622.1 mg/kg/day (highest dose tested [HDT]) in male mice or up to 806.9 mg/kg/day (HDT) in female mice.

6. A developmental toxicity study with rats fed dosages of 0, 125, 250, or 500 mg/kg/day with a developmental NOEL greater than 500 mg/kg/day (HDT) and a maternal NOEL greater than 500 mg/kg/day (HDT).

7. A developmental toxicity study with rabbits fed dosages of 0, 15, 30, or 60 mg/kg/day with a maternal and developmental NOEL greater than 60 mg/kg/day (HDT).