other nonprofit educational institutions that are not affiliated with National Public Radio for the use of copyrighted published nondramatic musical compositions. The cost of living adjustment is based on the change in the Consumer Price Index from October, 2000, to October, 2001.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION: Section 118 of the Copyright Act, 17 U.S.C., creates a compulsory license for the use of published nondramatic musical works and published pictorial, graphic, and sculptural works in connection with noncommercial broadcasting. Terms and rates for this compulsory license, applicable to parties who are not subject to privately negotiated licenses, are published in 37 CFR part 253 and are subject to adjustment at five-year intervals. 17 U.S.C. 118(c). The last proceeding to adjust the terms and rates for the section 118 license began in 1996. 61 FR 54458 (October 18, 1996).

On January 14, 1998, the Copyright Office announced final regulations governing the terms and rates of copyright royalty payments with respect to certain uses by public broadcasting entities of published nondramatic musical works, and published pictorial, graphic, and sculptural works, including the 1998 rates for the public performance of musical compositions in the ASCAP, BMI, and SESAC repertories by public broadcasting entities licensed to colleges and universities. 63 FR 2142 (January 14, 1998).

Pursuant to these regulations, on December 1 of each year ''the Librarian of Congress shall publish a notice of the change in the cost of living during the period from the most recent Index published prior to the previous notice, to the most recent Index published prior to December 1, of that year.'' 37 CFR 253.10(a). The regulations also require that the Librarian publish a revised schedule of rates for the public performance of musical compositions in the ASCAP, BMI, and SESAC repertories by public broadcasting entities licensed to colleges and universities, reflecting the change in the Consumer Price Index. 37 CFR 253.10(b).

Accordingly, the Copyright Office of the Library of Congress is hereby announcing the change in the Consumer Price Index and performing the annual cost of living adjustment to the rates set out in § 253.5(c). 63 FR 2142 (January 14, 1998).

The change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published before December 1, 2000, to the most recent Index published before December 1, 2001, is 2.1% (2000's figure was 174.0; the figure for 2001 is 177.7, based on 1982–1984=100 as a reference base). Rounding off to the nearest dollar, the adjustment in the royalty rate for the use of musical compositions in the repertory of ASCAP and BMI is $244, each, and $66 for the use of musical compositions in the repertory of SESAC.

List of Subjects in 37 CFR Part 253

Copyright, Radio, Television.

Final Regulation

For the reasons set forth in the preamble, part 253 of title 37 of the Code of Federal Regulations is amended as follows:

PART 253—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

1. The authority citation for part 253 continues to read as follows:

Authority: 17 U.S.C. 118, 801(b)(1) and 803.

2. 37 CFR 253.5 is amended by revising paragraphs (c)(1) through (c)(3).

§ 253.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

* * * * *

(c) * * *

(1) For all such compositions in the repertory of ASCAP, $244 annually.

(2) For all such compositions in the repertory of BMI, $244 annually.

(3) For all such compositions in the repertory of SESAC, $66 annually.

* * * * *

Dated: November 26, 2001.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 01–29785 Filed 11–29–01; 8:45 am]

BILLING CODE 1410–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 086–0047; FRL–7105–3]

Revisions to the Arizona State Implementation Plan, Maricopa County Environmental Services Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of a revision to the Maricopa County Environmental Services Department (MCESD) portion of the Arizona State Implementation Plan (SIP). This revision was proposed in the **Federal Register** on May 24, 2001 and concerns volatile organic compound (VOC) emissions from automotive windshield washer fluid. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

EFFECTIVE DATE: This rule is effective on December 31, 2001.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revision at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

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

Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Suite 201, Phoenix, AZ 85004.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 947–4117.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On May 24, 2001 (66 FR 28685), EPA proposed to approve the following rule into the Arizona SIP.

Local Agency	Rule #	Rule Title	Adopted	Submitted
MCESD	344	Automobile Windshield Washer Fluid.	04/07/99	08/04/99

We proposed to approve this rule because we determined that it complied with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from the following party.

1. D. Douglas Fratz and Joseph T. Yost, Consumer Specialty Products Association (CSPA); letter dated June 22, 2001.

CSPA's comments pertain to the test method, Maricopa County Reference Method #100 (RM 100), used for determining compliance, and to the consistency of MCESD Rule 344 with other consumer product regulations. CSPA's comments and our responses are summarized below.

Comment: Because RM 100 reports results as total organic carbon and different VOCs have different percentages of carbon, it is not possible to accurately convert RM 100 results into the terms in which the limits of MCESD Rule 344 are expressed, mass of VOC.

Response: Conversion of RM 100 test results from mass of carbon to the mass of VOC is relatively simple for windshield washer fluids (WWF) containing a single VOC and slightly more complex for WWFs containing multiple VOCs.

Converting the mass of carbon from the test result to mass of VOC involves multiplying the test results by the ratio of molecular weights. Based on EPA's survey used to develop the national Consumer Products Rule (40 CFR part 59, subpart C) and the California Air Resources Board's (CARB) consumer products speciation profile [1] for automobile WWFs, the predominant VOC used in WWFs is methanol. If methanol is the only VOC present, the conversion factor from mass of carbon to mass of VOC is 32/12. For WWFs containing multiple VOCs, the conversion from mass of carbon to mass of VOC can still be done if the VOCs and their approximate proportions are known.

RM 100 allows the use of either infrared (IR) or flame ionization (FID) detectors. If an IR or FID detector is calibrated with methanol, and methanol is the only VOC present, then a laboratory could report results directly as percent methanol. If VOCs other than methanol are present, then this method would tend to overestimate the total mass of VOC. Only if the results from these methods exceed the limits of MCESD Rule 344 would further data reduction and investigation using the above mass of carbon to mass of VOC conversion method be necessary. EPA may also approve other methods should they be submitted for evaluation.

Comment: RM 100 will overestimate the total organic carbon associated with VOCs for WWFs containing one or more exempt compounds because it does not distinguish between organic carbon from VOCs and organic carbon from non-precursor organic compounds.

Response: Maricopa County's list of non-precursor organic compounds is the same as EPA's. There are relatively few compounds on that list that could be used in WWFs because many are not soluble in water. Acetone is one of the few compounds that is soluble in water but is unlikely to be used in WWFs because of its potential to damage a vehicle's paint. If WWFs contain exempt solvents, manufacturers would be allowed to subtract the mass of exempt solvents from the mass of VOC and could petition the MCESD for an alternative method by which to do that.

Comment: RM 100 will overestimate the total organic carbon associated with VOCs because it does not distinguish between volatile organic compounds and non-volatile organic compounds. Certain compounds in WWFs, like organic dyes or other non-volatile organic compounds, cannot participate in the atmospheric photochemical reactions that produce ozone because they do not volatilize to the air.

Response: While it is difficult to know how significantly dyes or other non-volatile organic compounds might increase the total VOC content of WWFs, a review of material safety data sheets indicates that the actual mass of dyes and other non-volatile organic compounds added to WWFs tends to be small. If the amount of non-volatile organic compounds is considerable and may influence a compliance determination, EPA recommends the manufacturer petition the MCESD for alternative methods to exclude the mass of dyes and non-volatile organic compounds from the mass of VOCs.

Comment: Rule 344 is problematically inconsistent with analogous federal and California regulations. Specifically, many products that would comply with a 10 percent VOC limitation according to EPA and California regulations may not comply with that same limitation under the provisions of MCESD Rule 344 because: (1) There is no process to sell-through a product that exceeds the VOC limit but was manufactured before the effective date of the rule, (2) ''low vapor pressure'' (LVP) compounds that are not volatile are not exempted, (3) the types of ''reasonable prudent precautions'' allowed in all other consumer product rules to assure that a non-complying product sold in the County will be resold for use outside the County are artificially restricted under the rule, (4) concentrated product labels with dilution instructions resulting in stronger WWF formulations for users outside of Maricopa County are not allowed, and (5) an ''innovative products'' provision which allows products to exceed the applicable VOC limit if the use of such ''innovative products'' ultimately results in lower VOC emissions is not allowed.

Response: While we appreciate that consistency is desirable for affected industry, state and local agencies have broad authority to develop regulations and are not required to be consistent in all regards. In fact, section 59.211 of the final national Consumer Products Rule explicitly provides that states and their political subdivisions retain authority to adopt and enforce their own additional regulations affecting these products. Accordingly, MCESD may impose more stringent requirements for WWFs as part of its SIP and its election to do so is not a basis for EPA to disapprove the SIP. See *Union Electric Co.* v. *EPA*, 427 U.S. 246, 265–66 (1976). EPA favors national uniformity in consumer and commercial product regulation, but recognizes that some localities may need more stringent regulation to combat more serious and more intransigent ozone nonattainment problems.

Furthermore, while California consumer products regulations allow products to be sold, supplied, or offered for sale up to three years after the

[1] Consumer Products, Aerosol Coatings, and Architectural Coatings—Emissions and Speciation Profiles, *http://www.arb.ca.gov/emisinv/ speciate/ CProds&ACtqsprof.htm.*

effective date of the rule, MCESD Rule 344 is consistent with the national Consumer Products Rule which does not contain a sell-through period. As explained in the background document,[2] manufacturers' current ''just in time'' inventory practices and the expense and lack of sufficient storage space do not create large stockpiles of noncomplying products which might warrant a sell-through period. EPA considers the incorporation of a sell-through period to be at the discretion of the local agency.

The amount of LVP compounds such as surfactants or ethylene glycol used in WWFs tends to be minimal so as not to affect a product's ability to clean and evaporate quickly without leaving a residue. A review of the CARB's Initial Statement of Reasons for Proposed Amendments to the California Consumer Products Regulation dated September 10, 1999 indicates that surfactants in a possible windshield washer formulation may account for 0.05 weight percent. As stated above, EPA cannot object to MCESD Rule 344 taking a more stringent approach than the national Consumer Products Rule and concurs with MCESD's decision to not exempt LVP compounds in Rule 344.

Section 303 of MCESD rule 344 exempts non-complying WWFs destined for use outside of Maricopa County. Section 303 also specifies the information required to prove that non-complying products sold within Maricopa County are actually destined for use outside of the County. Although MCESD Rule 344 is more prescriptive than California's Consumer Products Rule which allows manufacturers and distributors of non-compliant products some flexibility to take ''reasonable prudent precautions'' to assure that the consumer product is not distributed in California, Rule 344, as written, meets EPA's enforceability requirements.

MCESD adopted requirements in section 302e of Rule 344 that prohibit the dilution of WWFs that would yield solutions that exceed the VOC limit of the rule. Labeling products with directions which yield WWFs that are more concentrated than the 10% VOC limit is potentially confusing to the end user in the County and may create more enforcement problems. The requirement that all dilution instructions for concentrated products never exceed 10% ensures that MCESD will achieve the emissions reductions expected from Rule 344. EPA supports MCESD's intent to establish clear, enforceable labeling requirements.

Inclusion of an innovative products provision in MCESD Rule 344 would allow greater flexibility for manufacturers to meet Rule 344's VOC content limit. However, California has had a 10% VOC limit for WWFs since 1993 and no innovative product requests for WWFs have been submitted to CARB. Therefore, EPA considers Maricopa County's limit of 10% to be reasonable and achievable.

III. EPA Action

None of the submitted comments change our assessment that the submitted rule complies with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving this rule into the Arizona SIP.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 32111, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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 January 29, 2002. 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

[2] National Volatile Organic Compound Emission Standards For Consumer Products—Background for Promulgated Standards EPA–453/R–98–008b August 1998.

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: October 31, 2001.

Wayne Nastri,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(94)(i)(E) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(94) * * *

(i) * * *

(E) Rule 344, adopted on April 7, 1999.

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[FR Doc. 01–29550 Filed 11–29–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL211–1a; FRL–7108–8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to volatile organic compound (VOC) rules for Bema Film Systems, Incorporated (Bema). This flexographic printing facility is located in DuPage County, Illinois. The Illinois Environmental Protection Agency (IEPA) submitted the revised rules on March 28, 2001 as amendments to its State Implementation Plan (SIP). The revisions consist of an adjusted standard from the Flexographic Printing Rule, 35 IAC 218.401(a), (b), and (c). The Illinois Pollution Control Board (Board) approved this adjusted standard because the Board considers this to be the Reasonably Achievable Control Technology (RACT) for Bema. The Board concluded that complying with the Flexographic Printing Rule requirements would be technically infeasible or economically unreasonable for this facility. The EPA concurs. The adjusted standard requirements include a reduction in trading allotments should Bema's emissions trigger participation in the Illinois market-based emissions trading system, maintaining daily records, conducting trials of compliant inks, and reviewing alternate control technologies.

DATES: This rule is effective on January 29, 2002, unless the EPA receives relevant adverse written comments by December 31, 2001. If adverse written comment is received, the EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should mail written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of Illinois' submittal at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886–6524.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used we mean the EPA.

Table of Contents

I. What Is the EPA Approving?

The EPA is approving an adjusted standard from the Flexographic Printing Rule for Bema. Bema is to comply with the requirements in its adjusted standard. The requirements include a reduction of the market-based emissions trading system baseline, maintaining daily records of inks and VOC content, conducting trials of compliant inks, and reviewing alternate control technologies.

II. What Are the Changes From the Current Rule?

The adjusted standard changes the VOC rule Bema must follow. Bema's facility is located in the metropolitan Chicago severe ozone non-attainment area. Bema, with a permitted VOC emissions limit of 77.4 tons per year (TPY), is classified as a major source because it can emit more than 25 TPY of VOC. Chicago area flexographic printers classified as major VOC sources are subject to the Flexographic Printing Rule. This rule requires printers to either use compliant inks (low or no VOC content) or use a VOC emissions control device. Limiting VOC emissions will help to reduce ozone because VOC can chemically react in the atmosphere to form ozone.

The adjusted standard given to Bema changes its requirements to reduce the market-based emissions trading system allotment baseline, maintaining daily records, and to conduct trials with compliant inks and control devices. The market-based trading system will allow Bema to buy emissions allotments from companies which can reduce their VOC emissions at a lower cost than Bema can. The net VOC emissions of all participants meets the desired reductions.

III. What Is the EPA's Analysis of the Supporting Materials?

Illinois included information on compliant ink trials and control device studies at Bema. The Flexographic Printing Rule requires sources to use either compliant inks or to use a control device to limit VOC emissions. To evaluate what RACT is for Bema, the first consideration is to determine what options would work. The costs of the options that will work are then estimated. The economic burden on the company is then considered. If the compliance costs are determined to be too high, this option is not considered RACT.

Bema ran trials of printing with compliant inks. It also determined what control technologies would work and their cost. The Illinois Pollution Control Board concluded that using either compliant inks or a control device would not be RACT for Bema. The EPA concurs. The adjusted standard requirements are considered RACT by