

## Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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.

## Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

## Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1 paragraph (34)(g), of the

instruction, from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in NEPA.

A draft "Environmental Analysis Check List" and a draft "Categorical Exclusion Determination" are available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

## List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 147 as follows:

### PART 147—SAFETY ZONES

1. The authority citation for part 147 continues to read as follows:

**Authority:** 14 U.S.C. 85; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.1.

2. Add § 147.839 to read as follows:

#### § 147.839 Mad Dog Truss Spar Platform Safety Zone.

(a) *Description.* Mad Dog Truss Spar Platform, Green Canyon 782 (GC 782), located at position 27°11'18" N, 91°05'12" W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone. These coordinates are based upon [NAD 83].

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following:

- (1) An attending vessel;
- (2) A vessel under 100 feet in length overall not engaged in towing; or
- (3) A vessel authorized by the Commander, Eighth Coast Guard District.

Dated: March 8, 2005.

**R.F. Duncan,**

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

[FR Doc. 05-5766 Filed 3-22-05; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[AZ 136-086; FRL-7888-5]

### Revisions to the Arizona State Implementation Plan, Maricopa County

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Maricopa County portion of the Arizona State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from polystyrene foam molding operations. We are proposing to approve Maricopa County Rule 358 to regulate these emission sources for purposes of reasonably available control technology under the Clean Air Act as amended in 1990 (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 April 22, 2005.

**ADDRESSES:** Send comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901 or e-mail to [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov), or submit comments at <http://www.regulations.gov>.

You can inspect copies of the submitted SIP revisions, EPA's technical support documents (TSDs), and public comments at our Region IX office during normal business hours by appointment.

You may also see copies of the submitted SIP revisions by appointment at the following locations: Arizona Department of Environmental Quality, Air Quality Division, 1100 West Washington Street, Phoenix, AZ, 85007; and, Maricopa County, Air Quality Department, 1001 North Central Avenue, Phoenix, AZ, 85004-1942.

A copy of the rule may also be available via the Internet at <http://www.maricopa.gov/Aq/Rules/Workshops.asp>. Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Jerald S. Wamsley, EPA Region IX, (415) 947-4111, [wamsley.jerry@epa.gov](mailto:wamsley.jerry@epa.gov).

### SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us" and "our" refer to EPA.

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**I. The State's Submittal**

*A. What Rule Did the State Submit?*

Table 1 lists the rule addressed by this proposal with the date that it will be

considered for adoption by Maricopa County. We anticipate that the Arizona Departmental of Environmental Quality (ADEQ) will submit the adopted rule

and its companion documents soon after April 22, 2005.

TABLE 1.—SUBMITTED RULES

Local agency	Rule	Rule title	To be adopted	submitted
Maricopa County .....	358	Polystyrene Foam Operations .....	04/22/05	

On February 22, 2005, ADEQ requested EPA to parallel process our review of Rule 358 concurrently with Maricopa County's rule adoption process. We have agreed to parallel process Rule 358 using our authority under 40 CFR Part 51, Appendix V. Arizona's parallel processing request and proposed SIP revision request consist of a SIP Completeness Checklist with the following documents as appendices: A Maricopa County SIP Completeness and Enforceability Checklist; Notice of Proposed Rulemaking, Maricopa County Air Pollution Control Regulations, Rule 358—Polystyrene Foam Operations, published February 11, 2005 in the Arizona Administrative Register, Volume 1, Issue 7, pages 703–714; "Schedule for Final Adoption, Rule 358—Polystyrene Foam Operations"; and, "RACT Analysis for Rule 358—Polystyrene Foam Operations", Draft January 28, 2005, Maricopa County, Planning and Analysis Section, Air Quality Department, Phoenix, Arizona.

According to the "Schedule for Final Adoption" provided by Maricopa County, the administrative hearing and oral proceeding is scheduled for March 17, 2005, all public comments concerning the proposed rulemaking are due March 18, 2005, and the Maricopa County Board of Supervisors will meet on April 20, 2005 to consider Rule 358 for adoption.

After reviewing the ADEQ's February 22, 2005 parallel processing submittal against the completeness criteria at 40 CFR, Part 51, Appendix V, 2.3.1., we find that the ADEQ's parallel processing submittal is complete. These criteria are used specifically for parallel processing submittals. Once we have received ADEQ's supplemental submittal after Rule 358 has been adopted by Maricopa County, we will determine whether or not the submittal is complete according to the general completeness criteria in 40 CFR Part 51 Appendix V, 2.0. This completeness finding will be made as part of our subsequent final action on this proposal.

*B. Are There Other Versions of This Rule?*

There is no previous version of Rule 358 in the SIP and the rule has not been previously adopted and amended.

*C. What Is the Purpose of the Submitted Rule?*

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Maricopa County Rule 358—Polystyrene Foam Operations, is a rule designed to reduce VOC emissions at sites processing and molding raw polystyrene beads into blocks, shapes, and containers, such as cups and bowls. Rule 358 incorporates emissions standards on the basis of pounds per hundred weight of raw beads processed. Manufacturers will demonstrate compliance with these emission standards through annual compliance tests overseen by Maricopa County. These annual compliance tests provide the basis for facility permits and determining daily compliance with the emission standards. Manufacturers may use any combination of lower VOC content raw beads, manufacturing process changes, VOC emission collection systems, and VOC destruction devices to meet the rule's emission standards. The Technical Support Document (TSD) has more information about this rule.

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

*A. How Is EPA Evaluating the Rule?*

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(1) and 193). Maricopa County regulates a 1-hour ozone nonattainment area (see 40 CFR 81), so Rule 358 must fulfill RACT.

Guidance and policy documents that we used to help evaluate enforceability

and RACT requirements consistently include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "Control of VOC Emissions From Polystyrene Foam Manufacturing," USEPA, Office of Air Quality Planning and Standards, Research Triangle Park, NC, September 1990, EPA-450/3-90-020.

*B. Does the Rule Meet the Evaluation Criteria?*

We believe Rule 358 is consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. While we propose to approve Maricopa County's RACT determination, our approval does not represent a national RACT determination.

EPA has defined RACT as the, "lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility" (44 FR 53762, September 17, 1979). Maricopa County has the primary obligation to analyze the source category and determine RACT controls applicable to their jurisdiction and sources. In turn, EPA has authority either to approve, or to disapprove the state determination. EPA has reviewed Maricopa County's RACT determination using our published RACT criteria as applied to polystyrene foam molding operations within Maricopa County, only.

Our action on Rule 358 will not define a presumptive national RACT standard for polystyrene foam molding operations, nor will it create any precedent concerning BACT or LAER

for these sources. The RACT standard differs from the standard applicable to BACT, the “best available control technology” defined at section 169(3) of the Act. See also 40 CFR 52.21(b)(12). The RACT standard is also less stringent than LAER, the lowest achievable emission rate, which is defined at section 171(3) of the Act. Thus, a New Source Review determination for a source subject to Rule 358 could require a control technology or an emission rate which is more stringent than the floor created by Rule 358.

The TSD has more information on our evaluation.

#### *C. EPA Recommendations To Further Improve the Rule*

The TSD describes additional rule revisions that do not affect EPA’s current action but are recommended for the next time the local agency modifies the rules.

#### *D. Public Comment and Final Action*

Because EPA believes Rule 358 fulfills all relevant requirements, we are proposing to fully approve it as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period that would cause us to reconsider our proposed approval, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

Also, because our proposed action is based on a parallel processing submittal, the adopted and submitted version of Rule 358 must be similar in meaning and content to the February 11, 2005 version of the rule published in the Arizona Administrative Register submitted for parallel processing. Should there be substantial and meaningful differences between the two submitted rules, we will publish a new proposal based on the most recent adopted and submitted version of Rule 358.

### **III. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and

imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed 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 proposes to approve 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 proposed 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 proposed 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.*).

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

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

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

Dated: March 8, 2005.

**Jane Diamond,**

*Acting Regional Administrator.*

[FR Doc. 05–5718 Filed 3–22–05; 8:45 am]

**BILLING CODE 6560–50–M**

### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 180**

[OPP–2004–0421; FRL–7701–4]

#### **Alachlor, Carbaryl, Diazinon, Disulfoton, Pirimiphos-methyl, and Vinclozolin; Proposed Tolerance Revocations**

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

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to revoke specific tolerances for residues of the herbicide alachlor, insecticides carbaryl, diazinon, disulfoton, and pirimiphos-methyl, and fungicide vinclozolin. Some of these specific tolerances correspond to commodities either no longer considered to be significant livestock feed items or which have registration restrictions against feeding to livestock. Other tolerances are associated with food registrations that EPA canceled or for which the Agency deleted food uses following requests for voluntary cancellation or use deletion by the registrants. EPA expects to determine whether any individuals or groups want to support these tolerances. The regulatory actions proposed in this document contribute toward the Agency’s tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2006 to reassess the tolerances in existence on August 2, 1996. The regulatory actions proposed in this document pertain to the proposed revocation of 15 tolerances and tolerance exemptions of which 9 would be counted as tolerance reassessments toward the August, 2006 review deadline.