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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2017–0481; FRL–9978–82—Region 9]

Air Quality State Implementation Plans: Arizona; Approval and Conditional Approval of State Implementation Plan Revisions; Maricopa County Air Quality Department; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing action on revisions to the Maricopa County Air Quality Department (MCAQD) portion of the state implementation plan (SIP) for the State of Arizona. We are proposing full approval of three rules and conditional approval of three rules submitted by the MCAQD. The revisions update the MCAQD's New Source Review (NSR) permitting program for new and modified sources of air pollution. We are taking comments on this proposed rule and plan to follow with a final action.

DATES: Any comments must arrive by July 11, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2017–0481 at *http://www.regulations.gov,* or via email to *R9AirPermits@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from *Regulations.gov*. For either manner of submission, 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: Shaheerah Kelly, EPA Region IX, (415) 947–4156, *kelly.shaheerah@epa.gov.*

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

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Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The word or initials *ADEQ* mean or refer to the Arizona Department of Environmental Quality.

(ii) The word or initials *CAA* or *Act* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(iii) The initials *CFR* mean or refer to Code of Federal Regulations.

(iv) The initials or words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(v) The word or initials *MCAQD* or *Department* mean or refer to the Maricopa County Air Quality Department, the agency with jurisdiction over stationary sources within Maricopa County, Arizona.

(vi) The initials *NAAQS* mean or refer to the National Ambient Air Quality Standards.

(vii) The initials *NSR* mean or refer to New Source Review.

(viii) The initials *NNSR* mean or refer to nonattainment New Source Review.

(ix) The initials *PSD* mean or refer to Prevention of Significant Deterioration.

(x) The initials *SIP* mean or refer to State Implementation Plan.

(xi) The word *State* means or refers to the State of Arizona.

(xii) The word *TSD* means or refers to the Technical Support Document.

I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the submitted rules addressed by this action with the dates that the rules were adopted by the MCAQD and submitted to EPA by the ADEQ, which is the governor's designee for Arizona SIP submittals. These rules constitute the MCAQD's air quality preconstruction NSR permit program.

TABLE 1—MCAQD SUBMITTED RULES

Regulation & Rule No.	Rule title	Adoption or amendment date	Submitted
Regulation I, Rule 100	General Provisions; General Provisions and Definitions.	2/3/2016	5/18/2016
Regulation II, Rule 200	Permits and Fees; Permit Requirements	2/3/2016	5/18/2016
Regulation II, Rule 210 [1]	Permits and Fees; Title V Permit Provisions	2/3/2016	5/18/2016
Regulation II, Rule 220	Permits and Fees; Non-Title V Permit Provisions	2/3/2016	5/18/2016
Regulation II, Rule 230	Permits and Fees; General Permits	2/3/2016	5/18/2016
Regulation II, Rule 240	Permits and Fees; Federal Major New Source Review	2/3/2016	5/18/2016
Regulation II, Rule 241	Permits and Fees; Minor New Source Review	9/7/2016	11/25/2016

[1] Rule 210 also contains requirements to address the CAA title V requirements for operating permit programs, but we are not evaluating the rule for title V purposes at this time. We will evaluate Rule 210 for compliance with the requirements of title V of the Act and the EPA's implementing regulations in 40 CFR part 70 following receipt of an official part 70 program submittal from Maricopa County containing this rule.

On October 31, 2016, the EPA determined that the submittal for the MCAQD's Rules 100, 200, 210, 220, 230, and 240 met the completeness criteria in 40 CFR part 51 Appendix V. Additionally, on January 17, 2017, the EPA determined that the submittal for the MCAQD Rule 241 met the completeness criteria in 40 CFR part 51 Appendix V.[2] These NSR rule submittals, which we refer to collectively herein as ''MCAQD's NSR submittal'' or ''the submittal,'' represent a comprehensive revision to the MCAQD's preconstruction review and permitting program and are intended to satisfy the requirements under part D (NNSR) of title I of the Act as well as the general preconstruction review requirements under section 110(a)(2)(C) of the Act.

In a letter dated April 6, 2018, the ADEQ requested that the rules or rule sections listed in Table 2 be withdrawn from the May 18, 2016 SIP submittal. Therefore, these rules or rule sections are not part of the submitted rules that the EPA is evaluating and proposing action on in this notice.

TABLE 2—WITHDRAWN MCAQD RULES OR RULE SECTIONS

Regulation, rule, & section No.	Title	Adoption or amendment date	Submitted
Regulation I, Rule 100, Section 200.24	Definition of ''Begin Actual Construction''	2/3/2016	5/18/2016
Regulation I, Rule 100, Section 200.73	Definition of ''Modification''	2/3/2016	5/18/2016
Regulation I, Rule 100, Section 200.104(c)	Definition of ''Regulated Air Pollutant''	2/3/2016	5/18/2016
Regulation II, Rule 230	Permits and Fees; General Permits	2/3/2016	5/18/2016
Regulation II, Rule 240, Section 305	Permit Requirements for New Major Sources or Major Modifications located in Attainment or Unclassifiable Areas.	2/3/2016	5/18/2016

B. Are there other versions of these rules?

The existing SIP-approved NSR program for new or modified stationary sources in Maricopa County consists of the rules identified in Table 3. Collectively, these rules establish the NSR permit requirements for stationary sources under the MCAQD's jurisdiction.

The rules listed in Table 1 will replace the existing SIP-approved NSR program rules listed in Table 3, in their entirety, except for certain definitions the EPA has identified that must be retained in the SIP.[3] The MCAQD made significant revisions to its NSR program, including, for example, switching from separate preconstruction and operating permit programs to a ''unitary'' permit program.[4] The EPA's action on this SIP submittal will update the MCAQD portion of the Arizona SIP.

TABLE 3—MCAQD'S CURRENT SIP-APPROVED RULES

Regulation, rule, & section No.	Rule title	SIP approval date	**Federal Register** citation
Regulation I, Rule 1	General Provisions; Emissions Regulated: Policy, Legal Authority.	7/27/1972	37 FR 15080
Regulation I, Rule 2, No. 11 ''Alteration or Modification'' and No. 33 ''Existing Source''.	General Provisions; Definitions	6/18/1982	47 FR 26382
Regulation I, Rule 2 (excluding Nos. 18, 49, 50, 52, 54 and 57)[5].	General Provisions; Definitions	4/12/1982	47 FR 15579
Regulation I, Rule 3	General Provisions; Air Pollution Prohibited	4/12/1982	47 FR 15579
Regulation I, Rule 100, Section 108	General Provisions; Hearing Board	8/10/2015	80 FR 47859
Regulation I, Rule 100, Section 500	General Provisions; Monitoring and Records	11/5/2012	77 FR 66405
Regulation II, Rule 20[6]	Permits and Fees; Permits Required	7/27/1972	37 FR 15080
Regulation II, Rule 21.0, (paragraphs A–C; subparagraphs D.1.a-d; and paragraph E only)[7].	Permits and Fees; Procedures for Obtaining an Installation Permit.	1/29/1991	56 FR 3219
Regulation II, Rule 21.0, (subparagraph D.1 and subparagraphs D.1.e, f and g only)[8].	Permits and Fees; Procedures for Obtaining an Installation Permit.	1/29/1991	56 FR 3219
Regulation II, Rule 21, Section F[9]	Permits and Fees; Procedures for Obtaining an Installation Permit.	7/27/1972	37 FR 15080
Regulation II, Rule 21, Section G	Permits and Fees; Procedures for Obtaining an Installation Permit.	4/12/1982	47 FR 15579
Regulation II, Rule 23	Permits and Fees; Permit Classes	7/27/1972	37 FR 15080
Regulation II, Rule 25	Permits and Fees; Emissions Test Methods and Procedures.	4/12/1982	47 FR 15579

[2] Copies of the completeness letters are in the docket for today's rulemaking.

[3] See Section 4.8.1.5 in our TSD in the docket for this action for a list of these definitions.

[4] The MCAQD combined its ''installation'' (referred to in EPA regulations as ''construction'') and ''operating'' permit programs to form a ''unitary'' permit program that authorizes both construction and operation of a stationary source in a single permit document. A single permit application is submitted by a stationary source to satisfy both the NSR and Title V Operating permit program requirements. Also, the public notification and review process for the combined permit action is designed to satisfy both the NSR and operating permit program requirements.

[5] The excluded definitions were removed from the SIP-approved version of Rule 2 on June 18, 1982 (47 FR 26382).

[6] The NSR SIP Submittal identifies Rule 20 in the list of SIP rules intended to be replaced by the submitted revised rules. While Rule 20 is not listed in the current approved SIP (see 40 CFR 52.120), it is not entirely clear that it was ever removed from the SIP. Therefore, for completeness we are listing the rule.

[7] This approval action was approved by the EPA on August 10, 1988 (53 FR 30224), then vacated and restored on January 29, 1991 (56 FR 3219).

[8] *Id.*

[9] While Rule 21, Section F is not listed in the current approved SIP (see 40 CFR 52.120), it is not entirely clear that it was ever removed from the SIP. Therefore, for completeness we are listing the rule.

TABLE 3—MCAQD'S CURRENT SIP-APPROVED RULES—Continued

Regulation, rule, & section No.	Rule title	SIP approval date	**Federal Register** citation
Regulation II, Rule 26	Permits and Fees; Air Quality Models	4/12/1982	47 FR 15579
Regulation II, Rule 26	Permits and Fees; Portable Equipment	7/27/1972	37 FR 15080
Regulation II, Rule 220	Permits and Fees; Permits to Operate	1/6/1992	57 FR 354
Regulation IV, Rule 40	Production of Records: Monitoring, Testing, and Sampling Facilities; Record Keeping and Reporting.	4/12/1982	47 FR 15579
Regulation IV, Rule 43	Production of Records: Monitoring, Testing, and Sampling Facilities; Right of Inspection.	7/27/1972	37 FR 15080
Regulation VII, Rule 71	Ambient Air Quality Standards; Anti-degradation	4/12/1982	47 FR 15579
Regulation VIII, Rule 80	Validity and Operation; Validity	7/27/1972	37 FR 15080

C. What is the purpose of the submitted rule revisions?

Section 110(a) of the CAA requires states to submit regulations that include a pre-construction permit program for new or modified stationary sources of pollutants, including a permit program as required by part D of title I of the CAA.

The purpose of the MCAQD's NSR submittal, which includes Rules 100, 200, 210, 220, 240, and 241, is to implement the county's preconstruction permit program for new and modified minor sources, and new and modified major stationary sources for areas designated nonattainment for at least one National Ambient Air Quality Standards (NAAQS).

A portion of Maricopa County (Phoenix-Mesa, AZ) is currently designated as a Moderate nonattainment area for the 2008 ozone NAAQS and as a Marginal nonattainment area for the 2015 ozone NAAQS. Additionally, a different portion of the county (Phoenix Planning Area) is currently designated as a Serious nonattainment area for the 1987 24-hour PM_{10} NAAQS. See 40 CFR 81.303.

We present our evaluation under the CAA and the EPA's implementing regulations applicable to SIP submittals and NSR permit programs in general terms below. We provide a more detailed analysis in our TSD, which is available in the docket for this proposed action.

II. The EPA's Evaluation

A. How is the EPA evaluating the rules?

The EPA has reviewed the MCAQD rules listed in Table 1 for compliance with the CAA's general requirements for SIPs in CAA section 110(a)(2), and for the nonattainment NSR programs in part D of title I (sections 172 and 173). The EPA also evaluated the rules for compliance with the CAA requirements for SIP revisions in CAA sections 110(l) and 193. In addition, the EPA evaluated the submitted rules for consistency with the regulatory provisions of 40 CFR part 51, subpart I (Review of New Sources and Modifications) (*i.e.,* 40 CFR 51.160–51.165) and 40 CFR 51.307.

Among other things, section 110 of the Act requires that SIP rules be enforceable, and provides that the EPA may not approve a SIP revision if it would interfere with any applicable requirements concerning attainment and reasonable further progress (RFP) or any other requirement of the CAA. In addition, section 110(a)(2) and section 110(l) of the Act require that each SIP or revision to a SIP submitted by a state must be adopted after reasonable notice and public hearing.

Section 110(a)(2)(C) of the Act requires each SIP to include a program to regulate the modification and construction of any stationary source within the areas covered by the SIP as necessary to assure attainment and maintenance of the NAAQS. The EPA's regulations at 40 CFR 51.160–51.164 provide general programmatic requirements to implement this statutory mandate commonly referred to as the ''general'' or ''minor'' NSR program. These NSR program regulations impose requirements for approval of state and local programs that are more general in nature as compared to the specific statutory and regulatory requirements for NSR permitting programs under part D of title I of the Act.

Part D of title I of the Act contains the general requirements for areas designated nonattainment for a NAAQS (section 172), including preconstruction permit requirements for new major sources and major modifications proposing to construct in nonattainment areas (section 173). 40 CFR 51.165 sets forth the EPA's regulatory requirements for SIP-approval of a nonattainment NSR permit program.

The protection of visibility requirements that apply to NSR programs are contained in 40 CFR 51.307. This provision requires that certain actions be taken in consultation with the local Federal Land Manager if a new major source or major modification may have an impact on visibility in any mandatory Federal Class I Area.

Section 110(l) of the Act prohibits the EPA from approving any SIP revisions that would interfere with any applicable requirement concerning attainment and RFP or any other applicable requirement of the CAA. Section 193 of the Act, which only applies in nonattainment areas, prohibits the modification of a SIP-approved control requirement in effect before November 15, 1990, in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.

Our TSD, which can be found in the docket for this rule, contains a more detailed discussion of the approval criteria.

B. Do the rules meet the evaluation criteria?

The EPA has reviewed the submitted rules in accordance with the rule evaluation criteria described above. With respect to procedural requirements, CAA sections 110(a)(2) and 110(l) require that revisions to a SIP be adopted by the state after reasonable notice and public hearing. Based on our review of the public process documentation included in the May 18, 2016 and November 25, 2016 SIP submittals, we find that the MCAQD has provided sufficient evidence of public notice, and an opportunity for comment and a public hearing prior to adoption and submittal of these rules to the EPA.

With respect to substantive requirements, we have reviewed the submitted rules in accordance with the evaluation criteria discussed above. We are proposing to fully approve Rules 210, 240 and 241 as part of the MCAQD's general and major source NSR permitting program because we have determined that these rules satisfy the substantive statutory and regulatory requirements for NSR permit programs as contained in part D of title I of the

Act (sections 172, 173 and 182(a)), the part D requirements of CAA section 110(a)(2)(C), 40 CFR 51.160–51.165, and 40 CFR 51.307.

In addition, we are proposing a conditional approval of Rules 100, 200, and 220 because we have determined that while they mostly satisfy the statutory and regulatory requirements of CAA section 110(a)(2)(C) and part D of title I of the Act, the rules also contain eight deficiencies that prevent full approval. Below we describe the eight identified deficiencies. Our TSD contains a more detailed evaluation and recommendations for program improvements.

1. Definitions of ''$PM_{2.5}$'' and ''PM_{10}'' (Rule 200, Sections 201 and 315)

The EPA finds the definitions of ''$PM_{2.5}$'' and ''PM_{10}'' in Rule 100, Sections 200.91 and 200.92, deficient because they do not provide that gaseous emissions, which form particulates, are included in the respective definitions. The MCAQD may correct this deficiency by adding language to clarify that gaseous emissions are included in these definitions.

2. Good Engineering Practice Stack Height Provisions (Rule 200, Sections 201 and 315)

An NSR program is required to contain provisions to satisfy the requirements of 40 CFR 51.164, pertaining to stack height procedures. The NSR program must contain provisions ensuring that a source with a stack height that exceeds good engineering practice (GEP), or that uses any other dispersion technique, does not affect the amount of emissions control required. 40 CFR 51.164 also includes specific requirements that must be met before a permit may be issued for any stack that exceeds GEP and a clarifying statement that the regulation does not restrict the actual stack height of any source.

Rule 200, Section 201 defines the term GEP Stack Height as ''stack height *meeting the requirements* described in Rule 240 (Federal Major NSR) of these rules.'' (*Emphasis* added) This definition is inconsistent with the definition for this term provided in 40 CFR 51.100(ii), which provides a numerical value, or formulas for calculating a numerical value, relevant to stack height. Rule 240, Section 306 does not contain any ''requirements for stack height,'' but instead provides criteria for determining if a stack height exceeds GEP, and a prohibition on stack height exceeding GEP from affecting the degree of emission limitation required by any source for control of any air pollutants. Because Rule 240, Section 306 does not provide any specific requirements for stack height, this definition lacks clarity and practical enforceability. Therefore, the EPA finds this definition deficient. The MCAQD may correct this deficiency by removing this definition or revising it in Rule 200 to read ''as defined in 40 CFR 51.100(ii),'' which will ensure the definition of GEP Stack Height is consistent with the EPA definition.

Rule 200, Section 315 states that ''the degree of emission limitation required of any source of any pollutant shall not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique *as determined by the procedures of 40 CFR 51.118* and the EPA regulations cross-referenced therein.'' (*Emphasis* added) While this language satisfies the first sentence of 40 CFR 51.164, it does not include provisions (1) excluding certain stacks (as provided in 40 CFR 51.118(b)); (2) allowing stacks to exceed GEP in specified circumstances; or (3) clarifying that these provisions do not limit the stack height of any source. In addition, despite the language of Rule 200, Section 315, 40 CFR 51.118 does not include any procedures for determining if the degree of emission limitation is or is not affected by a stack height that exceeds GEP or by any other dispersion technique. Therefore, the EPA finds Rule 200, Section 315 to be deficient. The MCAQD may correct this deficiency by moving or adding the provisions of Rule 240, Section 306 to Rule 200, Section 315.

3. Exemption for Agricultural Equipment Used in Normal Farm Operations (Rule 200, Section 305.1.c)

While the EPA agrees that, in general, certain types of equipment may be exempted from the minor NSR program, the MCAQD must provide a basis under 40 CFR 51.160(e) to demonstrate that regulation of the equipment exempted in Rule 200, Section 305.1.c is not needed for the MCAQD's program to meet federal NSR requirements for attainment and maintenance of the NAAQS or review for compliance with the control strategy.

Such demonstration must address: (1) Identification of the types of equipment that the MCAQD considers to be ''agricultural equipment used in normal farm operations'' and whether this type of equipment could potentially be expected to occur at a stationary source subject to title V of the CAA, 40 CFR parts 60, 61, and 63, or part C or D of title I of the CAA, and, if so, whether such equipment is subject to NSR review at such sources; and (2) the MCAQD's basis for determining that ''agricultural equipment used in normal farm operations'' does not need to be regulated as part of the MCAQD's minor NSR program under 40 CFR 51.160(e).

4. Notification and Implementation Provisions for Certain Changes That Do Not Require a Non-Title V Revision (Rule 220, Section 404.3)

Rule 200, Section 404.3 provides criteria for replacing or changing certain equipment if the source provides written notification to the Control Officer within 7 or 30 days in advance of the change. The EPA is concerned that two of the listed provisions (subparagraphs e. and f.) allow changes with potentially significant emission increases and should not be listed as changes that can be made after providing only a notification to the MCAQD. Subparagraph f. allows changes associated with an emission increase greater than 10 percent of the major source threshold (greater than 10 tpy for most criteria pollutants and 25 tpy for some other pollutants), if the increase does not trigger a new applicable requirement. These allowable emission increase thresholds are greater than some of the public notice thresholds provided in Rule 100, Section 200.98. Because the rule contains conflicting requirements—a notification and implementation provision allowing changes without a permit revision versus a public notice requirement for changes with emission increases equal or greater than these amounts, the EPA finds the provisions contained in subparagraph f. to be deficient. Likewise, the provision in subparagraph e. is for reconstructed sources, which are defined, in part, as sources where the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable new facility. This type of change is not likely to result in an insignificant revision; therefore, the EPA finds that this provision is also deficient. These deficiencies may be addressed by adding language stating that the provisions of Section 404.3 only apply to changes that do not require a permit revision pursuant to Section 403.2. (See language contained in Rule 200, Section 404.3, subparagraph b.)

5. Expiration of NSR Terms and Conditions

The MCAQD's permit programs now rely on a single unitary permit to satisfy both NSR and title V program requirements. Rule 210, Section 402 and

Rule 220, Section 402, both specify that a Title V and Non-Title V permit, respectively, shall remain in effect for no more than 5 years.

The MCAQD's permit program must ensure that all NSR terms and conditions contained in either type of permit do not expire even if the Title V or Non-Title V permit expires. Rule 200, Section 403.2 provides that if a timely and complete application for a permit renewal is submitted, then the permit will not expire until the renewal permit has been issued or denied. However, Rule 200, Section 403.2 does not specifically ensure the continuity of the NSR terms and conditions when a Title V or Non-Title V permit expires. The lack of such a provision is a NSR program deficiency. The MCAQD may correct this deficiency by adding a provision similar to paragraph B of ADEQ's R18–2–303.

6. Inappropriate Rule References of Appendix G in Rules 100 and 200

Appendix G (Incorporated Materials) is referenced throughout the submitted rules as containing pertinent requirements for provisions contained in the MCAQD's rules, but it is not included in the existing SIP, nor has it been included in the SIP submittal. For this reason, the following sections of the submitted rules, which reference Appendix G for the applicability of specified provisions, are deficient.

- Rule 100, Section 200.14 (Definition of ''AP–42'')
- Rule 100, Section 200.80 (Definition of ''Non-Precursor Organic Compound'')
- Rule 100, Section 200.103 (Definition of ''Reference Method'')
- Rule 100, Section 503 (Emission Statements Required as Stated in the Act)
- Rule 200, Section 315 (Stack Height Provisions)

The MCAQD may correct these deficiencies by removing the references to Appendix G and, where appropriate, citing to the appropriate CFR provision without incorporating the provision by reference into a specific MCAQD rule.

7. Inappropriate Rule References of Arizona Testing Manual in Rules 100 and 200

Rules 100 and 200 both include references to the Arizona Testing Manual (ATM). Rule 100, Section 200.17 defines the term ''ATM'' as Sections 1 and 7 of the ATM for Air Pollutant Emissions, amended as of March 1992 (and no future editions). However, only Section 1 of the ATM is approved in the Arizona SIP. This provision is deficient for two separate reasons. First, Rule 100 cross-references and relies on provisions that are not SIP approved. Second, the ATM is significantly out of date, and therefore it is not appropriate to be relied upon as the sole basis for testing procedures as specified in Section 408 of Rule 200. The MCAQD may correct this deficiency by revising Section 408 to specify current EPA test methods or alternative test methods approved by the Director and the EPA in writing.

8. Definitions To Be Retained in the SIP

The MCAQD's SIP submittal states that the Department is seeking to delete certain definitions from the approved SIP by replacing the rules containing these definitions with newly submitted rules that no longer contain these definitions (in effect, these definitions would be repealed from the SIP). However, these definitions are used in other SIP rules and therefore cannot be repealed from the SIP without further justification. Therefore, these definitions will be retained in the SIP. For a list of these definitions see Section 4.8.1.5 of our TSD, which is available in the docket for this proposed action.

III. Proposed Action and Public Comment

If a portion of a plan revision meets all the applicable CAA requirements, CAA section 110(k)(3) authorizes the EPA to approve the plan revision in part. As such we are proposing full approval of MCAQD Rules 210, 240, and 241. In addition, CAA section 110(k)(4) authorizes the EPA to conditionally approve a plan revision based on a commitment by the state to adopt specific enforceable measures by a date certain but not later than one year after the date of the plan approval. In letters dated April 2, 2018 and April 6, 2018, the MCAQD and the ADEQ committed to adopt and submit specific enforceable measures to address the identified deficiencies in Rules 100, 200, and 220 within one year after the date of final approval.[10] Accordingly, pursuant to section 110(k)(4) of the Act, the EPA is proposing a conditional approval of submitted Rules 100, 200, and 220. We are proposing to conditionally approve these rules based on our determination that, separate from the deficiencies listed in Section II.B of this notice, the rules satisfy the substantive statutory and regulatory requirements for a general NSR permit program as contained in 40 CFR 51.160–51.164, as well as a nonattainment NSR permit program as set forth in the applicable provisions of part D of title I of the Act (sections 172, 173 and 182(a)), 40 CFR 51.165, and 40 CFR 51.307. Moreover, we conclude that if the MCAQD and the ADEQ submit the changes listed in their commitment letters, the identified deficiencies will be cured.

In support of this proposed action, we have concluded that our conditional approval of the submitted rules would comply with section 110(l) of the Act because the amended rules, as a whole, would not interfere with continued attainment of the NAAQS in Maricopa County. The intended effect of our proposed conditional approval action is to update the applicable SIP with current MCAQD rules and provide the MCAQD the opportunity to correct the identified deficiencies, as discussed in their commitment letter dated April 2, 2018. If we finalize this action as proposed, our action would be codified through revisions to 40 CFR 52.120 (Identification of plan) and 40 CFR 52.119 (Part D conditional approval).

If the ADEQ and MCAQD meet their commitment to submit the required revisions and/or demonstrations within 12 months of the EPA's final action on this SIP submittal, and the EPA approves the submission, then the deficiencies listed above will be cured. However, if the MCAQD or the ADEQ fails to submit these revisions and/or demonstrations within the required timeframe, the conditional approval will become a disapproval and the EPA will issue a finding of disapproval. The EPA is not required to propose the finding of disapproval. Further, a finding of disapproval would start an 18-month clock to apply sanctions under CAA section 179(b) and a two-year clock for a federal implementation plan under CAA section 110(c)(1).

We will accept comments from the public on the proposed approval and conditional approval of the MCAQD rules listed in Table 1 of this notice for the next 30 days.

IV. Incorporation by Reference

In this rule, 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 the MCAQD rules listed in Table 1 of this notice, except for the rules or rule sections listed in Table 2 of this notice. The EPA has made, and will continue to make, these documents generally available electronically through

[10] See Section 9.2 of the TSD for additional information about how the MCAQD will correct the identified deficiencies. The April 2, 2018 and April 6, 2018 commitment letters from the MCAQD and the ADEQ are contained in the docket for today's rulemaking.

www.regulations.gov and at the EPA Region IX Office (see the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will 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.

F. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because 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, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Incorporation by reference, Intergovernmental relations, New Source Review, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: May 18, 2018.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2018–12390 Filed 6–8–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R03–RCRA–2017–0553; FRL–9979–06—Region 3]

District of Columbia: Proposed Authorization of District Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The District of Columbia (the District) has applied to the United States Environmental Protection Agency (EPA) for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed the District's application, and has determined that these revisions satisfy all requirements needed to qualify for final authorization. As a result, by this proposed rule, EPA is proposing to authorize the District's revisions and is seeking public comment prior to taking final action.

DATES: Comments on this proposed rule must be received by July 11, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–RCRA–2017–0553, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

2. *Email: kinslow.sara@epa.gov*.

3. *Mail:* Sara Kinslow, U.S. EPA Region III, RCRA Waste Branch, Mailcode 3LC32, 1650 Arch Street, Philadelphia, PA 19103–2029.

4. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

You may view and copy the District's application from 9:00 a.m. to 5:00 p.m., Monday through Friday at the following locations: District of Columbia Department of Energy and Environment, Environmental Services Administration, Hazardous Waste Branch, 1200 First Street NE, 5th Floor, Washington, DC, Phone number: (202) 654–6031, Attn: Barbara Williams; and EPA Region III, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–5254.

Instructions: EPA must receive your comments by July 11, 2018. Direct your comments to Docket ID No. EPA–R03–RCRA–2017–0553. EPA's policy is that all comments received will be included