

premanufacture to limit exposure to dust.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=34.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

**§ 721.11192 Glucosyltransferase, International Union of Biochemistry and Molecular Biology Number: 2.4.1.5.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as glucosyltransferase, International Union of Biochemistry and Molecular Biology Number: 2.4.1.5 (PMN P-16-575, CAS No. 9032-14-8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

**§ 721.11193 Alpha 1,3-polysaccharide (generic).**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance generically identified as alpha 1,3-polysaccharide (generic) (PMN P-16-581) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant

new use to use the substance other than as a polymer additive, paper coating component, composite component, or fiber additive. It is a significant new use to manufacture, process or use the PMN substance with particle size less than 10 micrometers.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2019-06624 Filed 4-4-19; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2017-0481; FRL-9991-53-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:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing revisions to the Maricopa County Air Quality Department's (MCAQD) portion of the state implementation plan (SIP) for the State of Arizona. We are finalizing full approval of Rules 210, 220, 240, and 241, and conditional approval of Rules 100 and 200. The revisions update the MCAQD's New Source Review (NSR) permitting program for new and modified sources of air pollution.

**DATES:** This rule is effective on May 6, 2019.

**ADDRESSES:** The EPA has established docket number EPA-R09-OAR-2017-0481 for this action. Generally, documents in the docket for this action are available electronically at <https://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street (AIR-3), San Francisco, California 94105-3901. While all documents in the docket are listed at <https://www.regulations.gov>, some information may be publicly available only at the

hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Shaheerah Kelly, EPA Region IX, 75 Hawthorne Street (AIR-3), San Francisco, CA 94105-3901, (415) 947-4156, [kelly.shaheerah@epa.gov](mailto:kelly.shaheerah@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the terms “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 initials *ADEQ* mean or refer to the Arizona Department of Environmental Quality.

(ii) The initials *BACT* mean or refer to Best Available Control Technology.

(iii) The word or initials *CAA* or *Act* mean or refer to the Clean Air Act.

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

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

(vi) The initials *FR* mean or refer to **Federal Register**.

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

(viii) The phrase *minor NSR* means the permit program applicable to new or modified sources that do not result in a new major source or a major modification.

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

(x) The initials *NSR* mean or refer to New Source Review, which includes NNSR, PSD and minor NSR.

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

(xii) The initials *PM<sub>2.5</sub>* mean or refer to particulate matter less than 2.5 micrometers.

(xiii) The initials *PM<sub>10</sub>* mean or refer to particulate matter less than 10 micrometers.

- (xiv) The initials *PSD* mean or refer to Prevention of Significant Deterioration.
- (xv) The initials *SIP* mean or refer to State Implementation Plan.
- (xvi) The word *State* means or refers to the State of Arizona.
- (xvii) The initials *TSD* mean or refer to the Technical Support Document.

**I. Proposed Action**

On June 11, 2018, the EPA proposed to approve or conditionally approve the rules listed in Table 1 for incorporation into the Arizona SIP.<sup>1</sup> The submittals for these rules, 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. Our detailed analysis of these rules is provided in the TSD and **Federal Register** notice for the proposed rulemaking for this SIP revision approval action.

TABLE 1—MCAQD SUBMITTED RULES

Regulation & rule No.	Rule title	Adoption or amendment date	Submittal date	Final action
Regulation I, Rule 100 .....	General Provisions; General Provisions and Definitions.	2/3/2016	5/18/2016	Conditional Approval.
Regulation II, Rule 200 .....	Permits and Fees; Permit Requirements .....	2/3/2016	5/18/2016	Conditional Approval.
Regulation II, Rule 210 <sup>2</sup> .....	Permits and Fees; Title V Permit Provisions .....	2/3/2016	5/18/2016	Full Approval.
Regulation II, Rule 220 .....	Permits and Fees; Non-Title V Permit Provisions .....	2/3/2016	5/18/2016	Full Approval. <sup>3</sup>
Regulation II, Rule 240 .....	Permits and Fees; Federal Major New Source Review.	2/3/2016	5/18/2016	Full Approval.
Regulation II, Rule 241 .....	Permits and Fees; Minor New Source Review .....	9/7/2016	11/25/2016	Full Approval.

We proposed to approve and conditionally approve these rules because we determined that they strengthen the SIP and are mostly consistent with the relevant CAA requirements. We proposed to fully approve Rules 210, 240 and 241 as part of the MCAQD’s general and major source NSR permitting program because we 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 requirements of CAA section 110(a)(2)(C), 40 CFR 51.160–51.165, and 40 CFR 51.307.

We proposed to conditionally approve Rules 100, 200, and 220 because we 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 contained eight deficiencies that prevented full approval. In our proposed action we determined that:

1. The definitions of “PM<sub>2.5</sub>” and “PM<sub>10</sub>” in Rule 100, Sections 200.91 and 200.92 are inconsistent with the definition contained in 40 CFR 51.165(a)(1)(xxxvii), and are therefore deficient;

2. the definition of “good engineering practice stack height” in Rule 200, Section 201 is inconsistent with the definition for this term provided in 40 CFR 51.100(ii), and is therefore deficient;

3. the MCAQD must provide a basis under 40 CFR 51.160(e) to demonstrate that regulation of the equipment (*i.e.*, agricultural equipment used in normal farm operations) 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;

4. Rule 220, Sections 404.3.e and 404.3.f, for reconstructed sources and for changes associated with an emission increase greater than 10 percent of the major source threshold, are deficient because these provisions 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;

5. Rule 200, Section 403.2 does not ensure the continuity of the NSR terms and conditions when a Title V or Non-Title V permit expires and is therefore deficient;

6. references to Appendix G (Incorporated Materials) in certain provisions in Rules 100 and 200 are deficient because Appendix G is neither included in the existing SIP nor has it been included in MCAQD’s NSR submittal.

7. references to the Arizona Testing Manual (ATM) in Rules 100 and 200 are deficient because they rely on provisions that are not SIP approved, and the ATM is significantly out of date and not appropriate to be relied upon as the sole basis for testing procedures; and

8. certain definitions that the MCAQD proposed be removed from the approved SIP are used in other SIP rules and therefore cannot be removed from the SIP without further justification.

These deficiencies were the basis for the EPA’s proposed conditional approval of MCAQD’s NSR submittal. Before our proposal, the MCAQD and the ADEQ submitted letters committing to adopt and submit revisions to the EPA to address the identified deficiencies not later than one year from the date we take final action to approve the MCAQD’s NSR program revisions, consistent with the requirements of CAA section 110(k)(4).

We also proposed to remove the following definitions from the MCAQD

Section 403, which stipulate that any change that would also result in a minor NSR modification will always require a permit revision, notwithstanding the provisions of Section 404.3. Therefore, the provisions in Rule 220, Section 404 are not deficient and we are finalizing full approval of the rule. See Section II, Response 6 of this action, for more information.

<sup>1</sup> 83 FR 26912 (June 11, 2018).

<sup>2</sup> Rule 210 also contains requirements to address the CAA title V requirements for operating permit programs, though 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 revision submittal from Maricopa County containing this rule.

<sup>3</sup> In our notice of proposed rulemaking we proposed conditional approval of Rule 220 because it appeared that certain provisions in Section 404.3 could allow emissions increases greater than the minor NSR permit thresholds to be exempted from permit review. (*Id.* at footnote 1). However, upon further review of the MCAQD’s minor NSR program, we found that this determination was made in error. The provisions in Section 404 of Rule 220 are pre-empted by the requirements of

portion of the Arizona SIP because these terms are now defined in other rules or are no longer used in the SIP.

TABLE 2—DEFINITIONS BEING REMOVED FROM THE ARIZONA SIP

Defined term	Current SIP rule
Accepted .....	Rule 2, Section 1.
Begin Actual Construction .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 20).
Bureau .....	Rule 2, Section 19; Rule 21, Section D.1 (AZ R9–3–101, Paragraph 24).
Calorie .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 26).
Combustion .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 33).
Device, Machine, Equipment or Other Article .....	Rule 2, Section 25.
Elevated Terrain .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 55).
FR (Federal Register) .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 69).
Minor Source .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 99).
Mobile or Portable Sources .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 100).
Molybdenum Roaster .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 101).
Permit Unit .....	Rule 2, Section 68.
Plume Impaction .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 124).
Process and Process Equipment .....	Rule 2, Section 73.
Reclaiming Machinery .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 134).
Resource Recovery Facility .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 139).
Stationary Rotating Machinery .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 156).
Statutory Major Source .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 158).
Volatility .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 170).

## II. Summary of Public Comments and EPA Responses

Our June 11, 2018 proposed rulemaking<sup>4</sup> provided a 30-day public comment period. We received a joint comment letter from the Sierra Club and Center for Biological Diversity and also received a comment from an anonymous source. Our Response to Comments document in the docket for this action summarizes the comments and includes the EPA's full responses.<sup>5</sup> Below, we briefly summarize the significant comments and our responses.

*Comment 1:* The EPA informed the County that its definition of “begin actual construction” in Rule 100 was inconsistent with federal permit requirements in 40 CFR 51.165 and specified the issues pertaining to its definition. While we acknowledge that the definition was withdrawn from the EPA's consideration as part of the SIP, the EPA should have required the County to revise the definition of the term “begin actual construction.”

*Response 1:* At the time of the EPA's proposed action on MCAQD's NSR submittal, the option to disapprove the definition of “begin actual construction” was no longer available because the County had withdrawn the definition from its submittal. Accordingly, the comments regarding the EPA's approval or disapproval of

this definition are not germane to our final rulemaking action.

*Comment 2:* The minor NSR Rules 200 and 241 are unenforceable because the minor NSR rules in the SIP will have no federally enforceable definition of “begin actual construction.” Because this definition is still in effect at the county level, the County will still be allowing certain on-site construction activities before a permit is issued. Such cases could prejudice the Control Officer's determination regarding permit approval. This situation compromises the integrity of the entire minor NSR program. Therefore, the EPA should disapprove all the minor NSR permitting rules until an adequate definition of the term “begin actual construction” for the minor NSR program is submitted for SIP approval.

*Response 2:* The EPA disagrees that all the minor NSR program rules should be disapproved because they lack a definition for the term “begin actual construction.” The general permit program requirements found in 40 CFR 51.160–164, which specify the minimum requirements that apply to all NSR programs, do not contain a requirement like the ones found in 40 CFR 51.165 and 51.166, which provide that major NSR program rules must include specified definitions. While some permit agencies rely on the same definitions contained in their major NSR programs for their minor NSR program, there is no regulatory requirement to do so. Therefore, the lack of a definition for the term “begin actual construction” is not inconsistent with

the EPA regulations for minor NSR programs.

Maricopa County's current SIP-approved permit program does not contain a definition of the term “begin actual construction” for minor sources. Maricopa County's local rules have contained the current definition of “begin actual construction” since February 3, 2016. However, we are not aware of any situations where the lack of such a definition or the current definition has prejudiced the Control Officer when determining if a permit should be issued and the commenter did not provide any examples. We note that Maricopa County has provided the EPA with a copy of proposed rule revisions, which include a definition for the term “begin actual construction” that is consistent with the definition of the same term found in 40 CFR 51.165(a)(1)(xv).

*Comment 3:* The EPA must require Maricopa County to demonstrate that minor modifications at existing sources with emission increases below the minor NSR modification thresholds will not interfere with attainment or maintenance of the NAAQS or violate the control strategy, because without such a demonstration, the EPA cannot ensure that Maricopa County's minor NSR program satisfies the core requirement that the County be able to prevent modification of a source if it would interfere with attainment or maintenance of the NAAQS pursuant to 40 CFR 51.160 and section 110(a)(2)(C) of the CAA.

*Response 3:* The EPA disagrees with the conclusions provided in the

<sup>4</sup> Id at footnote 1.

<sup>5</sup> The full text of the public comments, as well as all other documents relevant to this action, are available in the docket (visit <https://www.regulations.gov> and search for Docket ID: EPA–R09–OAR–2017–0481).

comment regarding the type of demonstration required to satisfy the provisions of 40 CFR 51.160(a), (b) and (e). The commenters do not claim that any of these individual provisions were not met, but instead claim that in order to approve Maricopa County's minor source NSR program, the EPA must require Maricopa County to provide an analysis demonstrating that emission increases lower than the minor NSR modification thresholds will not interfere with attainment or maintenance of the NAAQS. This is an incorrect reading of the requirements of the cited provisions.

CAA section 110(a)(2)(C) requires a permit program to regulate the construction and modification of sources as necessary to assure the NAAQS are achieved. The regulation of minor sources and modifications through a permit program is only one of many regulatory components considered when adopting an attainment plan to achieve a particular NAAQS. Recognizing that states have significant leeway to craft their minor source permit programs, 40 CFR 51.160(e) requires permit agencies to "identify types and sizes of facilities, buildings, structures, or installations which will be subject to review" and "discuss the basis for determining which facilities will be subject to review." The provisions of 40 CFR 51.160(a) and (b) are only applicable to the sources identified under 40 CFR 51.160(e) as being subject to review, and paragraph (e) only requires the submittal to discuss "which facilities will be subject to review." There is no requirement to demonstrate that sources not subject to the minor source permit program will not interfere with attainment or maintenance of the NAAQS. Instead, the entire NSR program must subject a sufficient number of sources (or emissions) to review to assure, in conjunction with all other plan provisions, that the NAAQS will be achieved.<sup>6</sup>

The EPA reviewed the submitted analysis and found MCAQD's NSR submittal satisfied the requirements of 40 CFR 51.160(e) and CAA section 110(a)(2)(C) because we believe that in conjunction with other SIP provisions, an NSR program that will regulate approximately 74–83% of new stationary source emissions by requiring BACT level controls on such sources provides adequate regulation to ensure the NAAQS will be met.

*Comment 4:* EPA proposed to conditionally approve several provisions in the Maricopa County rules

but did not provide any justification for the use of a conditional approval in two cases: The definitions for PM<sub>10</sub> and PM<sub>2.5</sub> in Rule 100, and certain procedures that do not require a Non-Title V permit revision in Rule 220. The conditional approval commitment letter provided by the ADEQ was not specific enough in its commitment to submit the Maricopa County's SIP revision to EPA within one year from the EPA's final action to conditionally approve MCAQD's NSR submittal.

*Response 4:* As discussed in Responses 5 and 6, the EPA has found that the two specific provisions raised by the commenters are not deficient. Since the EPA is no longer conditionally approving these provisions, it is not necessary to respond to the claim that the EPA did not provide an adequate justification for proposing conditional approval for these provisions. The EPA agrees that the April 6, 2018 commitment letter provided by ADEQ was not specific enough in its commitment to submit the Maricopa County's SIP revision to the EPA within one year of final action. However, for other provisions that the EPA is conditionally approving, we note that, on October 5, 2018, the ADEQ provided the EPA with a clarification letter that includes a commitment by the ADEQ to submit Maricopa County's corrections of the identified deficiencies in this rulemaking within one year of the EPA's final action conditionally approving MCAQD's NSR submittal. This commitment by the ADEQ is sufficiently specific to justify the conditional approvals within this rulemaking.

*Comment 5:* Failure to properly define PM<sub>10</sub> and PM<sub>2.5</sub> represents a significant deficiency in the permit programs and conditional approval means neither the major nor minor NSR program will adequately provide for protection of the PM<sub>10</sub> and PM<sub>2.5</sub> NAAQS. The EPA should disapprove the definitions of PM<sub>10</sub> and PM<sub>2.5</sub> rather than conditionally approving the County's permit programs.

*Response 5:* The EPA proposed conditional approval of Rule 100, in part because the EPA found that the definitions of PM<sub>10</sub> and PM<sub>2.5</sub> did not include gaseous emissions, which form particulates. Upon further review, the EPA has determined that our initial analysis was incorrect. The definition of "Regulated NSR Pollutant" contained in both Rule 100 and 240 incorporates the definition of this same term as found in 40 CFR 51.165(a)(1)(xxvii)(D). The incorporated definition states that "PM<sub>2.5</sub> emissions and PM<sub>10</sub> emissions shall include gaseous emissions from a source or activity which condense to

form particulate matter at ambient temperatures." Because Rule 100 is not deficient for the reasons the EPA cited in our proposed action, the merits of this comment and our proposed disapproval are moot and are not discussed further. The EPA recommends, however, that Maricopa County consider revising the definitions of these terms in Rule 100 to provide clarity to the regulated community.

*Comment 6:* All the provisions of Rule 220, Section 404.3, (except subsection d.), are not approvable because the changes could adversely impact air quality and because of the significance of the changes that could be allowed at a facility.

*Response 6:* The EPA disagrees that these provisions are not approvable. In our proposed action, the EPA failed to note that the provisions of Rule 220, Section 404 are pre-empted by the requirements of Section 403, which lists the types of changes requiring a permit revision. Pursuant to Subsection 403.2.k., any change that would also result in a minor NSR modification will always require a permit revision, notwithstanding the provisions of Section 404.3. Thus the "exemptions" allowed under Section 404.3 are limited to changes resulting in emission increases lower than the minor NSR modification thresholds. As the EPA discussed earlier in Response 3, Maricopa County provided an analysis in the MCAQD's NSR submittal that provides a reasonable basis for choosing the size of sources (based on emission increases) that require permit regulation to attain or maintain the NAAQS. Accordingly, the EPA no longer finds paragraphs e. and f. of Section 404.3 deficient and is fully approving Rule 220, including Section 404.3.

### III. EPA Action

No comments were submitted that change our assessment that the MCAQD's Rules 210, 220, 240, and 241 satisfy the applicable CAA requirements, nor were any comments submitted that change our assessment discussed in our proposal that certain MCAQD rules should be removed from the Arizona SIP. Therefore, as authorized under CAA sections 110(k)(3) and 301(a), and for the reasons set forth in our June 11, 2018 proposed rule, we are finalizing full approval of Rules 210, 220, 240, and 241, as described in Table 1, in the MCAQD portion of the Arizona SIP, and removing from the MCAQD portion of the Arizona SIP the rules identified in Table 2.

While we cannot grant full approval of Rules 100 and 200 at this time, the

<sup>6</sup> 76 FR 38748, 38752 (July 1, 2011).

MCAQD and the ADEQ have satisfactorily committed to address the identified deficiencies by committing to provide the EPA with a SIP submission within one year of this final action, which will include specific rule revisions and/or demonstrations that would adequately address the issues identified in our proposal and Section II above. If the MCAQD, through the ADEQ, submits the rule revisions and/or demonstrations that it has committed to submit by this deadline, and the EPA approves the submission, then the identified deficiencies will be cured. However, if the MCAQD, through 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.

We did not receive any comments that would cause us to change the determinations that were the basis for our proposed conditional approval action; thus, we are finalizing a conditional approval of the MCAQD's Rules 100 and 200 pursuant to CAA section 110(k)(4). As discussed in Section II of this action, the list of identified rule deficiencies has changed as follows: (1) We are no longer finding the Rule 100 definitions of PM<sub>10</sub> and PM<sub>2.5</sub> to be deficient; (2) we are no longer finding the provisions of Rule 220, Sections 404.3.e. and f. to be deficient; and (3) we are approving removal of the definition of "Begin Actual Construction" in Rule 21, Section D.1 (AZ R9-3-101, Paragraph 20) in the current SIP.

This action incorporates these rules into the federally enforceable SIP through revisions to 40 CFR 52.120 (Identification of plan) and 40 CFR 52.119 (Identification of plans—conditional approvals).

#### IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the MCAQD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and in hard copy at the EPA Region IX office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in

the Arizona SIP, have been incorporated by reference by the EPA into that plan, are federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>7</sup>

#### V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the applicable criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would

be inconsistent with the Clean Air Act; and

- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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. The EPA will submit a report containing this action 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 June 4, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See CAA section 307(b)(2).*)

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

Administrative practice and procedure, Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

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

<sup>7</sup> 62 FR 27968 (May 22, 1997).

Dated: March 20, 2019.

**Deborah Jordan,**  
Acting Regional Administrator, Region IX.

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

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

■ 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 52.119 is amended by adding in paragraph (b) to read as follows:

**§ 52.119 Identification of plan—conditional approvals.**

\* \* \* \* \*

(b) A plan revision for the Maricopa County Air Quality Department (MCAQD) submitted May 18, 2016, by the Arizona Department of Environmental Quality (ADEQ), the Governor’s designee, updating the MCAQD’s Clean Air Act (CAA) new source review (NSR) program with respect to deficiencies identified by the EPA in Regulation I, Rule 100 and Regulation II, Rule 200. This plan revision is conditionally approved as follows:

(1) The conditional approval is based on the April 6, 2018 and October 5, 2018 commitments from the ADEQ, and on the April 2, 2018 letter from the MCAQD to the ADEQ requesting submittal of a letter of commitment for conditional approval, to submit a SIP revision consisting of rule revisions and/or demonstrations to the ADEQ within eleven (11) months after the

EPA’s approval, to allow the ADEQ to make the final submission to the EPA not later than twelve (12) months after the EPA’s approval that will correct the deficiencies identified in this final notice. If the State fails to meet its commitment by that date that is twelve (12) months after the EPA’s approval, the conditional approval will be treated as a disapproval to deficiencies identified by the EPA in Regulation I, Rule 100; and Regulation II, Rule 200.

(2) [Reserved]

■ 3. Section 52.120 is amended in paragraph (c) by revising Table 4 to read as follows:

**§ 52.120 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

TABLE 4—EPA-APPROVED MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS

County citation	Title/subject	State effective date	EPA approval date	Additional explanation
<b>Pre-July 1988 Rule Codification</b>				
<b>Regulation I—General Provisions</b>				
Rule 2, No. 11 “Alteration or Modification”.	Definitions .....	June 23, 1980 .....	June 18, 1982, 47 FR 26382.	Submitted on March 8, 1982. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ] to remove the definition for No. 33 “Existing Source” which was superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 27 “Dust” .....	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 29 “Emission”	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 34 “Existing Source Performance Standards”.	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 37 “Fly Ash” ...	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 39 “Fuel” .....	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 42 “Fume” .....	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 55 “Motor Vehicle”.	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 59 “Non-Point Source”.	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.

TABLE 4—EPA-APPROVED MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS—Continued

County citation	Title/subject	State effective date	EPA approval date	Additional explanation
Rule 2, No. 60 "Odors" .....	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 64 "Organic Solvent".	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 70 "Plume" .....	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 80 "Smoke" ....	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 91 "Vapor" .....	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
<b>Regulation II—Permits</b>				
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 52 "Dust").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 56 "Emission").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 63 "Existing Source Performance Standards").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 70 "Fuel").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 71 "Fuel Burning Equipment").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 74 "Fume").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 103 "Motor Vehicle").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 114 "Non-Point Source").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 122 "Photochemically Reactive Solvent").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 123 "Plume").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.

TABLE 4—EPA-APPROVED MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS—Continued

County citation	Title/subject	State effective date	EPA approval date	Additional explanation
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 128 “Process”).	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 129 “Process Source”).	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 150 “Smoke”).	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 152 “Soot”).	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 160 “Supplementary Control System (SCS)”).	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 166 “Vapor”).	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 167 “Vapor Pressure”).	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 168 “Visible Emissions”).	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
*	*	*	*	*
<b>Post-July 1988 Rule Codification</b>				
<b>Regulation I—General Provisions</b>				
Rule 100 (except Sections 200.24, 200.73, 200.104(c)).	General Provisions and Definitions.	February 3, 2016	April 5, 2019, [INSERT <b>Federal Register</b> CITATION].	Submitted on May 18, 2016.
*	*	*	*	*
<b>Regulation II—Permits and Fees</b>				
Rule 200 .....	Permit Requirements .....	February 3, 2016	[INSERT <b>Federal Register</b> CITATION], April 5, 2019.	Submitted on May 18, 2016.
Rule 210 .....	Title V Permit Provisions ...	February 3, 2016	April 5, 2019, [INSERT <b>Federal Register</b> CITATION].	Submitted on May 18, 2016.
Rule 220 .....	Non-Title V Permit Provisions.	February 3, 2016	April 5, 2019, [INSERT <b>Federal Register</b> CITATION].	Submitted on May 18, 2016.
Rule 240 (except Section 305).	Federal Major New Source Review (NSR).	February 3, 2016	April 5, 2019, [INSERT <b>Federal Register</b> CITATION].	Submitted on May 18, 2016.
Rule 241 .....	Minor New Source Review (NSR).	February 3, 2016	April 5, 2019, [INSERT <b>Federal Register</b> CITATION].	Submitted on November 25, 2016.
*	*	*	*	*

†Vacated by the U.S. Court of Appeals for the Ninth Circuit in *Delaney v. EPA*, 898 F.2d 687 (9th Cir. 1990). Restored on January 29, 1991, 56 FR 3219.

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[FR Doc. 2019–06384 Filed 4–4–19; 8:45 am]

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