

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2019-0633; FRL-10008-01—Region 9]

**Air Plan Approval; Arizona; Maricopa County Air Quality Department and Pima County Department of Environmental Quality**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the Maricopa County Air Quality Department (MCAQD) and Pima County Department of Environmental Quality (PDEQ) portion of the Arizona State Implementation Plan (SIP). These revisions concern emissions of particulate matter (PM) from nonmetallic mineral processing, inactive mineral tailings and slag storage. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Comments must be received on or before June 1, 2020.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2019-0633 at <https://www.regulations.gov>. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). 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:** Christine Vineyard, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4125 or by email at [vineyard.christine@epa.gov](mailto:vineyard.christine@epa.gov).

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

**Table of Contents**

- I. The State’s Submittal
  - A. What rules did the State submit?
  - B. Are there other versions of these rules?
  - C. What is the purpose of the submitted rule and rule revision?
- II. The EPA’s Evaluation and Action
  - A. How is the EPA evaluating the rules?
  - B. Do the rules meet the evaluation criteria?
  - C. Public Comment and Proposed Action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

**I. The State’s Submittal**

*A. What rules did the State submit?*

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agencies and submitted by the Arizona Department of Environmental Quality (ADEQ).

TABLE 1—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted/ revised	Submitted
MCAQD PDEQ	316 ..... Pima County Code (PCC) Section 17.16.125.	Nonmetallic Mineral Processing ..... Inactive Mineral Tailings Impoundment and Slag Storage Area within the Ajo PM <sub>10</sub> Planning Area.	11/07/18 101/22/19	11/19/18 205/10/19

On October 22, 2019, the EPA determined that the submittal for PCC Section 17.16.125 met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

On May 19, 2019, the submittal for MCAQD Rule 316 was deemed by operation of law to meet the completeness criteria in 40 CFR part 51

<sup>1</sup> Pima County Board of Supervisors adopted PCC Section 17.16.125 on January 22, 2019 with an effective date of February 21, 2019.

<sup>2</sup> ADEQ submitted PCC Section 17.16.125 as part of a larger SIP revision submittal titled “SIP Revision: Ajo PM<sub>10</sub> Redesignation Request and Maintenance Plan (May 3, 2019)” (herein referred to as the “Ajo PM<sub>10</sub> SIP”). More specifically, appendix C of the Ajo PM<sub>10</sub> SIP includes PCC Section 17.16.125 and the related adoption materials. ADEQ submitted the Ajo PM<sub>10</sub> SIP electronically on May 10, 2019 under cover of a transmittal letter dated May 8, 2019. Herein, EPA proposes action on the PCC Section 17.16.125 portion of the Ajo PM<sub>10</sub> SIP. The EPA will be taking action on the rest of the Ajo PM<sub>10</sub> Plan in a separate action.

Appendix V, which must be met before formal EPA review.

*B. Are there other versions of these rules?*

There is no previous version of PCC Section 17.16.125 in the SIP.

We approved an earlier version of MCAQD Rule 316 into the SIP on November 13, 2009 (74 FR 58553). The MCAQD adopted a revision to the SIP-approved version on November 7, 2018, and ADEQ submitted it to us on November 19, 2019.

*C. What is the purpose of the submitted rule and rule revision?*

Emissions of PM, including PM equal to or less than 2.5 microns in diameter (PM<sub>2.5</sub>) and PM equal to or less than 10 microns in diameter (PM<sub>10</sub>), contribute to effects that are harmful to human health and the environment, including premature mortality, aggravation of

respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires states to submit regulations that control PM emissions. MCAQD Rule 316 controls emissions of PM from commercial and/or industrial nonmetallic mineral processing plants and related operations. MCAQD adopted amendments to Rule 316 in 2018 to clarify the requirements and applicability of the rule and to improve the overall effectiveness of the rule. The Pima County Board of Supervisors adopted PCC Section 17.16.125 to provide permanence and enforceability for control measures that have already been implemented in the Ajo PM<sub>10</sub> nonattainment area. Under PCC Section 17.16.125, the owner or operator of the mineral tailings impoundment and slag storage area in the Ajo PM<sub>10</sub> planning area is required to implement and

maintain PM<sub>10</sub> control measures to meet visible emissions and stabilization requirements to ensure continued PM emissions reductions. The EPA's technical support documents (TSDs) have more information about these rules.

## II. The EPA's Evaluation and Action

### A. How is the EPA evaluating the rules?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must implement reasonably available control measures (RACM), including reasonably available control technology (RACT), in Moderate PM<sub>10</sub> nonattainment areas (see CAA sections 172(c)(1) and 189(a)(1)(C)) and Best Available Control Measures (BACM), including Best Available Control Technology (BACT), in Serious PM<sub>10</sub> nonattainment areas (see CAA section 189(b)(1)(B)). The PDEQ regulates two PM<sub>10</sub> nonattainment areas classified as Moderate for the PM<sub>10</sub> national ambient air quality standards (NAAQS) (40 CFR 81.303), one of which is the Ajo PM<sub>10</sub> planning area. A RACM and RACT evaluation is generally performed in context of a broader attainment plan. The MCAQD regulates the Maricopa County portion of a PM<sub>10</sub> nonattainment area (*i.e.*, the Phoenix planning area) classified as Serious for the PM<sub>10</sub> NAAQS (40 CFR 81.303). A BACM and BACT evaluation is generally performed in context of a broader attainment plan.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "State Implementation Plans for Serious PM-10 Nonattainment Areas,

and Attainment Date Waivers for PM-10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 59 FR 41998 (August 16, 1994).

5. "PM-10 Guideline Document," EPA 452/R-93-008, April 1993.

6. "Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures," EPA 450/2-92-004, September 1992.

### B. Do the rules meet the evaluation criteria?

These rules are consistent with CAA requirements and relevant guidance regarding enforceability, RACM or BACM, and SIP revisions. More specifically, with respect to MCAQD Rule 316, we previously determined that the rule implemented BACM for nonmetallic mineral processing within the Phoenix planning area, and we find that the 2018 amendments to the rule relax no control requirements and generally clarify and enhance the effectiveness of the rule. With respect to PCC Section 17.16.125, we find that the rule provides a means to ensure the permanence and enforceability of the fugitive dust controls that have already been implemented in the Ajo PM<sub>10</sub> planning area and that have brought the area into attainment of the PM<sub>10</sub> NAAQS. The TSDs have more information on our evaluation.

### C. Public Comment and Proposed Action

Pursuant to section 110(k)(3) of the Act, the EPA proposes to fully approve MCAQD Rule 316,<sup>3</sup> as submitted on November 19, 2018, and PCC Section 17.16.125, as submitted on May 10, 2019, because they fulfill all relevant requirements. We will accept comments from the public on this proposal until June 1, 2020. If we take final action to approve the submitted rules, our final action will incorporate these rules into the federally enforceable SIP.

## III. 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 PCC Section 17.16.125 and MCAQD Rule 316 described in Table 1 of this

<sup>3</sup> Final approval of MCAQD Rule 316, as submitted on November 19, 2018, would replace the version of MCAQD Rule 316 that was approved by the EPA at 74 FR 58553 (November 13, 2009) in the Maricopa County portion of the applicable SIP for the State of Arizona.

preamble. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## IV. 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 criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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 disproportionate human health or environmental effects with practical, appropriate, 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).

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: April 17, 2020.

**John Busterud,**

*Regional Administrator, Region IX.*

[FR Doc. 2020-08667 Filed 4-30-20; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2020-0069; FRL-10008-02-Region 4]

#### Air Plan Approval; Georgia: Air Quality Control, VOC Definition

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Georgia through the Georgia Environmental Protection Division on October 18, 2019. This revision modifies the State's air quality regulations as incorporated into the SIP by changing the definition of "volatile organic compound" (VOC) to be consistent with federal regulations. EPA is proposing to approve this SIP revision because the State has demonstrated that these changes are consistent with the Clean Air Act (CAA or Act).

**DATES:** Comments must be received on or before June 1, 2020.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2020-0069 at

[www.regulations.gov](http://www.regulations.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://Regulations.gov). 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. 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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit [www2.epa.gov/dockets/commenting-epa-dockets](http://www2.epa.gov/dockets/commenting-epa-dockets).

#### FOR FURTHER INFORMATION CONTACT:

Sarah LaRocca, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8994. Ms. LaRocca can also be reached via electronic mail at [larocca.sarah@epa.gov](mailto:larocca.sarah@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

EPA is proposing to approve the change to the Georgia SIP submitted by the State of Georgia through a letter dated October 18, 2019<sup>1</sup> that revises the definition of "volatile organic compound" at subparagraph (llll) of Rule 391-3-1-.01—"Definitions" by adding cis-1,1,1,4,4,4-hexafluorobut-2-ene (HFO-1336mzz-Z) to the list of organic compounds having negligible photochemical reactivity.<sup>2</sup>

##### II. Analysis of State Submission

Tropospheric ozone, commonly known as smog, occurs when VOC and nitrogen oxides (NO<sub>x</sub>) react in the atmosphere in the presence of sunlight. Because of the harmful health effects of ozone, EPA and state governments implement rules to limit the amount of certain VOC and NO<sub>x</sub> that can be released into the atmosphere. VOC have

different levels of reactivity; they do not react at the same speed or form ozone to the same extent. The CAA requires the regulation of VOC for various purposes. Section 302(s) of the CAA specifies that EPA has the authority to define the meaning of "VOC" under the Act and, hence, what compounds shall be treated as VOC for regulatory purposes.

EPA determines whether a given carbon compound has "negligible" reactivity by comparing the compound's reactivity to the reactivity of ethane. It is EPA's policy that compounds of carbon with negligible reactivity be excluded from the regulatory definition of VOC. *See* 42 FR 35314 (July 8, 1977), 70 FR 54046 (September 13, 2005). EPA lists these compounds in its regulations at 40 CFR 51.100(s) and excludes them from the definition of VOC. The chemicals on this list are often called "negligibly reactive." EPA may periodically revise the list of negligibly reactive compounds to add or delete compounds. Georgia submitted this SIP revision in response to EPA adding cis-1,1,1,4,4,4-hexafluorobut-2-ene to the exclusion list at 40 CFR 51.100(s). *See* 83 FR 61127 (January 28, 2019). EPA proposes to find that this change to the SIP will not interfere with attainment or maintenance of any national ambient air quality standard, reasonable further progress, or any other applicable requirement of the CAA, consistent with CAA section 110(l), because EPA has found this chemical to be negligibly reactive.

##### III. Incorporation by Reference

In this document, 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, EPA is proposing to incorporate by reference Georgia Rule 391-3-1-.01—"Definitions," Subparagraph (llll)—"Volatile organic compound," state-effective September 26, 2019, to revise this definition by adding cis-1,1,1,4,4,4-hexafluorobut-2-ene (HFO-1336mzz-Z) to the list of organic compounds having negligible photochemical reactivity. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

##### IV. Proposed Action

EPA is proposing to approve Georgia's October 18, 2019 SIP submission that revises the definition of "volatile organic compound" at Rule 391-3-1-

<sup>1</sup> EPA received Georgia's SIP revision on October 24, 2019.

<sup>2</sup> On October 18, 2019, Georgia submitted other SIP revisions which will be addressed in separate actions.