

### *Small Business Regulatory Enforcement Fairness Act*

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this proposed rule is not a major rule. It will not have an effect on the economy of \$100 million or more, will not cause a major increase in costs or prices for consumers, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

#### *Executive Order 12630*

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these proposed regulations have no potential takings of private property implications as defined by Executive Order 12630.

#### *Unfunded Mandates Reform Act*

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies and there is no cost imposed on any State or local entities or tribal governments.

#### *Executive Order 12988*

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

#### *Executive Order 13132*

In accordance with Executive Order 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

#### *Executive Order 13175*

The Alaska National Interest Lands Conservation Act, Title VIII, does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Secretaries, through the Board, will provide federally recognized Tribes and Alaska Native corporations an opportunity to consult on this proposed rule. Consultations with Alaska Native corporations are based on Public Law

108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: “The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.”

The Secretaries, through the Board, will provide a variety of opportunities for consultation: commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board’s meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

#### *Executive Order 13211*

This Executive order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this proposed rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

#### **Drafting Information**

Theo Matuskowitz drafted this proposed rule under the guidance of Sue Detwiler of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by:

- Chris McKee, Alaska State Office, Bureau of Land Management;
- Joshua Ream, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Carol Damberg, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Deyna Kuntzsch, Alaska Regional Office, USDA—Forest Service.

#### **List of Subjects**

##### *36 CFR Part 242*

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

##### *50 CFR Part 100*

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

#### **Proposed Regulation Promulgation**

For the reasons set out in the preamble, the Federal Subsistence Board proposes to amend 36 CFR part

242 and 50 CFR part 100 for the 2022–23 and 2023–24 regulatory years:

The text of the proposed amendments to 36 CFR 242.24 and 242.26 and 50 CFR 100.24 and 100.26 is the final rule for the 2020–2022 regulatory period for wildlife (85 FR 74796; November 23, 2020).

The text of the proposed amendments to 36 CFR 242.25 and 50 CFR 100.25 is the final rule for the 2018–20 regulatory period for wildlife (83 FR 50758; October 9, 2018).

#### **Sue Detwiler,**

*Assistant Regional Director, U.S. Fish and Wildlife Service.*

#### **Wayne Owen,**

*Director, Wildlife, Fisheries, Ecology, Watershed, & Subsistence, Alaska Region, USDA—Forest Service.*

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA–R09–OAR–2020–0352; FRL–10016–75–Region 9]**

### **Approval of Arizona State Implementation Plan Revisions; Maricopa County Air Quality Department; Stationary Source Permits; New Source Review**

**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 seven MCAQD rules for the Department’s New Source Review (NSR) preconstruction permitting program for new and modified stationary sources of air pollution. We are taking comments on this proposed rule and plan to follow with a final action.

**DATES:** Written comments must be received on or before March 25, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2020–0352 at <https://www.regulations.gov>, or via email to [R9AirPermits@epa.gov](mailto:R9AirPermits@epa.gov). For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from [Regulations.gov](https://www.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, or if you need assistance in a language other than English, or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, 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://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Shaheerah Kelly, EPA Region IX, 75 Hawthorne Street (AIR-3-1), San

Francisco, California 94105. By phone at (415) 947-4156, or by email at [kelly.shaheerah@epa.gov](mailto:kelly.shaheerah@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 revisions?
- II. The EPA’s Evaluation
  - A. What is the background for today’s proposal?
  - B. How is the EPA evaluating the rules?
  - C. Do the rules meet the evaluation criteria?
- III. Proposed Action and Public Comment
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

**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 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* means 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?*

On December 20, 2019, the ADEQ submitted the revised rules in Table 1 to the EPA as a revision to the Maricopa County portion of the Arizona SIP. The ADEQ is the governor’s designee for submitting official revisions of the Arizona SIP to the EPA. 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 .....	12/11/2019	12/20/2019
Regulation II, Rule 200 .....	Permits and Fees; Permit Requirements .....	12/11/2019	12/20/2019
Regulation II, Rule 210 <sup>1</sup> .....	Permits and Fees; Title V Permit Provisions .....	12/11/2019	12/20/2019
Regulation II, Rule 220 .....	Permits and Fees; Non-Title V Permit Provisions .....	12/11/2019	12/20/2019
Regulation II, Rule 230 .....	Permits and Fees; General Permits .....	12/11/2019	12/20/2019
Regulation II, Rule 240 .....	Permits and Fees; Federal Major New Source Review .....	12/11/2019	12/20/2019
Regulation II, Rule 241 .....	Permits and Fees; Minor New Source Review .....	12/11/2019	12/20/2019

On June 20, 2020, the MCAQD’s Rules 100, 200, 210, 220, 230, 240, and 241 were deemed complete by operation of law in accordance with 40 CFR part 51, Appendix V.

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

On April 5, 2019, the EPA finalized full approval of MCAQD Rules 210, 220, 240, and 241, and conditional approval of Rules 100 and 200, as amended on February 3, 2016 and September 7, 2016, into the Maricopa County portion

of the Arizona SIP. (*See* 84 FR 13543 (April 5, 2019), and 84 FR 18392 (May 1, 2019).) Our detailed analysis for the April 5, 2019 final SIP action is provided in the May 17, 2018 Technical Support Document (TSD) and March 18, 2019 Response to Comments.

The existing SIP-approved NSR program for new or modified stationary sources in Maricopa County consists of the rules identified in Table 2. 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 2, in their entirety. The MCAQD made several revisions to its NSR program, including revisions for addressing the rule deficiencies identified by the EPA in our final conditional approval on April 5, 2019. The EPA’s action on this SIP submittal will update the Maricopa County portion of the Arizona SIP.

<sup>1</sup> 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.

TABLE 2—MCAQD'S CURRENT SIP-APPROVED RULES

Regulation & rule No.	Rule title	State effective date	SIP approval date	Federal Register citation
Regulation I, Rule 2, No. 11 "Alteration or Modification".	General Provisions; Definitions .....	June 23, 1980 .....	June 18, 1982 .....	47 FR 26382
Regulation I, Rule 2, No. 27 "Dust" .....	General Provisions; Definitions .....	June 23, 1980 .....	April 12, 1982 .....	47 FR 15579
Regulation I, Rule 2, No. 29 "Emission"	General Provisions; Definitions .....	June 23, 1980 .....	April 12, 1982 .....	47 FR 15579
Regulation I, Rule 2, No. 34 "Existing Source Performance Standards".	General Provisions; Definitions .....	June 23, 1980 .....	April 12, 1982 .....	47 FR 15579
Regulation I, Rule 2, No. 37 "Fly Ash" ..	General Provisions; Definitions .....	June 23, 1980 .....	April 12, 1982 .....	47 FR 15579
Regulation I, Rule 2, No. 39 "Fuel" .....	General Provisions; Definitions .....	June 23, 1980 .....	April 12, 1982 .....	47 FR 15579
Regulation I, Rule 2, No. 42 "Fume" .....	General Provisions; Definitions .....	June 23, 1980 .....	April 12, 1982 .....	47 FR 15579
Regulation I, Rule 2, No. 55 "Motor Vehicle".	General Provisions; Definitions .....	June 23, 1980 .....	April 12, 1982 .....	47 FR 15579
Regulation I, Rule 2, No. 59 "Non-Point Source".	General Provisions; Definitions .....	June 23, 1980 .....	April 12, 1982 .....	47 FR 15579
Regulation I, Rule 2, No. 60 "Odors" ....	General Provisions; Definitions .....	June 23, 1980 .....	April 12, 1982 .....	47 FR 15579
Regulation I, Rule 2, No. 64 "Organic Solvent".	General Provisions; Definitions .....	June 23, 1980 .....	April 12, 1982 .....	47 FR 15579
Regulation I, Rule 2, No. 70 "Plume" ....	General Provisions; Definitions .....	June 23, 1980 .....	April 12, 1982 .....	47 FR 15579
Regulation I, Rule 2, No. 80 "Smoke" ...	General Provisions; Definitions .....	June 23, 1980 .....	April 12, 1982 .....	47 FR 15579
Regulation I, Rule 2, No. 91 "Vapor" ....	General Provisions; Definitions .....	June 23, 1980 .....	April 12, 1982 .....	47 FR 15579
Regulation II, Rule 21, Section D.1 (AZ R9-3-101, Paragraph 52 "Dust").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9-3-101, Paragraph 56 "Emission").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9-3-101, Paragraph 63 "Existing Source Performance Standards").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9-3-101, Paragraph 70 "Fuel").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9-3-101, Paragraph 71 "Fuel Burning Equipment").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9-3-101, Paragraph 74 "Fume").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9-3-101, Paragraph 103 "Motor Vehicle").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9-3-101, Paragraph 114 "Non-Point Source").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9-3-101, Paragraph 122 "Photochemically Reactive Solvent").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9-3-101, Paragraph 123 "Plume").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9-3-101, Paragraph 128 "Process").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9-3-101, Paragraph 129 "Process Source").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219

TABLE 2—MCAQD’S CURRENT SIP-APPROVED RULES—Continued

Regulation & rule No.	Rule title	State effective date	SIP approval date	Federal Register citation
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 150 “Smoke”).	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 151 “Soot”) <sup>2</sup> .	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 160 “Supplementary Control System (SCS)”).	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 166 “Vapor”).	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 167 “Vapor Pressure”).	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 168 “Visible Emissions”).	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation I, Rule 100 (except Sections 200.24, 200.73, 200.104(c)).	General Provisions; General Provisions and Definitions.	February 3, 2016 ...	April 5, 2019 .....	84 FR 13543
Regulation II, Rule 200 .....	Permits and Fees; Permit Requirements	February 3, 2016 ...	April 5, 2019 .....	84 FR 13543
Regulation II, Rule 210 .....	Permits and Fees; Title V Permit Provisions.	February 3, 2016 ...	April 5, 2019 .....	84 FR 13543
Regulation II, Rule 220 .....	Permits and Fees; Non-Title V Permit Provisions.	February 3, 2016 ...	April 5, 2019 .....	84 FR 13543
Regulation II, Rule 240 (except Section 305).	Permits and Fees; Federal Major New Source Review (NSR).	February 3, 2016 ...	April 5, 2019 .....	84 FR 13543
Regulation II, Rule 241 .....	Permits and Fees; Minor New Source Review (NSR).	February 3, 2016 ...	April 5, 2019 .....	84 FR 13543

*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 sections 110(a)(2) of the CAA, and parts C and D of title I of the CAA.

The purpose of the MCAQD’s NSR submittal, which includes Rules 100, 200, 210, 220, 230, 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 attainment and/or unclassifiable for the National Ambient Air Quality Standards (NAAQS), or nonattainment for at least one NAAQS.

Maricopa County is designated attainment and/or unclassifiable for all sulfur dioxide (SO<sub>2</sub>), nitrogen dioxide

(NO<sub>x</sub>), particulate matter less than 2.5 micrometers (PM<sub>2.5</sub>), and carbon monoxide (CO) NAAQS. Maricopa County is also designated attainment and/or unclassifiable for all ozone NAAQS outside of the Phoenix-Mesa area, and the particulate matter less than 10 micrometers (PM<sub>10</sub>) NAAQS for the Maricopa County area outside of the Phoenix Planning Area.

The Phoenix-Mesa, AZ area of Maricopa County is designated as a Moderate nonattainment area for the 2008 ozone NAAQS and as a Marginal nonattainment area for the 2015 ozone NAAQS. Additionally, the Phoenix Planning Area of Maricopa County is designated as a Serious nonattainment area for the 1987 24-hour PM<sub>10</sub> 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. What is the background for today’s proposal?*

On April 5, 2019, the EPA finalized full approval of Rules 210, 220, 240, and 241, and conditional approval of Rules 100 and 200, into the Arizona SIP. 84 FR 13543.<sup>3</sup> We finalized conditional approval of Rules 100 and 200 because we determined that, while they mostly satisfied 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 deficiencies that prevented full approval. The December 20, 2019 Submittal was submitted within one year of the April 5, 2019 final action, in accordance with the requirements of CAA section 110(k)(4).

The MCAQD made several revisions to Rules 100 and 200 to address the deficiencies identified by the EPA, as well as minor revisions to Rules 210, 220, 240, and 241 to address EPA

<sup>2</sup> The correct citation for the definition of “Soot” is Rule 21, Section D.1 (AZ R9–3–101, Paragraph 151), and not Paragraph 152 which was in the April 5, 2019 final action.

<sup>3</sup> On May 1, 2019, the EPA published a final rule to correct an error in the regulatory text for the April 5, 2019 action. (See 84 FR 18392.)

recommendations. The MCAQD also adopted new Rule 230. These revisions are discussed in the TSD, which can be found in the docket for this rule.

#### *B. 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), for the PSD program in part C of title I (section 165), 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 51.160–51.166) and 40 CFR 51.307.

Sections 110(a)(2) and 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. In addition, section 110 of the Act requires that SIP rules be enforceable.

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 parts C and D of title I of the Act.

Part C of title I of the Act, and the implementing regulations at 40 CFR 51.166, contain the requirements for states to establish preconstruction permitting programs for the prevention of significant deterioration of air quality (PSD) in areas designated as attainment and/or unclassifiable for the NAAQS. The PSD program requirements under part C apply to major stationary sources and major modifications, as those terms are defined in 40 CFR 51.166, at stationary sources located within attainment and/or unclassifiable areas. The PSD requirements apply to all regulated NSR pollutants, except those pollutants for which an area has been designated as nonattainment.

Part D of title I of the Act contains the general requirements for areas designated nonattainment for a NAAQS (section 172), referred to as nonattainment NSR (NNSR), 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 reasonable further progress (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.

#### *C. 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 December 20, 2019 Submittal, 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 revisions to the submitted rules in accordance with the evaluation criteria discussed above. These revisions included (1) rule changes that address the deficiencies related to the conditional approval of Rules 100 and 200; (2) new Rule 230; (3) new rule

provisions in Rules 100 and 240; (4) deleted rule provisions; and (5) other general revisions. These revisions are discussed below, and in greater detail in the TSD for this rulemaking action.

Corrections to Deficiencies Identified in the Conditional Approval of Rules 100 and 200

On April 5, 2019, the EPA finalized conditional approval of Rules 100 and 200, as amended on February 3, 2016, 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 deficiencies that prevented full approval. (*See* 84 FR 13543.) As part of the conditional approval, the MCAQD and the ADEQ committed to address the deficiencies by providing the EPA with a SIP revision within one year of the April 5, 2019 final action. The December 20, 2019 Submittal addresses these deficiencies as follows:

1. The EPA determined that the definition of “Good Engineering Practice (GEP) Stack Height” in Rule 200, Section 201 was inconsistent with the definition for this term provided in 40 CFR 51.100(ii), and therefore deficient.

To address this deficiency the MCAQD deleted (1) the definition of GEP stack height in Rule 200, Section 201; and (2) the stack height procedures in Rule 240, Section 302.5 (Application Completeness) and Section 306 (Stack Height and Dispersion Techniques). The MCAQD also revised Rule 200, Section 314 (Stack Height Provisions) to add a reference to 40 CFR 51.100 for determining GEP stack height. These revisions correct the deficiency.

2. The EPA determined that 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.

To address this deficiency the MCAQD deleted the exemption in Rule 200, Section 305.1.c, and replaced it with a revised exemption in new Section 305.2(i), which applies to fugitive emissions from agricultural equipment used in normal farm operations. The revised rule provides that agricultural equipment used in normal farm operations does not include equipment that would otherwise require a permit under title V of the Act, or equipment that is subject

to a standard under 40 CFR parts 60, 61 or 63. The revised exemption is consistent with Arizona State law in the Arizona Revised Statutes (ARS) 49–480(A), 49–425, and 49–426(B) and with the ADEQ regulations in the Arizona Administrative Code (AAC) R18–2–302(C). These revisions correct the deficiency.

3. The EPA determined that Rule 200, Section 403.2 did not ensure the continuity of the NSR terms and conditions when a Title V or Non-Title V permit expired and was therefore deficient. The MCAQD added Rule 200, Section 403.2(c), which states “The terms and conditions of installation permits issued before September 1, 1993, or in permits or permit revisions issued under Rule 210 or Rule 220 of these rules and authorizing the construction or modification of a stationary source, remain federal applicable requirements unless modified or revoked by the Control Officer.” This provision is the same as the ADEQ’s AAC R18–2–303(B). This revision corrects the deficiency.

4. The EPA determined that references to Appendix G (Incorporated Materials) in certain provisions in Rules 100 and 200 were deficient because Appendix G was neither included in the existing SIP nor was it submitted by the MCAQD for EPA-approval in the SIP. The MCAQD removed references to Appendix G, and instead cited the appropriate federal regulations in the code of federal regulations in the Rule 100 definitions of “AP–42”, “Non-Precursor Compound”, “Reference Material”, and in Rule 100, Section 503 (Emission Statements Required as Stated in the Act), and Rule 200, Section 314 (Stack Height Provisions). These revisions correct the deficiency.

5. The EPA determined that references to the Arizona Testing Manual (ATM) in Rules 100 and 200 were deficient because they relied on provisions that were not SIP-approved, and because the ATM is significantly out of date and not appropriate to be relied upon as the sole basis for testing procedures. The MCAQD removed these references from the Rule 100 definition of “Reference Method”, and from Rule 200, Section 408 (Testing Procedures). The MCAQD retained the Rule 100 definition of “Arizona Testing Manual”, which is the same as the ADEQ’s AAC R18–2–101(17). These revisions correct the deficiency.

6. The EPA determined that certain definitions that the MCAQD proposed be removed from the approved SIP could not be removed without further justification. In its December 20, 2019 Submittal, the MCAQD provided

adequate justifications for removing the following definitions from Regulation I, Rule 2, and Regulation II, Rule 21, Section D.1, of the SIP: “Alternation or Modification”, “Begin Actual Construction”, “Dust”, “Emission”, “Existing Source Performance Standards”, “Fly Ash”, “Fuel”, “Fuel Burning Equipment”, “Fume”, “Motor Vehicle”, “Non-Point Source”, “Odors”, “Organic Solvent”, “Photochemically Reactive Solvent”, “Plume”, “Process”, “Process Source”, “Smoke”, “Soot”, “Supplementary Control System (SCS)”, “Vapor”, “Vapor Pressure”, and “Visible Emissions”. In general, the MCAQD’s justifications for removing these definitions are because (a) the definition has been replaced by a new definition in Rule 100, Section 200, (b) there are no references to the defined term in the MCAQD’s regulations, (c) the definition does not support any SIP rules, (d) the definition is outdated and/or substantively the same as a definition that was incorporated by reference in Rule 240, or (e) the definition is a common term for which the MCAQD will use the dictionary definition of the term. The EPA finds that the removal of these definitions is acceptable.

#### New Rule 230

Rule 230 is a new rule for General Permits. It allows the issuance of General permits for a facility class that contains a large number of sources that are similar in nature, have substantially similar emissions, and would be subject to the same or substantially similar requirements governing operations, emissions, monitoring, reporting, or recordkeeping. The owner or operator of a new or modified source is also required to comply with the applicable NSR requirements. As explained in the TSD for this rulemaking, Rule 230 is consistent with the CAA and the EPA’s implementing regulations in 40 CFR 51.160–51.164.

#### New Provisions in Rules 100 and 240

The MCAQD added the following new definitions to Rule 100: “Begin Actual Construction”, “Dust”, “Emission”, “Fuel”, “Fume”, “Gasoline”, “Greenhouse Gases (GHGs)”, “Minor NSR Modification Threshold”, “Modification”, “Motor Vehicle”, “Non-Road Internal Combustion (IC) Engine”, “Off-Specification Used Oil”, “On-Specification Used Oil”, “Organic Solvent”, “Plume”, “Process”, “Regulated Air Pollutant”, “Seasonal Source”, “Smoke”, “Soot”, “Used Oil”, “Vapor”, “Visible Emissions”, and “Year.” The MCAQD also added “Compliance Schedule for Newly Amended Rule Provisions” in Rule 100,

Section 403. These revisions are consistent with the CAA and the EPA’s implementing regulations in 40 CFR 51.160–51.164.

The MCAQD also added new PSD program provisions in Rule 240. Section 305.2 of Rule 240 requires all new and modified sources to meet specific provisions of 40 CFR 52.21, as incorporated by reference. Currently, the MCAQD implements a federal PSD permit program pursuant to a delegation agreement under 40 CFR 52.21(u), which allows the MCAQD to issue PSD permits, and to modify and extend existing PSD permits. Normally, following SIP approval of a federal PSD permit program, any existing PSD delegation agreement would be terminated. However, because the MCAQD is prohibited under state law from regulating GHG emissions, upon SIP approval of Rule 240, the EPA will terminate the existing PSD delegation agreement and enter a new PSD delegation agreement limited to the issuance of PSD permits that regulate GHG emissions. This will allow the MCAQD to continue issuing complete PSD permits for all sources under its jurisdiction. These changes are consistent with part C of title I of the CAA and the EPA’s implementing regulations at 40 CFR 51.166.

#### Deleted Rule Provisions

The MCAQD deleted certain redundant PSD-related definitions from Rule 100, as they are now incorporated by reference in Rule 240, Section 200. The EPA finds these deletions from Rule 100 acceptable.

The MCAQD deleted the following rule provisions because they are addressed in other rule provisions: (1) The definition of “GEP Stack Height” from Rule 200, the stack height procedures from Rule 240, Section 302.5, and the stack height and dispersion technique provisions from Rule 240, Section 306; (2) the exemptions for trivial activities, food processing equipment, general combustion equipment, surface coating and printing equipment, solvent cleaning equipment, internal combustion equipment, laboratories and pilot plants, storage and distribution, and miscellaneous activities from Rule 200, Section 305; (3) the Minor NSR Transition rule provision from Rule 200, Section 313; (4) the emissions thresholds of 0.5 tons per year (tpy) of hazardous air pollutants, and 2 tpy of any regulated air pollutant from Rule 200, Section 305; (5) provisions concerning obtaining a permit prior to renting or leasing a portable source from Rule 200, Section 410.3; (6) certain

procedures for changes that do not require a Non-Title V Permit from Rule 220, Section 404.3.e.; (7) the requirements for holding a public hearing from Rule 241, Section 310; and (8) the source obligation provision from Rule 241, Section 315. These requirements were moved to other rules or are already addressed in existing rules. The EPA finds these revisions acceptable.

#### Other General Rule Revisions

The MCAQD made several other minor wording and administrative changes to Rules 100, 200, 210, 220, 240, and 241. As discussed further in our TSD, these rule revisions are acceptable.

We are proposing to fully approve Rules 100, 200, 210, 220, 230, 240 and 241 as part of the MCAQD's general and NSR permitting programs because we have determined that these rules satisfy the substantive statutory and regulatory requirements of section 110(a)(2)(C) of the Act, parts C and D of title I of the Act, 40 CFR 51.160–51.166, and 40 CFR 51.307. Our TSD for this rulemaking contains a more detailed evaluation.

### III. Proposed Action and Public Comment

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the MCAQD Rules 100, 200, 210, 220, 230, 240, and 241, because they fulfill all relevant requirements. We are accepting comments from the public on this proposal until March 25, 2021. If we finalize this action as proposed, our action would be codified through revisions to 40 CFR 52.120 (Identification of plan).

### 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. The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://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

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);
- 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);

#### 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: February 5, 2021.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 2021–02908 Filed 2–22–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA–HQ–OAR–2020–0560; EPA–HQ–OAR–2020–0535; EPA–HQ–OAR–2020–0572; EPA–HQ–OAR–2020–0148; EPA–HQ–OAR–2020–0505; EPA–HQ–OAR–2020–0532; FRL–10020–46–OAR]

RIN 2060–AU59; 2060–AU65; 2060–AU57; 2060–AU67; 2060–AU66; 2060–AU64

### National Emission Standards for Hazardous Air Pollutants: Mercury Cell Chlor-Alkali Plants, Primary Magnesium Refining, Flexible Polyurethane Foam Fabrication Operations, Refractory Products Manufacturing, Carbon Black Production, and Cyanide Chemicals Manufacturing Residual Risk and Technology Reviews; Extension of Comment Periods

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

**ACTION:** Proposed rules; extension of public comment periods.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is extending comment periods for proposed rules titled “National Emission Standards for Hazardous Air Pollutants: Mercury Cell Chlor-Alkali Plants Residual Risk and Technology Review” and “National Emission Standards for Hazardous Air Pollutants: Primary Magnesium Refining, Residual Risk and Technology Review,” published on January 8, 2021, “National Emission Standards for Hazardous Air Pollutants: Flexible Foam Fabrication Operations Residual Risk and Technology Review and Flexible Polyurethane Foam Production and Fabrication Area Source Technology Review,” published on January 11, 2021, “National Emission Standards for Hazardous Air Pollutants: Refractory Products Manufacturing Residual Risk and Technology Review” and “National Emission Standards for Hazardous Air Pollutants: Carbon Black Production Residual Risk and Technology Review,” published January 14, 2021, and “National Emission Standards for Hazardous Air Pollutants: Cyanide Chemicals Manufacturing Residual Risk and Technology Review,” published on January 15, 2021, to allow additional time for stakeholders to review and comment on the proposals.

**DATES:** The public comment periods for the proposed rules published in the **Federal Register** on January 8, 2021 (86 FR 1362 and 86 FR 1390), originally ending February 22, 2021, are being extended. Written comments may now be received on or before March 24, 2021.