

Furthermore, the Commission has, on an ad hoc basis, previously granted registration exemptions to four foreign clearinghouses limited to proprietary swap positions with effectively the same conditions and limitations as provided in the Final Rule. The Final Rule will therefore maintain consistency with the existing exemptions.

The Final Rule also contains fairly detailed daily, quarterly, and annual reporting requirements, as well as special event notice requirements. These requirements allow the Commission to monitor U.S. person clearing activity at the Exempt DCO on a daily basis and keep the Commission informed of any material changes to the regulatory and financial status of the Exempt DCO in its home jurisdiction. While the Exempt DCOs will be able to operate under the compliance regime and oversight of its home country regulator, the CFTC can maintain limited, but up-to-date oversight of the activities that are relevant for U.S. market participants and that could have an impact on our financial system.

As noted above, the Final Rule does not permit registered FCMs to clear U.S. customer swaps at Exempt DCOs. In the Commission's initial 2018 proposal to establish a framework for Exempt DCOs, the Commission proposed this prohibition. The Commission explained:

Section 4d(f)(1) of the CEA makes it unlawful for any person to accept money, securities, or property (*i.e.*, funds) from a swaps customer to margin a swap cleared through a DCO unless the person is registered as an FCM. Any swaps customer funds held by a DCO are also subject to the segregation requirements of section 4d(f)(2) of the CEA, and in order for a customer to receive protection under this regime, particularly in an insolvency context, its funds must be carried by an FCM, and deposited with a registered DCO. Absent that chain of registration, the swaps customer's funds may not be treated as customer property under the U.S. Bankruptcy Code and the Commission's regulations. Because of this, it has been the Commission's policy to allow exempt DCOs to clear only proprietary positions of U.S. persons and FCMs.<sup>3</sup>

The Final Rule notes that the Commission may revisit the prohibition on U.S. customer clearing in the future. While I agree with the outcome in the Final Rule as to customer clearing given the Commission's interpretation of CEA Section 4d(f), if the above interpretation changes, whether by a change to the statute or by other appropriate means, I could support a further amendment of the Final Rule. Any such change should place U.S. FCMs on an equal footing with their foreign counterparts when competing for U.S. customer clearing at Exempt DCOs. In addition, such a change should not create an advantage for unregistered Exempt DCOs over registered DCOs who comply with all of our regulations.

Finally, I note that CEA Section 5b(h) provides for the registration exemption if the foreign DCO is subject to "comparable,

comprehensive supervision and home country regulation." Under the Final Rule, to demonstrate comparability, the DCO must be subject to home country regulations that are consistent with, and the DCO must "observe in all material respects," the "Principles for Financial Market Infrastructures"<sup>4</sup> ("PFMIs") applicable to central counterparties.

Several commenters objected to this approach to comparability determinations on a number of grounds. These commenters stated that the Commission should not substitute a commitment to adhere to the PFMIs for its own examination and assessment as to the comparability and comprehensiveness of the actual foreign regulations. As the PFMIs are only general principles, even when the PFMIs are implemented, material differences may exist between the PFMI-compliant regime and the Commission's DCO core principles and regulations. Commenters further argued that Congress intended for the Commission to analyze comparability only by direct comparison to the CFTC's laws and regulations.

Over the past two years, I have expressed concerns over the erosion of the Commission's standards and role in finding comparability for various CFTC regulations. The Commission's approach has been increasingly deferential to other regulators, which has the potential to permit the importation of increased risks into the U.S. financial system.

In this regard, I too have some concerns about the use of the PFMIs as a standard for comparability. However, for the purpose of granting DCO registration exemptions, I believe the approach taken in the Final Rule is reasonable. I have consistently said that comparability determinations should involve a detailed examination of the other jurisdiction's standards, but also should be outcomes based. Regulators around the world take substantively different approaches to regulating DCOs, but that does not mean any one approach is *necessarily* better or worse than another as to its expected outcome. The PFMIs tend to be more general in nature than the DCO core principles and regulations in the CEA and CFTC regulations. However, regarding the general outcome of DCO regulation, the PFMIs—which the CFTC has contributed to and incorporated in regulation<sup>5</sup>—are consistent with our DCO core principles. Furthermore, given the limited scope of the Final Rule in that it applies only to clearing of proprietary positions, using the PFMIs to find comparability is not unwarranted. Finally, the Final Rule allows for the Commission to assess the extent to which the home country regulations are consistent with the PFMIs and the extent to which the applying DCO is observing the PFMIs. As such, I believe the

approach taken in the Final Rule is reasonable.

In conclusion, the Final Rule creates a limited, practical set of policies and procedures for granting exemptions from registration for foreign DCOs. The Exempt DCOs can only clear swaps for U.S. persons who are proprietary traders and who are able to assess the specific risks of clearing at the Exempt DCO. The U.S. customer accounts at registered FCMs will not be commingled with accounts used for Exempt DCO clearing. Finally, U.S. FCMs are not put at a competitive disadvantage to their foreign counterparts. For these reasons, I support the changes made to the proposed rule that result in an appropriate, codified approach to exempting foreign DCOs who meet appropriate standards.

[FR Doc. 2020-26527 Filed 1-6-21; 8:45 am]

BILLING CODE 6351-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2020-0358 and EPA-R09-OAR-2019-0423; FRL-10017-89-Region 9]

### Air Plan Partial Approval, Partial Disapproval, and Partial Conditional Approval; Arizona; Maricopa County Air Quality Department; Reasonably Available Control Technology State Implementation Plan and Surface Coating Rule

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing a partial approval, partial disapproval, and partial conditional approval of revisions to the Maricopa County Air Quality Department (MCAQD or County) portion of the Arizona State Implementation Plan (SIP). This action concerns the County's demonstration regarding reasonably available control technology (RACT) requirements and negative declarations for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS or "standards") in the portion of the Phoenix-Mesa ozone nonattainment area under the jurisdiction of the MCAQD. The EPA is also finalizing a conditional approval of a MCAQD rule that regulates emissions from surface coating operations and was submitted with the RACT SIP demonstration.

**DATES:** This rule is effective on February 8, 2021.

**ADDRESSES:** The EPA has established dockets for this action under Docket No. EPA-R09-OAR-2020-0358 and EPA-R09-OAR-2019-0423. All documents in

<sup>3</sup> Exemption from Derivatives Clearing Organization Registration, 83 FR 39923, 39926 (proposed Aug. 13, 2018).

<sup>4</sup> See Committee on Payment and Settlement Systems and the Technical Committee of the International Organization of Securities Commissions, Principles for financial market infrastructures (Apr. 2012), available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD377-PFMI.pdf>.

<sup>5</sup> See 17 CFR 39.30, 39.40.

the dockets are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. 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 FURTHER INFORMATION CONTACT:** Nicole Law, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4126 or by email at [Law.Nicole@epa.gov](mailto:Law.Nicole@epa.gov).

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

#### Table of Contents

- I. Proposed Action
- II. EPA Action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

#### I. Proposed Action

On September 18, 2020 (85 FR 58310), the EPA proposed a partial approval and partial disapproval of the Arizona Department of Environmental Quality’s (ADEQ) June 22, 2017 submittal of MCAQD’s Analysis of Reasonably Available Control Technology for The 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) State Implementation Plan (RACT SIP) and the associated negative declarations. On January 28, 2020 (85 FR 4928), the EPA proposed to conditionally approve MCAQD Rule 336 Surface Coating Operations and associated portions of the RACT Demonstration.

Local agency	Document	Adopted	Submitted
MCAQD .....	Analysis of Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) State Implementation Plan (RACT SIP).	05/24/2017	06/22/2017
MCAQD .....	Appendix 1A: Negative Declarations .....	05/24/2017	06/22/2017
MCAQD .....	Rule 336: Surface Coating Operations .....	11/02/2016	06/22/2017

MCAQD’s RACT SIP provides the County’s demonstration that the applicable SIP for the MCAQD satisfies CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS. This conclusion is based on the County’s analysis of SIP-approved requirements that apply to the following: (1) Source categories for which the EPA has issued a Control Techniques Guidelines (CTG) document, and (2) major non-CTG stationary sources of Volatile Organic Compounds (VOCs) or oxides of nitrogen (NO<sub>x</sub>).

With respect to CTG source categories, MCAQD determined that it had sources subject to the CTGs covering solvent metal cleaning, industrial cleaning solvents, miscellaneous metal and plastic parts coating, can coating, fabric coating, film and foil coating, rotogravure and flexography, lithographic printing and letter press printing, wood furniture manufacturing operations, storage of petroleum liquids, tank truck gasoline loading terminals, bulk gasoline plants, gasoline tank trucks and vapor collection systems, and gasoline service stations. MCAQD submitted for SIP approval six rules to implement RACT for these CTG categories: Rules 336, 342, 350, 351, 352, and 353.

On February 26, 2020 (85 FR 10986), the EPA conditionally approved Rules 350, 351, 352, and 353 into the SIP, and also conditionally approved the associated CTG source categories for the MCAQD 2016 RACT SIP: “Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks” (EPA-450/2-77-036), “Control

of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks” (EPA-450/2-78-047), “Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals” (EPA-450/2-77-026), “Control of Volatile Organic Emissions from Bulk Gasoline Plants” (EPA-450/2-77-035), “Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems” (EPA-450/2-78-051), and “Design Criteria for Stage I Vapor Control Systems—Gasoline Service Stations” (EPA-450/R-75-102). MCAQD has committed to correct the EPA’s identified deficiencies, and ADEQ has committed to submit the updated rules within one year of the EPA’s final conditional approval. If MCAQD corrects the identified deficiencies and the EPA approves the updated rules, MCAQD will have met its RACT obligation for these rules, and the associated CTGs. We are not acting on rules 350, 351, 352, and 353, or the associated CTG categories in the MCAQD’s 2016 RACT SIP in this action.

On August 27, 2019 (84 FR 44701), the EPA approved Rule 342 into the SIP, finding that the rule met current RACT. This rulemaking also approved Rule 337, which had been submitted earlier and was not part of the 2016 RACT SIP submittal. Although we approved Rules 337 and 342, and found that they established RACT level controls, we did not in that action approve the 2016 RACT SIP for the associated CTG source categories. On September 18, 2020 (85 FR 58310), the EPA proposed to find that Rules 331, 337, and 342 establish

RACT-level controls for the sources within the following CTG source categories: “Control of Volatile Organic Emissions from Solvent Metal Cleaning” (EPA-450/2-77-022), “Control Techniques Guidelines: Industrial Cleaning Solvents” (EPA-453/R-06-001), “Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VIII: Graphic Arts—Rotogravure and Flexography” (EPA-430/2-78-033) and “Offset Lithographic Printing and Letterpress Printing” (EPA-453/R06-002), and “Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations” (EPA-453/R-96-007).

On January 28, 2020 (85 FR 4928), the EPA proposed conditional approval of Rule 336 into the SIP, as well as conditional approval of the associated eight CTG source categories for the County’s 2016 RACT SIP: “Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks” (EPA-450/2-77-008), “Control of Volatile Organic Emissions from Existing Stationary Sources—Volume III: Surface Coating of Metal Furniture” (EPA-450/2-77-032), “Control of Volatile Organic Emissions from Existing Stationary Sources—Volume V: Surface Coating of Large Appliances” (EPA-450/2-77-034), “Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VI: Surface Coating of Miscellaneous Metal Parts and Products” (EPA-450/2-78-15), “Control Techniques Guidelines for Metal Furniture Coatings” (EPA-

453/R-07-005), “Control Techniques Guidelines for Large Appliance Coatings” (EPA-453/R07-004), “Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings” (EPA-453/R-08-003), and “Control Techniques Guidelines For Paper, Film, and Foil Coatings” (EPA-453/R-07-003). MCAQD has committed to correct the EPA’s identified deficiencies, and ADEQ has committed to submit the updated rule within one year of the EPA’s final conditional approval. If MCAQD corrects the identified deficiencies and the EPA approves the updated rule, the County will have met its RACT obligation for this rule, and the associated CTGs.

On September 18, 2020 (85 FR 58310), we proposed to approve negative declarations, including negative declarations for some of the source categories covered by Rule 336. Specifically, of eight CTG source categories addressed by Rule 336 (as listed in the prior paragraph), our September proposal proposed to approve negative declarations for five of them: “Control of Volatile Organic Emissions from Existing Stationary Sources—Volume III: Surface Coating of Metal Furniture” (EPA-450/2-77-032), “Control of Volatile Organic Emissions from Existing Stationary Sources—Volume V: Surface Coating of Large Appliances” (EPA-450/2-77-034), “Control Techniques Guidelines for Metal Furniture Coatings” (EPA-453/R-07-005), “Control Techniques Guidelines for Large Appliance Coatings” (EPA-453/R07-004), and “Control Techniques Guidelines For Paper, Film, and Foil Coatings” (EPA-453/R-07-003). In addition, it proposed approval of negative declarations for the coils, paper, automobile and light-duty truck portions of the CTG “Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks” (EPA-450/2-77-008). In the same notice, the EPA also proposed to disapprove negative declarations for the Aerospace Coating and Industrial Adhesives source categories, because there are applicable sources in the Maricopa County portion of the Phoenix-Mesa ozone nonattainment area.

With respect to major non-CTG stationary sources of Volatile Organic Compounds (VOCs) or oxides of nitrogen (NO<sub>x</sub>), MCAQD determined it had RACT rules covering these sources. On September 18, 2020 (85 FR 58310), the EPA proposed to approve the County’s RACT determination that it has RACT rules covering major non-

CTG sources of VOC and proposed to disapprove the RACT determination that it has RACT rules covering major sources of NO<sub>x</sub>.

The proposed actions and associated technical support documents contain more information on the basis for this rulemaking and on our evaluation of the submittal.

## II. EPA Action

The EPA’s proposed actions provided 30-day public comment periods. During the comment periods for the two proposed actions, we received no comments. Therefore, as authorized in section 110(k)(4) of the Act, the EPA is conditionally approving into the Arizona SIP, Rule 336 and MCAQD’s RACT Demonstration for the 2008 8-hr ozone NAAQS with respect to the following Control Techniques Guidelines (CTGs), as described in our proposal:

1. “Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks” EPA-450/2-77-008, May 1977, cans and fabrics portions only.<sup>1</sup>

2. “Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VI: Surface Coating of Miscellaneous Metal Parts and Products,” EPA-450/2-78-15, June 1978.

3. “Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings,” EPA-453/R-08-003, September 2008.<sup>2</sup>

If the MCAQD and the ADEQ submit the required rule revisions to Rule 336 by the specified deadline, and the EPA approves the submission, then the identified deficiencies will be cured. However, if MCAQD, through the ADEQ, fails to submit these revisions to Rule 336 within the required timeframe, the conditional approval will be treated as a disapproval for Rule 336 and the RACT demonstration for the three CTG categories listed above.

<sup>1</sup> Note that in this action the EPA is finalizing approval of negative declarations for the other categories covered by this CTG: Surface coating of coils, paper, automobiles, and light-duty trucks.

<sup>2</sup> Our January 28, 2020 proposal also noted that the deficiencies in Rule 336 were not consistent with the 2007 CTGs for Metal Furniture and Large Appliance Coatings (85 FR at 4930). However, our September 18, 2020 proposal proposed to approve negative declarations for these two source categories. This final action approves these negative declarations. Therefore, the RACT SIP is fully approved with respect to these CTG source categories, and they are not included within the scope of the conditional approval of the RACT demonstration for CTG source categories associated with Rule 336.

Also, as authorized in sections 110(k)(3) and 301(a) of the Act, the EPA is finalizing a partial approval and partial disapproval of the remainder of the RACT SIP and associated negative declarations, as proposed.

We are finalizing a partial disapproval with respect to the portions of the RACT SIP addressing RACT for major sources of NO<sub>x</sub>, and CTG source categories for Aerospace Coating and Industrial Adhesives (“National Emission Standards for Hazardous Air Pollutants for Source Categories: Aerospace Manufacturing and Rework” (59 FR 29216), “Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations” (EPA-453/R-97-004), and “Control Techniques Guidelines for Miscellaneous Industrial Adhesives” (EPA-453/R-08-005)). As a result of the final partial disapproval, offset sanctions will be imposed unless the EPA approves a subsequent SIP revision that corrects the identified deficiencies within 18 months of the effective date of this action. Highway sanctions will be imposed unless the EPA approves a subsequent SIP revision that corrects the rule deficiencies within 24 months of the effective date of this action. These sanctions will be imposed under section 179 of the CAA and 40 CFR 52.31. Additionally, section 110(c) requires the EPA to promulgate a federal implementation plan within 24 months unless we approve subsequent SIP revisions that correct the deficiencies.

The EPA is finalizing a partial approval of the RACT SIP with respect to all remaining source categories, as proposed. This includes approval of the County’s negative declarations, with the exception of the three disapproved negative declarations, and the County’s RACT certifications for the following CTG source categories: “Control of Volatile Organic Emissions from Solvent Metal Cleaning” (EPA-450/2-77-022), “Control Techniques Guidelines: Industrial Cleaning Solvents” (EPA-453/R-06-001), “Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VIII: Graphic Arts—Rotogravure and Flexography” (EPA-430/2-78-033) and “Offset Lithographic Printing and Letterpress Printing” (EPA-453/R06-002), and “Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations” (EPA-453/R-96-007).

## III. 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 rule described in the amendments to 40 CFR part 52 set forth below. Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's conditional approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>3</sup> The EPA has made, and will continue to make, these documents available through [www.regulations.gov](http://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

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

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

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

##### B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

##### C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA, because this SIP partial approval, partial disapproval, and partial conditional approval does not in-and-of itself create any new information collection burdens, but simply partially approves, partially disapproves, and partially conditionally approves certain State requirements for inclusion in the SIP.

##### D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This SIP partial approval partial disapproval, and partial

conditional approval does not in-and-of itself create any new requirements but simply partially approves, partially disapproves, and partially conditionally approves certain pre-existing State requirements for inclusion in the SIP.

##### E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action partially approves, partially disapproves, and partially conditionally approves pre-existing requirements under State or local law and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

##### F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

##### G. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP revision that the EPA is partially approving, partially disapproving, and partially conditionally approving would not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because this SIP partial approval, partial disapproval, and partial conditional approval does not in-and-of itself create any new regulations, but simply partially approves, partially disapproves, and partially conditionally

approves certain pre-existing State requirements for inclusion in the SIP.

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

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

##### J. National Technology Transfer and Advancement Act (NTTAA)

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

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

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

##### L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

##### M. Petitions for Judicial Review

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 March 8, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 section 307(b)(2)).

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

<sup>3</sup> 62 FR 27968 (May 22, 1997).

Dated: December 11, 2020.

**John Busterud,**

*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. Amend § 52.119 by adding paragraph (c)(3) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(3) The EPA is conditionally approving portions of the Arizona SIP revisions submitted on June 22, 2017. The conditional approval is based upon the February 25, 2019 commitment from the State to submit a SIP revision consisting of rule revisions that will cure the identified deficiencies within

twelve (12) months after the EPA's conditional approval. If the State fails to meet its commitment, the conditional approval will be treated as a disapproval with respect to the rules and CTG categories for which the corrections are not met. The following MCAQD rules and additional materials are conditionally approved:

(i) Rule 336, *Surface Coating Operations*;

(ii) The RACT demonstration titled “Analysis of Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standards (NAAQS) State Implementation Plan (RACT SIP),” only those portions of the document claiming RACT was met for the following CTG source categories, “Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VI: Surface Coating of Miscellaneous Metal Parts and Products,” EPA-450/2-78-15, June 1978, “Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings,” EPA-453/R-08-003, September 2008, and “Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper,

Fabrics, Automobiles, and Light-Duty Trucks” EPA-450/2-77-008, May 1977 (cans and fabrics categories, only).

■ 3. Amend § 52.120 as follows:

■ a. In paragraph (c), Table 4 under the table headings “Post-July 1988 Rule Codification” and “Regulation III—Control of Air Contaminants,” by revising the entry for “Rule 336.”

■ b. In paragraph (e), Table 1, under the subheading “Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas,” by adding an entry for “Analysis of Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) State Implementation Plan (RACT SIP)” after the entry for “Maricopa Association of Governments (MAG) 1987 Carbon Monoxide (CO) Plan for the Maricopa County Area, MAG CO Plan Commitments for Implementation, and Appendix A through E, Exhibit 4, Exhibit D.”

The revision and addition 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>Post-July 1988 Rule Codification</b>				
*	*	*	*	*
<b>Regulation III—Control of Air Contaminants</b>				
*	*	*	*	*
Rule 336 .....	Surface Coating Operations .....	11/02/2016	01/07/2021, [INSERT <b>Federal Register</b> CITATION].	Submitted on June 22, 2017.
*	*	*	*	*

\* \* \* \* \*

(e) \* \* \*

**TABLE 1—EPA-APPROVED NON-REGULATORY AND QUASI-REGULATORY MEASURES**

[Excluding certain resolutions and statutes, which are listed in tables 2 and 3, respectively]<sup>1</sup>

Name of SIP provision	Applicable geographic or nonattainment area or title/subject	State submittal date	EPA approval date	Explanation
<b>The State of Arizona Air Pollution Control Implementation Plan</b>				

TABLE 1—EPA-APPROVED NON-REGULATORY AND QUASI-REGULATORY MEASURES—Continued  
[Excluding certain resolutions and statutes, which are listed in tables 2 and 3, respectively]<sup>1</sup>

Name of SIP provision	Applicable geographic or nonattainment area or title/subject	State submittal date	EPA approval date	Explanation
*	*	*	*	*
<b>Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas</b>				
*	*	*	*	*
Analysis of Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) State Implementation Plan (RACT SIP).	Maricopa County portion of Phoenix-Mesa non-attainment area for 2008 8-hour ozone NAAQS.	June 22, 2017	January 7, 2021, [INSERT <b>Federal Register</b> CITATION].	Except for those portions approved on 2/26/2020 in 85 FR 10986, and those portions of the document claiming RACT was met for the following source categories: "National Emission Standards for Hazardous Air Pollutants for Source Categories: Aerospace Manufacturing and Rework" (59 FR 29216), "Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations" (EPA-453/R-97-004), "Control Techniques Guidelines for Miscellaneous Industrial Adhesives" (EPA-453/R-08-005), and major sources of NO <sub>x</sub> .
*	*	*	*	*

<sup>1</sup> Table 1 is divided into three parts: Clean Air Act Section 110(a)(2) State Implementation Plan Elements (excluding Part D Elements and Plans), Part D Elements and Plans (other than for the Metropolitan Phoenix or Tucson Areas), and Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas.

\* \* \* \* \*

■ 4. Amend § 52.122 by adding paragraph (a)(3) as follows:

**§ 52.122 Negative declarations.**

(a) \* \* \*

(3) Maricopa County Air Quality Department.

(i) The following negative declarations for the 2008 ozone NAAQS were adopted on May 24, 2017 and submitted on June 22, 2017.

EPA document No.	Title
EPA-450/2-77-008 .....	Surface Coating of Coils.
EPA-450/2-77-008 .....	Surface Coating of Paper.
EPA-450/2-77-008 .....	Surface Coating of Automobiles and Light-Duty Trucks.
EPA-450/2-77-025 .....	Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds.
EPA-450/2-77-032 .....	Surface Coating of Metal Furniture.
EPA-450/2-77-033 .....	Surface Coating of Insulation of Magnet Wire.
EPA-450/2-77-034 .....	Surface Coating of Large Appliances.
EPA-450/2-77-037 .....	Cutback Asphalt.
EPA-450/2-78-029 .....	Manufacture of Synthesized Pharmaceutical Products.
EPA-450/2-78-030 .....	Manufacture of Pneumatic Rubber Tires.
EPA-450/2-78-032 .....	Factory Surface Coating of Flat Wood Paneling.
EPA-450/2-78-036 .....	Leaks from Petroleum Refinery Equipment.
EPA-450/3-82-009 .....	Large Petroleum Dry Cleaners.
EPA-450/3-83-006 .....	Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment.
EPA-450/3-83-007 .....	Leaks from Natural Gas/Gasoline Processing Plants.
EPA-450/3-83-008 .....	Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins.
EPA-450/3-84-015 .....	Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry.
EPA-450/4-91-031 .....	Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry.
EPA-453/R-94-032 .....	ACT Surface Coating at Shipbuilding and Ship Repair Facilities.
61 FR 44050; 8/27/96 ....	Shipbuilding and Ship Repair Operations (Surface Coating).
EPA-453/R-06-003 .....	Flexible Package Printing.
EPA-453/R-06-004 .....	Flat Wood Paneling Coatings.
EPA 453/R-07-003 .....	Paper, Film, and Foil Coatings.
EPA 453/R-07-004 .....	Large Appliance Coatings.
EPA 453/R-07-005 .....	Metal Furniture Coatings.
EPA 453/R-08-004 .....	Fiberglass Boat Manufacturing Materials.
EPA 453/R-08-006 .....	Automobile and Light-Duty Truck Assembly Coatings.
EPA 453/B16-001 .....	Oil and Natural Gas Industry.

(ii) [Reserved]

■ 5. Amend § 52.124 by adding paragraph (b)(2) to read as follows:

**§ 52.124 Part D disapproval.**

\* \* \* \* \*

(b) \* \* \*

(2) Maricopa County Air Quality Department.

(i) RACT determinations for major sources of NO<sub>x</sub>, and CTG source categories for Aerospace Coating and Industrial Adhesives ("National Emission Standards for Hazardous Air

Pollutants for Source Categories: Aerospace Manufacturing and Rework” (59 FR 29216), “Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations” (EPA-453/R-97-004), and “Control Techniques Guidelines for Miscellaneous Industrial Adhesives” (EPA-453/R-08-005)), in the submittal titled “Analysis of Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) State Implementation Plan (RACT SIP),” dated December 5, 2016, as adopted on May 24, 2017 and submitted on June 22, 2017.

(ii) [Reserved]

\* \* \* \* \*

[FR Doc. 2020-27806 Filed 1-6-21; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 282

[EPA-R06-UST-2018-0701; FRL-10014-65-Region 6]

#### Arkansas: Final Approval of State Underground Storage Tank Program Revisions and Incorporation by Reference

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

**ACTION:** Direct final rule.

**SUMMARY:** Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the State of Arkansas’s Underground Storage Tank (UST) program submitted by the State. EPA has determined that these revisions satisfy all requirements needed for program approval. This action also codifies EPA’s approval of Arkansas’s State program and incorporates by reference those provisions of the State regulations that we have determined meet the requirements for approval. The provisions will be subject to EPA’s inspection and enforcement authorities under Subtitle I of RCRA sections 9005 and 9006 and other applicable statutory and regulatory provisions.

**DATES:** This rule is effective March 8, 2021, unless EPA receives adverse comment by February 8, 2021. If EPA receives adverse comment, it will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of a certain

publication listed in the regulations is approved by the Director of the Federal Register, as of March 8, 2021, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

**ADDRESSES:** Submit your comments by one of the following methods:

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

2. *Email:* [lincoln.audray@epa.gov](mailto:lincoln.audray@epa.gov). *Instructions:* Direct your comments to Docket ID No. EPA-R06-UST-2018-0701. EPA’s policy is that all comments received will be included in the public docket without change and may be available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <https://www.regulations.gov>, or email. The Federal <https://www.regulations.gov> website is an “anonymous access” system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <https://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

The index to the docket for this action is available electronically at <https://www.regulations.gov>. You can view and copy the documents that form the basis for this codification and associated publicly available docket materials are available either through <https://www.regulations.gov> or at the Environmental Protection Agency, Region 6, 1201 Elm Street, Suite #500, Dallas, Texas 75270. This facility is open from 8:30 a.m. to 4:00 p.m. Monday through Friday excluding Federal holidays and facility closures.

We recommend that you telephone Audray Lincoln, Environmental Protection Specialist at (214) 665-2239 before visiting the Region 6 Office. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

#### FOR FURTHER INFORMATION CONTACT:

Audray Lincoln, (214) 665-2239, [lincoln.audray@epa.gov](mailto:lincoln.audray@epa.gov). Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID-19. We encourage the public to submit comments via <https://www.regulations.gov>, as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

#### SUPPLEMENTARY INFORMATION:

#### I. Approval of Revisions to Arkansas’s Underground Storage Tank Program

##### A. Why are revisions to State programs necessary?

States which have received final approval from the EPA under RCRA section 9004(b), 42 U.S.C. 6991c(b), must maintain an underground storage tank program that is equivalent to, consistent with, and no less stringent than the Federal underground storage tank program. When EPA makes revisions to the regulations that govern the UST program, States must revise their programs to comply with the updated regulations and submit these revisions to the EPA for approval. Changes to State UST programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to the EPA’s regulations in 40 Code of Federal Regulations (CFR) part 280. States can also initiate changes on their own to their underground storage tank program and these changes must then be approved by EPA.

##### B. What decisions has the EPA made in this rule?

On October 17, 2018, in accordance with 40 CFR 281.51(a), Arkansas submitted a complete program revision application seeking approval for its UST program revisions corresponding to the EPA final rule published on July 15, 2015 (80 FR 41566), which finalized revisions to the 1988 UST regulations and to the 1988 State program approval (SPA) regulations. As required by 40