

for small entities. The amendment is designed to minimize any significant economic impact on small entities.

List of Subjects in 37 CFR Part 201

Copyright.

Final Regulations

For the reasons set forth in the preamble, part 201 of title 37 of the Code of Federal Regulations is amended as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

§ 201.35 [Amended]

2. Section 201.35(f) is amended by removing the phrase "or within 45 days of the effective date of this regulation." and adding in its place the following: * * * or by September 3, 1998, in the case of a Service that makes subscription transmissions before or on that date, or by October 15, 1999, in the case of a Service that makes eligible nonsubscription transmissions before, or on, that date. * * *

Dated: September 10, 1999.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 99-24303 Filed 9-17-99; 8:45 am]

BILLING CODE 1410-31-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 086-0017a FRL-6438-1]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on a revision to the Arizona State Implementation Plan. This revision concerns two rules from Maricopa County: Rule 336—Surface Coating Operations; and, Rule 348—Aerospace Manufacturing and Rework Operations. This final action will incorporate these rules into the federally approved SIP and stop the sanctions and Federal Implementation Plan clocks started on February 9, 1998 when EPA published

a final limited disapproval of the State's previous submittal of Rule 336. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) according to the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Rule 336 controls VOC emissions from different surface coating operations using primarily metal and plastic substrates. Rule 348 controls VOC emissions from aerospace manufacturing and rework operations. EPA is finalizing the approval of this revision into the Arizona SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

DATES: This rule is effective on November 19, 1999 without further notice, unless EPA receives adverse comments by October 20, 1999. If EPA receives such comment, it will publish a timely withdrawal **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105;

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW., Washington, D.C. 20460;

Arizona Department of Environmental Quality, 3003 North Central Avenue, Phoenix, AZ 85012; and,

Maricopa County Environmental Services Department, 1001 N. Central Ave., Phoenix, AZ 85004.

FOR FURTHER INFORMATION CONTACT:

Jerald S. Wamsley, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1226.

SUPPLEMENTARY INFORMATION:

I. Applicability

The Maricopa County rules being approved into the Arizona SIP are Rule 336—Surface Coating Operations and Rule 348—Aerospace Manufacturing and Rework Operations. These rules were submitted by the Arizona Department of Environmental Quality to EPA on August 4, 1999.

II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act), that included Maricopa County. 43 FR 8964; 40 CFR 81.305. On March 19, 1979, EPA changed the name and modified the geographic boundaries of the ozone nonattainment area to the Maricopa Association of Governments (MAG) Urban Planning Area. 44 FR 16391, 40 CFR 81.303. On February 24, 1984, EPA notified the Governor of Arizona, pursuant to section 110(a)(2)(H) of the pre-amended Act, that MAG's portion of the Arizona SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call, 49 FR 18827, May 3, 1984). On May 26, 1988, EPA again notified the Governor of Arizona that MAG's portion of the SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies relating to VOC controls and the application of reasonably available control technology (RACT) in the existing SIP be corrected (EPA's second SIP-Call, 53 FR 34500, September 7, 1988). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies. Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.¹ EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The MAG Urban Planning Area is classified as serious;² therefore, this

¹ Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

² The MAG Urban Planning Area retained its designations of nonattainment and was classified by

Continued

area was subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of Arizona submitted many revised RACT rules for incorporation into its SIP on August 4, 1999, including Maricopa County's Rule 336 and Rule 348 being acted on today. This document addresses EPA's direct-final action for Maricopa County Rule 336—Surface Coating Operations and Rule 348—Aerospace Manufacturing and Rework Operations. Maricopa County adopted both Rule 336 and Rule 348 on April 7, 1999. These submitted rules were found to be complete on August 25, 1999 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V.³ Now, EPA is approving Rule 336 and Rule 348 for inclusion within the SIP.

These two rules reduce volatile organic compound (VOC) emissions in different industries. Rule 336 reduces VOC emissions at industrial sites engaged in preparing and coating a variety of substrates such as metal, paper, film, fabric, vinyl, and plastic. The provisions of Rule 336 apply to surface preparation and coating operation in the following industries: metal can and coil, metal furniture, large appliances, miscellaneous metal parts and products, paper, film, fabric, vinyl, plastic, and other flexible parts and products. Rule 348 controls VOC emissions from aerospace manufacturing and rework operations where various coatings are applied to primarily metal substrates.

VOCs contribute to the production of ground level ozone and smog. Rule 336 and Rule 348 were adopted originally as part of Maricopa County's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. EPA's evaluation and final action for this rule follow in the next section.

III. EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for

operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991). On November 6, 1997 EPA published a final rule reclassifying the MAG Urban Planning Area from moderate to serious (FR 62 60001). This reclassification became effective on December 8, 1997.

³ EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote one. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The following CTGs are applicable to Rule 336:

- "Control of Volatile Organic Emission from Existing Stationary Sources Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light Duty Trucks," USEPA, May 1977, EPA-450/2-77-008;
- "Control of Volatile Organic Emission from Existing Stationary Sources Volume III: Surface Coating of Metal Furniture," USEPA, December 1977, EPA-450/2-77-034; and,
- "Control of Volatile Organic Emission from Existing Stationary Sources Volume VI: Surface Coating of Miscellaneous Metal Parts and Products," USEPA, June 1978, EPA-450/2-78-015.

The following Alternative Control Techniques (ACT) document was consulted for its recommended emission limits and other applicable provisions:

- "Surface Coating of Automotive/Transportation and Business Machine Plastic Parts," USEPA, EPA 453/R-94-017.

The following CTG was used to evaluate Rule 348:

- "Guideline Series: Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations," USEPA, EPA-453/R-97-004, December, 1997.

Further interpretations of EPA policy are found in the Blue Book, referred to in footnote one. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

On February 9, 1998, EPA finalized a limited approval and limited disapproval of Rule 336. Although Rule 336 strengthened the SIP, the rule contained deficiencies that were required to be corrected pursuant to the section 182(a)(2)(A) requirements of Part D of the CAA. EPA required that the following sections be amended to be consistent with the applicable CTG and EPA policy:

- Section 306.4, Exemptions, Special Facilities/Operations;
- Section 306.5, Exemptions Small Sources; and,
- Section 402, Administrative Requirements, Minimal Use Days.

Further discussion of these deficiencies can be found at 62 FR 66040 (December 17, 1997) or in EPA's Technical Support Document for that December 1997 rulemaking.

Maricopa County's submitted Rule 336—Surface Coating Operations includes the following significant changes from the current SIP version:

- Requirements for more efficient paint application equipment;
- More stringent clean-up requirements;
- VOC limits for adhesives used on paper and metal substrates;
- More explicit recordkeeping requirements;
- Aerospace coating limits and requirements were deleted and included within Rule 348—Aerospace Manufacturing and Rework Operations; and,
- Two exemptions were deleted and one was added for bond rubber sheets for abrasion protection on metal machinery.

Within the version of Rule 336 adopted on April 7, 1999, the deficiencies identified by EPA in its February 9, 1998 rulemaking were corrected in the following ways:

- Section 306.4, Exemptions, Special Facilities/Operations and its 40 pounds per day size cutoff was deleted and the CTG size cut-off of 15 lbs per day was retained;
- Section 306.5, Exemptions, Small Sources was amended at Sections 243 and 305.4(d) to address EPA's "once in, always in" policy; and,
- Section 402, Administrative Requirements, Minimal Use Days and its waiver provisions was deleted.

The submitted Rule 336 does not interfere with reasonable further progress, attainment, or other provisions of the CAA. The amendments to Rule 336 are consistent with the CAA's Section 110(1) requirement for several reasons. First, Rule 336's amendments correct the deficiencies within the rule

and increase VOC emission reductions compared to the previous 1996 version of the rule within the SIP. Emission reductions are estimated to be 40 tons per year resulting from the Section 302 requirement to use an efficient coating application method. Second, the emission limits within Rule 336 meet the relevant CTG. Finally, although aerospace coating limits and requirements were deleted from Rule 336, they were included within Rule 348—Aerospace Manufacturing and Rework Operations. Rule 348 and its emission limits are being approved concurrently with this rulemaking action on Rule 336.

EPA has evaluated the submitted Rule 336 and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, Maricopa County Rule 336—Surface Coating Operations is being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D. This approval action will incorporate this rule into the federally approved SIP and also stop the sanctions process and Federal Implementation Plan clock, which were started on February 9, 1998 when a limited disapproval action was published in the **Federal Register** (see 63 FR 6487.)

There is no version of Maricopa County Rule 348—Aerospace Manufacturing and Rework Operations in the SIP. The submitted Rule 348 includes the following general provisions:

- General purpose and applicability;
- Definitions of terms used within the rule;
- Requirements for VOC content of coatings, surface preparation, and storage of VOC containing materials;
- Exemptions from the rule;
- Requirements for using air pollution control equipment;—record keeping to demonstrate compliance with the rule; and,
- Test methods for determining compliance with the rule.

EPA has evaluated Rule 348 and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, Maricopa County Rule 348—Aerospace Manufacturing and Rework Operations is being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

EPA is publishing this approval action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section

of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective November 19, 1999 without further notice unless the Agency receives adverse comments by October 20, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule is effective on November 19, 1999 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA consults with those governments, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of

section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action 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.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. 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 November 19, 1999. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 3, 1999.

Laura Yoshii,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(94) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(94) New and amended rules and regulations for the Maricopa County Environmental Services Department-Air Pollution Control were submitted on August 4, 1999, by the Governor's designee.

(i) Incorporation by reference.

(A) Rule 336, adopted on July 13, 1988 and revised on April 7, 1999 and Rule 348, adopted on April 7, 1999.

[FR Doc. 99-24431 Filed 9-17-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 086-0017c; FRL-6438-3]

Interim Final Determination that State Has Corrected the Deficiency State of Arizona; Maricopa County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final determination.

SUMMARY: Elsewhere in today's **Federal Register**, EPA has published a direct final rulemaking fully approving the State of Arizona's submittal of Maricopa County's Rule 336—Surface Coating Operations. EPA has also published a proposed rulemaking to provide the public with an opportunity to comment on EPA's action. If a person submits adverse comments on EPA's final action, EPA will withdraw its direct final rule and will consider any comments received before taking final action on the State's submittal. Based on the full approval, EPA is making an interim final determination by this action that the State has corrected the deficiency for which a sanctions clock began on March 11, 1998. This action will defer both the imposition of the offset sanction and the imposition of the highway sanction. Although this action is effective upon publication, EPA will take comment. If no comments are received on EPA's approval of the State's submittal, the direct final action published in today's **Federal Register** will also finalize EPA's determination that the State has corrected the deficiency that started the sanctions clock. If comments are received on EPA's proposed approval and this interim final action, EPA will publish a final action taking into consideration any comments received.

DATES: *Effective date:* September 20, 1999.