

and other hazardous material) when other environmental laws and regulations will be satisfied prior to the of demolition, removal and disposal.

A.4(f) Relocations and realignments of employees and/or residents from one geographic area to another that: Fall below the thresholds for reportable actions and do not involve related activities such as construction, renovation, or demolition activities that would otherwise require an EA or an EIS to impellent. This includes reorganization and reassignments with no changes in employee and/or resident status, and routine administrative reorganizations and consolidations.

Appendix B to Part 200—The Action Requiring an Environmental Assessment

The following actions are not considered to be major Federal actions significantly affecting the quality of the human environment and, therefore, require an Environmental Impact Statement (EIS) nor are considered a categorical exclusion as defined in these regulations and would require the preparation of an Environmental Assessment (EA):

B.1 Construction on previously disturbed property where there is the potential for an increase in traffic and people.

Appendix C to Part 200—Actions Requiring Environmental Impact Statement

The following actions are considered to be major Federal actions significantly affecting the quality of the human environment, and therefore must be the subjects of EIS, as indicates may have significant environmental effects:

C.1 Acquisition of space by Federal construction or lease construction, or expansion or improvement of an existing facility, where one or more of the following applies:

C.1(a) The structure and/or proposed use are not substantially consistent with local planning and zoning or any applicable State or Federal requirements.

C.1(b) The proposed use will substantially increase the number of motor vehicles at the facility.

C.1(c) The site and scale of construction are not consistent with those of existing adjacent or nearby buildings.

C.1(d) There is evidence of current or potential environmental controversy.

C.2 Space acquisition programs projected for a substantial geographical area (e.g., a metropolitan area) for a 3-to-5-year period or greater (Note: a Programmatic EIS is often appropriate here, from which subsequent EISs and EAs can be tiered).

Dated: October 28, 2009.

Timothy Cox,

Chief Operating Officer.

[FR Doc. E9-26376 Filed 11-6-09; 8:45 am]

BILLING CODE 8250-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2009-0042; FRL-8902-6]

Revisions to the Arizona State Implementation Plan, Maricopa County Air Quality Department and Maricopa County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Maricopa County Air Quality Department (MCAQD) portion of the Arizona State Implementation Plan (SIP). These revisions concern PM-10 emissions from open outdoor fires and indoor fireplaces at commercial and institutional establishments, primary and secondary MCAQD ambient air quality standards, and residential woodburning devices. We are approving local rules under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on January 8, 2010 without further notice, unless EPA receives adverse comments by December 9, 2009. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2009-0042, by one of the following methods:

- *Federal eRulemaking Portal:*

www.regulations.gov. Follow the on-line instructions.

- *E-mail:* steckel.andrew@epa.gov.

- *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI)

or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or e-mail.

www.regulations.gov is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT:

Alfred Petersen, EPA Region IX, (415) 947-4118, petersen.alfred@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us” and “our” refer to EPA.

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I. The State’s Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that the rules were amended by the local air agencies and submitted by the Arizona Department of Environmental Quality (ADEQ).

TABLE 1—SUBMITTED RULES

Local agency	Ordinance or rule No.	Rule title	Revised or adopted	Submitted
MCAQD	Rule 314	Open Outdoor Fires and Indoor Fireplaces at Commercial and Institutional Establishments.	03/12/08 Revised	07/10/08
MCAQD	Rule 510	Air Quality Standards	11/01/06 Adopted	06/07/07
MC	Ordinance P-26	Residential Woodburning Restriction Ordinance	03/26/08 Revised	07/10/08

On January 11, 2009, the submittal of MCAQD Rule 314 and MC Ordinance P-26 was determined by operation of law to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. On December 6, 2007, the submittal of MCAQD Rule 510 was determined by operation of law to meet the completeness criteria.

B. Are there other versions of these rules?

There is no previous version of MC Ordinance P-26 submitted or in the SIP.

A version of MCAQD Rule 314 was approved into the SIP on May 8, 2007 (72 FR 25973). Obsolete versions of the SIP Rules 50, 51, 52, and 53 were approved into the SIP on July 27, 1972 (37 FR 15081) and should be removed from the SIP.

A version of MCAQD Rule 510 on which we have not acted, was adopted on July 13, 1988 and submitted on January 4, 1990. While we can act only on the most recent version, we have considered the contents of the previous submittal.

C. What are the purposes of the submitted rule revisions?

Section 110(a) of the Clean Air Act (CAA) requires states to submit regulations that control volatile organic compounds, nitrogen oxides, particulate matter, and other air pollutants which harm human health and the environment. These rules were developed as part of local air districts' programs to control these pollutants.

The purposes of revisions to MCAQD Rule 314 are as follows:

- *314.202:* Area A is defined (generally the highly-populated area of Maricopa County (MC)).
- *314.302.1:* A list of fires prohibited during restricted-burn periods in MC, but allowed from May 1 through September 30 in Area A, is revised.
- *314.302.2:* A list of fires prohibited during restricted-burn periods in MC and also prohibited from May 1 to September 30 in Area A is revised.
- *314.303.1:* A list of fires allowed any time of the year in MC or Area A is revised.

- *314.303.2:* A list of fires prohibited during restricted-burn periods in MC is revised.

- *314.303.3:* A list of fires prohibited during restricted-burn periods in MC and also prohibited from May 1 through September 30 in Area A is revised. Woodburning chimineas and fire pits are added to the applicability of the rule.

- *314.302.1 and 314.302.2:* A list of fires that require burn permits from the MCAQD is revised. A list of other fires prohibited during restricted-burn periods, but that may be set after a person verifies with the MCAQD that a restricted-burn period is not in effect, is revised.

- *314.304:* Air curtain destructor burning requires a Title V permit from the ADEQ and a site-specific burn plan. Procedures for the air curtain destructor in Rule 314.appendix are revised.

- *314.306:* The burning is prohibited in indoor fireplaces at commercial and institutional establishments during a restricted-burn period, except for gaseous fuels.

The purposes of MCAQD Rule 510 are as follows:

- The rule establishes maximum limiting levels of ambient air pollutants for protection of human health and public welfare.

- The rule requires public notification on ambient air quality through an Annual Air Quality Monitoring Report and a Daily Air Quality Index Report.

The purposes of revisions to MC Ordinance P-16 are as follows:

- *P-26.(overall):* Various definitions are added or revised. Civil penalties are added for failure to curtail burning as required on restricted burn days.
- *P-26.1.B:* Barbecue devices and mesquite grills are removed from the applicability of the ordinance.
- *P-26.2.G:* The moisture content of appropriate fuels is reduced to 20% from 30%.
- *P-26.2:* Standards for curtailment of burning are added for PM-2.5 and ozone in addition to the existing standard for PM-10. The National Ambient Air Quality Standards for

particulate matter are added for the new PM-2.5 standard in addition to the existing standard for PM-10. The requirement that County Buildings Codes supersede the requirements of Ordinance P-26 is added.

- *P-26.3.A:* Restricted-burn periods declarations are expanded to every day of the year.

- *P-26.3.B:* There is added the prohibition to operate outdoor fire pits, woodburning chimineas, or similar outdoor devices during a restricted-burn period such that there are visible smoke emissions. Such devices must be installed per the manufacturer's instructions and operated with manufacturer's recommended fuel.

- *P-26.3.C:* There is clarified that during a restricted-burn period, a person may operate a residential woodburning device if exempted by the Control Officer or if it meets the standards of MCAQD Rule 318 and there is no visible smoke emission. There is added that during a restricted-burn period, a person may operate a residential woodburning device, outdoor fire pit, chiminea, or similar outdoor fire if operated exclusively with natural gas or propane.

- *P-26.3.D:* The possibility of exceeding the ozone standard is added as a criterion for declaring a restricted-burn period.

EPA's technical support document (TSD) has more information about these rules.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). SIP rules in serious PM-10 nonattainment areas must require for significant sources best available control measures (BACM), including best available control technology (BACT) (see section 189(b)). MCAQD regulates a serious PM-10 nonattainment area (see 40 CFR part 81), so MCAQD Rule 314 must fulfill the requirements of BACM/BACT. MCAQD Rule 510 is an administrative rule with no specific BACM/BACT requirements.

Guidance and policy documents that we used to help evaluate rules consistently include the following:

- *PM-10 Guideline Document* (EPA-452/R-93-008).
- *Technical Information Document for Residential Wood Combustion Best Available Control Measures*, (EPA-450/2-92-002).
- *Minimum BACM/RACM Control Measures for Residential Wood Combustion Rules*, EPA Region IX (September 16, 2008).

B. Do the rules meet the evaluation criteria?

We believe that MC Rules 314 and 510 and MC Ordinance P-26 are consistent with the relevant policy and guidance regarding enforceability, BACM/BACT, and SIP relaxations and should be given full approval. The TSD has more information on our evaluation.

C. EPA recommendation to further improve a rule

The TSD describes an additional rule revision that does not affect EPA's current action but is recommended for the next time the local agency modifies MCAQD Rule 510.

D. Public comment and final action

Because EPA believes that submitted MCAQD Rules 314 and 510 and MC Ordinance P-26 fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the CAA. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal

requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *January 8, 2010*. 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 12, 2009.

Laura Yoshii,

Acting Regional Administrator, Region IX.

Editorial Note: This document was received by the Office of the Federal Register on November 3, 2009.

■ 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 paragraphs (c)(140)(i)(B) and (141) to read as follows:

§ 52.120 Identification of plan.

* * * * *

- (c) * * *
(140) * * *
(i) * * *

(B) Maricopa County Air Quality Department.

(7) Rule 510, “Air Quality Standards,” excluding Appendix G to the Maricopa County Air Pollution Control Regulations, adopted on July 13, 1988 and revised on November 1, 2006.

* * * * *

(141) The following amended rules were submitted on July 10, 2008, by the Governor’s designee.

- (i) Incorporation by reference.

(A) Maricopa County.

(7) Ordinance P-26, “Residential Woodburning Restriction Ordinance,” adopted on October 5, 1994 and revised on March 26, 2008.

(B) Maricopa County Air Quality Department.

(7) Rule 314, “Open Outdoor Fires and Indoor Fireplaces at Commercial and Institutional Establishments,” adopted on July 13, 1988 and revised on March 12, 2008.

* * * * *

[FR Doc. E9-26861 Filed 11-6-09; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 20**

[FWS-R9-MB-2009-0003]

[91200-1231-9BPP-L2]

[RIN 1018-AW46]

Migratory Bird Hunting; Approval of Tungsten-Iron-Fluoropolymer Shot Alloys as Nontoxic for Hunting Waterfowl and Coots

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correcting amendment.

SUMMARY: On October 20, 2009, we, the U.S. Fish and Wildlife Service, published a final rule approving tungsten-iron-fluoropolymer (TIF) shot for hunting waterfowl and coots. The information provided in that rule regarding appropriate field testing devices for this type of nontoxic shot contained an error. We now correct that error.

DATES: This rule takes effect on November 9, 2009.

FOR FURTHER INFORMATION CONTACT: George T. Allen, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 703-358-1825).

SUPPLEMENTARY INFORMATION:**Background**

On October 20, 2009, we published a final rule with an immediate effective date to approve tungsten-iron-fluoropolymer (TIF) shot for hunting waterfowl and coots (74 FR 53665). Our changes to the Code of Federal Regulations (CFR) at 50 CFR 20.21(j) indicated that a magnet or a Hot Shot® device was suitable for testing shotshells loaded with TIF in the field. However, a regular magnet is not sufficient for testing the TIF alloys of the highest sectional densities.

We amend our table of approved nontoxic shot types at 50 CFR 20.21(j) to clarify that either a rare earth magnet (or a set of small rare earth magnets) or a Hot Shot® device is needed for testing TIF shot in the field. We do so by inserting the words “rare earth” at the appropriate place in the table.

This information appears in the last column of the table under the heading “Field testing device”. The data in this column is strictly informational, not regulatory. Because the nontoxic shot regulations are used by both waterfowl hunters and law enforcement officers,

we include information on suitable testing devices as a useful addition to the table.

Administrative Procedure Act

We find good cause to waive notice and comment on this correction, pursuant to 5 U.S.C. 553(b)(3)(B), and the 30-day delay in effective date pursuant to 5 U.S.C. 553(d). Notice and comment are unnecessary because this rule merely corrects a nonregulatory portion of the regulations. The substance of the regulations remains unchanged. Therefore, this correction is being published as a final regulation and is effective as shown under DATES.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

■ Accordingly, we amend part 20, subchapter B, chapter I of title 50 of the Code of Federal Regulations as follows:

PART 20—[AMENDED]

■ 1. The authority citation for part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act, 40 Stat. 755, 16 U.S.C. 703-712; Fish and Wildlife Act of 1956, 16 U.S.C. 742a-j; Pub. L. 106-108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

■ 2. Amend § 20.21(j) by adding the words “Rare Earth” in front of the word “Magnet” in the last column and last row of the table.

Dated: November 4, 2009

Sara Prigan,

Federal Register Liaison.

[FR Doc. E9-26912 Filed 11-06-09; 8:45 am]

BILLING CODE 4310-55-S