

Dated: August 12, 2010.

Lisa P. Jackson,
Administrator.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2010-0521; FRL-9196-2]

Revisions to the Arizona State Implementation Plan, Maricopa County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Maricopa County portion of the Arizona State Implementation Plan (SIP). These revisions concern particulate matter (PM) emissions from fugitive dust sources such as construction sites and related activities, unpaved roads, unpaved parking lots, and disturbed soils on vacant lots. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by October 4, 2010.

ADDRESSES: Submit comments, identified by docket number EPA-R09-

OAR-2010-0521, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

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

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at <http://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 <http://www.regulations.gov> or e-mail. <http://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 <http://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: Andrew Steckel, EPA Region IX, (415) 947-4115, steckel.andrew@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 addressed by this proposal with the dates that they were adopted by the local air agency, the Maricopa County Air Quality Department (MCAQD) and submitted by the Arizona Department of Air Quality (ADEQ).

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
MCAQD	310	Fugitive Dust From Dust-Generating Operations	01/27/10	04/12/10
MCAQD	310.01	Fugitive Dust From Non-Traditional Sources of Fugitive Dust.	01/27/10	04/12/10
MCAQD	Appendix C—Fugitive Dust Test Methods	03/27/08	07/10/08

On June 8, 2010, EPA determined that the Rule 310 and 310.01 submittals from Maricopa County met the completeness criteria in 40 CFR part 51 appendix V; these criteria must be met before formal EPA review begins.

B. Are there other versions of these rules?

There are prior versions of Rule 310, Rule 310.01 and Appendix C in the SIP. On August 21, 2007, EPA approved and incorporated within the SIP the April 7, 2004 adopted versions of Rule 310, Rule 310.01, and Appendix C (see 72 FR 46564). Maricopa County submitted, through the ADEQ, the March 26, 2008

adopted versions of Rule 310, Rule 310.01, and Appendix C to EPA on July 10, 2008. We have not acted on these versions of the rules. The January 27, 2010 version of Rules 310 and 310.01, the subject of this proposal, however, incorporates the 2008 revisions as well as these latest 2010 amendments. Consequently, for this proposal, we reviewed all amendments and the rules as a whole. In the case of Appendix C, we reviewed the submitted March 27, 2008 version since there was no subsequent submittal.

C. What is the purpose of the submitted rule revisions?

PM contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control PM emissions. Rule 310 is designed to limit the emissions of fugitive dust or particulate matter from activity related to land-clearing, earthmoving, construction, demolition, bulk material hauling, temporary staging areas and

unpaved parking lots, haul and access roads, vehicle track-out, and disturbed soil associated with these activities. Rule 310.01 is a rule designed to limit the emissions of fugitive dust or particulate matter from disturbed surfaces and vehicle use in open areas and vacant lots, unpaved roadways and parking lots, livestock activities, erosion-caused deposition of bulk material on paved roadways, and easements, rights-of-way, and access roads for utilities.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

SIP rules must be enforceable (*see* section 110(a) of the Act) and must not relax existing requirements (*see* sections 110(l) and 193). In addition, SIP rules must implement Reasonably Available Control Measures (RACM), including Reasonably Available Control Technology (RACT), in moderate PM nonattainment areas, and Best Available Control Measures (BACM), including Best Available Control Technology (BACT), in serious PM nonattainment areas (*see* CAA sections 189(a)(1) and 189(b)(1)). The MCAQD regulates a PM nonattainment area classified as serious (*see* 40 CFR part 81), so Rule 310 and Rule 310.01 must implement BACM.

Guidance and policy documents that we use to evaluate enforceability and RACM or BACM requirements consistently include the following:

1. "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 published in the May 25, 1988 **Federal Register**.
2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
3. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
4. "State Implementation Plans for Serious PM-10 Nonattainment Areas, and Attainment Date Waivers for PM-10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 59 FR 41998 (August 16, 1994).
5. "PM-10 Guideline Document," EPA 452/R-93-008, April 1993.
6. "Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures," EPA 450/2-92-004, September 1992.

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance. Our Technical Support Documents (TSD) on each rule has our detailed review and evaluation.

C. EPA Recommendations To Further Improve the Rules

We have no recommendation at this time.

D. Public Comment and Final Action

Because EPA believes the submitted rules fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the Act. 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.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or

safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: August 23, 2010.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2010-21959 Filed 9-1-10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA-HQ-OAR-2010-0115; FRL-9195-9]

RIN 2060-AQ23

Method 16C for the Determination of Total Reduced Sulfur Emissions From Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes a method for measuring total reduced sulfur (TRS) emissions from stationary sources. The EPA is making this method available for general use as requested by a number of source testing companies since it has been allowed for use in the past on a case-by-case basis for kraft pulp mills and refineries. This proposed method would offer advantages over