
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX AIR DIVISION**

Technical Support Document
for
EPA's Rulemaking
for the
Arizona State Implementation Plan

Maricopa County Air Quality Department

September 2017 Submission of Rule Rescissions for Maricopa County's Portion of the Arizona's State
Implementation Plan

Prepared by: La Kenya Evans

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RULE IDENTIFICATION FOR PROPOSED RULE RESCISSION

Agency		Maricopa County Air Quality Department		
Rule Number	Rule Title	Local Adoption Date	SIP Approval Date	FR Citation
27	Performance Tests	June 23, 1980	April 12, 1982	47 FR 15579
32 A	Odors and Gaseous Emissions (General prohibitions)	August 12, 1971	July 27, 1972	37 FR 15080
32 B	Odors and Gaseous Emissions (Treatment or processing of animal or vegetable matter)	August 12, 1971	July 27, 1972	37 FR 15080
32 C	Odors and Gaseous Emissions (Storage requirements)	August 12, 1971	July 27, 1972	37 FR 15080
32 D	Odors and Gaseous Emissions (Abatement of nuisance)	August 12, 1971	July 27, 1972	37 FR 15080
32 E	Odors and Gaseous Emissions (hydrogen sulfide)	August 12, 1971	July 27, 1972	37 FR 15080
32 F	Odors and Gaseous Emissions, Sulfuric Acid Plants	August 12, 1971	July 27, 1972	37 FR 15080
34 A	Organic Solvents-Volatile Organic Compounds (VOC)	June 23, 1980	May 5, 1982	47 FR 19326
34 D.1	Dry Cleaning	June 23, 1980	May 5, 1982	47 FR 19326
34 E.1	Spray Paint and Other Surface Coating Operations (General Requirements)	June 23, 1980	May 5, 1982	47 FR 19326
34 E.3	Spray Paint and Other Surface Coating Operations (Architectural Coating)	June 23, 1980	May 5, 1982	47 FR 19326
34 L	Cutback Asphalt	June 23, 1980	May 5, 1982	47 FR 19326

81	Operation	August 12, 1971	July 27, 1972	37 FR 15080
340	Cutback and Emulsified Asphalt	September 13, 1988	February 1, 1996	61 FR 3578
Completeness Finding	Complete by operation of law: March 13, 2018			

BACKGROUND

The Maricopa County Air Quality Department (MCAQD) is responsible for air quality regulation in Maricopa County and the cities of Phoenix, Mesa, Scottsdale, Tempe, Chandler, Glendale, as well as 17 other jurisdictions and unincorporated County lands. Part of the area regulated by MCAQD is included in the Phoenix-Mesa area designated as nonattainment for ozone and classified as Moderate for the 2008 8-hour National Ambient Air Quality Standard (NAAQS) (see 40 CFR 81.303, 81 FR 26699).

In 1970 Congress established the Clean Air Act (CAA) and required the U.S. Environmental Protection Agency (EPA) to establish the NAAQS for pollutants based on the most current science available. When a state is in nonattainment of the NAAQS, they are required to adopt federally enforceable State Implementation Plans (SIPs) to achieve and maintain air quality that meets the NAAQS.

On January 28, 1972, the State of Arizona submitted Maricopa County's Air Quality Regulations for approval into the Arizona SIP. The MCAQD revised various rules in the 1980s to reflect CAA requirements to implement reasonably available control technology (RACT) for various source categories, and to generally modernize their local rule book. The revised rules were renumbered from the existing two-digit system to a three-digit system with the unamended two-digit rules remaining in the SIP. Some of the locally revised rules were not submitted to the EPA for inclusion into the SIP at the time. As a result, there is a difference in requirements between some of the SIP approved two-digit rules and the locally adopted three-digit rules which can be a problem when the EPA, MCAQD, the regulated community, or the public is trying to determine the applicable rule. This is known as a SIP gap.

PURPOSE OF THE RULE RESCISSIONS

In April 2016, the EPA analyzed the SIP-approved two-digit rules to determine if they could potentially be replaced by newer provisions that are currently only locally applicable. The analysis provided recommendations for updating the SIP by rescinding obsolete two- and three-digit rules without replacement. The following is a list of SIP approved rules that are requested by MCAQD to be rescinded without replacement.

1. Rule 27, "Performance Tests" was locally adopted on June 23, 1980, and approved by EPA into the SIP on April 12, 1982 (47 FR 15579). A performance test for a source or facility is required within 60 days after achieving the capacity to operate at maximum production rates on a sustained basis but no later than 180

days after initial start-up. The requirements for performance testing are in accordance with the Arizona Testing Manual.

2. Rule 32, sections A, B, C, D, E (“Odors and Gaseous Emissions”); and section F (“Odors and Gaseous Emissions, Sulfuric Acid Plants”) were locally adopted on August 12, 1971, and approved by the EPA into the SIP on July 27, 1972 (37 FR 15080).

Much of Rule 32 regulates emissions causing general nuisance or annoyance in the community. The following portions of Rule 32 are being addressed in this rulemaking:¹

- Section A prohibits emitting gaseous or odorous emissions in such quantities as to cause air pollution.
- Section B covers treatment or processing of animal or vegetable matter and prohibits such operations unless all effluents from such operations have been incinerated to destruction under certain specified conditions and requires use of control devices as necessary to prevent air pollution.
- Section C requires measures and installation of control devices to reduce emissions from evaporation, leakage, or discharge from the processing, storage, use, and transport of materials such as solvents, paints, acids, fertilizers, and manure.
- Section D relates to nuisance effects from emissions on adjoining properties and authorizes the Control Officer to require abatement equipment or alterations to the stack to reduce nuisance impacts.
- Section E establishes a property line concentration standard for hydrogen sulfide.
- Section F establishes ambient air standards for any sulfur oxide and sulfuric acid ground level concentrations beyond the premises of a facility.

The other sections of Rule 32 (sections G, H, J, and K) that are a part of the September 2017 submission will be addressed in a separate action.

3. Rule 34, “Organic Solvents-Volatile Organic Compounds (VOC)”, sections A, D.1., E.1., E.3. and L were locally adopted on June 23, 1980, and approved by the EPA into the SIP on May 5, 1982 (47 FR 19326). The following portions of Rule 34 are being addressed in this rulemaking:
 - Section A defines the term “volatile organic compound”
 - Section D.1, “Dry Cleaning”, describes the operating requirements for dry cleaning equipment using chlorinated synthetic solvents.
 - Section E.1, “Spray Paint and Other Surface Coating Operations,” describes the requirements for containing overspray from surface coating operations.
 - Section E.3, “Spray Paint and Other Surface Coating Operations,” is a definition for architectural coating.
 - Section L, “Cutback Asphalt,” limits the application of cutback asphalt or an emulsified asphalt containing petroleum solvents. In addition, the rule limits

¹ Maricopa County Air Quality Department Submission, “Revisions to Arizona’s State Implementation Plan (SIP),” September 6, 2017.

the VOC content of the emulsified asphalts and dust palliatives to no more than three percent (3%) by volume of VOC.

The other sections of Rule 34 (sections B, C, D.2, E.2, E.4, F, G, H, I, J, and K) that are a part of the September 2017 submission will be addressed in a separate action.

4. Rule 81, "Operation," was locally adopted on August 12, 1971, and approved by the EPA into the SIP on July 27, 1972 (37 FR 15080). This rule states that "Nothing in these Rules and Regulations shall in any manner be constructed as authorizing or permitting the creation or maintenance of a nuisance."
5. Rule 340, "Cutback and Emulsified Asphalt," was locally adopted on September 13, 1988. In the 1980's, the MCAQD revised and renumbered all of their SIP rules. As part of the revision, the requirements in Rule 34.L were superseded by Rule 340. Rule 340 was approved by the EPA into the SIP on February 1, 1996 (61 FR 3578). This rule limits the emissions of VOCs from cutback and emulsified asphalt, and other bitumens.

EVALUATION CRITERIA

The following criteria were used to evaluate the submitted rule.

1. Stringency – SIPs must require RACT for each category of sources covered by a Control Technique Guideline (CTG) document as well as each major source of NO_x or VOCs in ozone nonattainment areas classified as Moderate or above (see sections 182(b)(2) and 182(f)). Typically, the EPA's CTGs and other state and local rules for similar source categories are used to evaluate the stringency of SIP revisions.
2. SIP Revisions – CAA §110(l) prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment or reasonable further progress (RFP) or any other applicable requirement of the CAA. In addition, CAA §193 prohibits the modification of any SIP-approved control requirement in effect before November 15, 1990, in a nonattainment area, unless the modification ensures equivalent or greater emission reductions of the relevant pollutant(s).

EPA EVALUATION

A summary of our evaluation of the two criteria follows.

1. Stringency – The rules to be rescinded from the SIP do not address any particular CAA requirements, do not include definitions that are not otherwise defined elsewhere, do not include provisions that are necessary to implement or protect any of the NAAQS and do not fulfill RACT requirements. As such, the removal of these rules would not impact the overall stringency of the Arizona SIP. The reasons for the rule rescissions are described in the following categories:
Category 1 – Rules that do not establish emission limits or enforce the NAAQS:

- Rule 27 does not establish enforceable emission limits or control strategies for pollutants.
- Rule 32, section A lacks specific emissions limits or other elements necessary for enforcement and does not achieve any emissions reductions.
- Rule 32, section B is a general nuisance-type regulation as it does not relate to the implementation, maintenance, or enforcement of the NAAQS.
- Rule 32, section C lacks specific work practice or other elements necessary for enforcement, and as such, does not achieve any emissions reductions.
- Rule 32, section D does not establish specific concentrations standards or reduce emissions.
- Rule 32, section E does not relate to the NAAQS and therefore, is not required to be included in the SIP.
- Rule 34, section D.1 is not needed in the SIP. In 1996, the EPA deleted perchloroethylene from the definition of VOC on the basis that the chemical has negligible photochemical reactivity. Therefore, it is no longer required for purposes of meeting the NAAQS.
- Rule 34, section E.3 lacks specific emissions limits or other elements necessary for enforcement and does not achieve any emissions reductions.
- Rule 81 does not relate to the SIP's purpose under the CAA, Section 110(a) of implementing, maintaining, and enforcing the NAAQS. Therefore, this rule does not need to be retained as part of the SIP.

Category 2 – Rules that have a negative declarations stating that the facility they covered are no longer located in Maricopa County:

- Rule 34, section L was locally superseded by Rule 340, but Rule 34, section L was never replaced in the SIP. In 2016, the MCAQD determined that there are no sources within the county for the CTG source category of cutback asphalt. The EPA approved a negative declaration for the CTG EPA-450/2-77-037, "Cutback Asphalt" on January 7, 2021 (86 FR 971). This negative declaration applies to both Rule 34, section L and Rule 340.

Category 3 - Rules that have been superseded and are no longer needed in the SIP:

- Rule 32, section F limits on sulfur oxide concentrations does makes it applicable to the NAAQS. However, this rule was superseded by SIP Rule 510 (86 FR 54628, October 04, 2021) and is not needed to fulfill SIP requirements.
- Rule 34, section A is superseded by an updated definition for VOC in the SIP, Maricopa Rule 100, "General Provisions and Definitions" (84 FR 13543, April 5, 2019).

Category 4 – Unenforceable Rules:

- Rule 34, section E.1 provides no method to determine if the spray enclosure can capture 96% of the overspray, making section E.1 unenforceable. No test methods are included in this regulation.

These rules address local issues but are not connected to the purposes for which SIPs are developed and approved--namely the implementation, maintenance, and enforcement of the NAAQS. Thus, they are not required to be included in the SIP.²

2. SIP Revisions – We propose to determine that our approval of the proposed SIP revision would comply with CAA §§110(l) and 193 because the proposed SIP revision would not interfere with any CAA requirements, including requirements for reasonable further progress and attainment of the NAAQS.

EPA ACTION

For the reasons discussed above, EPA staff recommends the rescission of Rule 27, Rule 32 sections A (all subsections), B, C, D, E, and F; Rule 34 sections A, D.1, E.1, E.3 and L (all subsections); Rule 81, and Rule 340 from the SIP.

REFERENCES

1. Maricopa County Air Quality Division Submission, “Revisions to Arizona’s State Implementation Plan (SIP),” (September 6, 2017).
2. Arizona Administration Register, Notice of Final Rule Making, Title 3. Agriculture, Chapter 3. Department of Agriculture Environmental Services Division, 9 A.A.R. 3388 (August 1, 2003).
3. “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,” 86 FR 971 (January 7, 2021).

² See CAA section 110(a)(1).