

**NOTICE OF FINAL RULEMAKING**  
**MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS**  
**REGULATION III – CONTROL OF AIR CONTAMINANTS**  
**RULE 339: VEGETABLE OIL EXTRACTION PROCESSES**

**PREAMBLE**

- 1. Rule affected** **Rulemaking action**  
Rule 339: Vegetable Oil Extraction Processes Rescind
  
- 2. Statutory authority for the rulemaking:**  
Authorizing statutes: A.R.S. §§ 49-474, 49-479, and 49-480  
Implementing Statute: A.R.S. § 49-112
  
- 3. The effective date of the rule:**  
Date of Adoption: December 13, 2017
  
- 4. List of public notices addressing the rulemaking:**  
Notice of Briefing to Maricopa County Manager: May 15, 2017  
Notice of Stakeholder Workshop: June 15, 2017  
Notice of Maricopa County Board of Health Meeting: July 24, 2017  
Notice of Proposed Rulemaking: 23 A.A.R. 2237, August 18, 2017
  
- 5. Name and address of department personnel with whom persons may communicate regarding the rulemaking:**  
Name: Greg Verkamp or Hether Krause  
Maricopa County Air Quality Department  
Planning and Analysis Division  
Address: 1001 N Central Avenue, Suite 125  
Phoenix, AZ 85004  
Telephone: (602) 506-6010  
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E-mail: <http://www.maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94>
  
- 6. Explanation of the rule, including the department's reasons for initiating the rulemaking:**  
The Maricopa County Air Quality Department (department) rescinded Rule 339 (Vegetable Oil Extraction Processes). Rule 339 was originally adopted on November 16, 1992. The purpose of the rule is to limit the emissions of volatile organic compounds (VOCs) from the extraction of vegetable oil using solvents (hexane). Maricopa County currently has no vegetable oil production facilities subject to the rule and the department's records indicate the only issued permit was closed (source was removed) in 1999.

Rule 339 was adopted as a result of the 1990 Clean Air Act Amendments (CAAA) which required ozone nonattainment areas such as Maricopa County to fix their deficient reasonably available control technology (RACT) rules for ozone. Also known as the RACT “Fix-Up”, Section 182 (a)(2)(A) of the 1990 CAAA required ozone nonattainment areas classified as marginal or above to adopt and correct RACT rules as previously requested by the U.S. Environmental Protection Agency (EPA) before the Clean Air Act was amended in 1990. The RACT Fix-Up included the adoption of rules for sources emitting over 100 tons of VOCs per year for which a Control Techniques Guidelines (CTG) had not been issued. At the time the 1990 CAAA were enacted, Maricopa County had one vegetable oil production facility that was emitting over 100 tons of VOCs per year, Western Cotton Services. There was no rule nor CTG specific to vegetable oil production at the time; therefore, the department adopted Rule 339 to comply with the RACT Fix-Up. Rule 339 is applicable only to vegetable oil production facilities emitting more than 100 tons/year of VOCs.

Since the adoption of Rule 339, hexane, the primary solvent used by Western Cotton Services is now regulated as a hazardous air pollutant (HAP), not as a VOC. In 2001, the EPA promulgated national emission standards for hazardous pollutants (NESHAP) for the use of hexane in vegetable oil production facilities. The vegetable oil production NESHAP has been incorporated into the county’s air quality regulations through Rule 370 (Federal Hazardous Air Pollution Program); therefore, Rule 339 is obsolete and the department rescinded it.

**7. Demonstration of compliance with A.R.S. §49-112:**

Under A.R.S. § 49-479(C), a county may not adopt a rule or ordinance that is more stringent than the rules adopted by the Director of the Arizona Department of Environmental Quality (ADEQ) for similar sources unless it demonstrates compliance with the applicable requirements of A.R.S. §49-112.

§ 49-112 County regulation; standards

§ 49-112(A)

When authorized by law, a county may adopt a rule, ordinance or regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all of the following requirements are met:

1. The rule, ordinance or regulation is necessary to address a peculiar local condition.
2. There is credible evidence that the rule, ordinance or regulation is either;
  - (a) Necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible.
  - (b) Required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule, ordinance or regulation is equivalent to federal statutes or regulation.
3. Any fee or tax adopted under the rule, ordinance or regulation does not exceed the reasonable costs of the county to issue and administer the permit or plan approval program.

§ 49-112(B)

When authorized by law, a county may adopt rules, ordinances or regulations in lieu of a state program that are as stringent as a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

The department is in compliance with A.R.S. §§ 49-112(A) and (B). The department rescinded Rule 339.

**8. Documents and/or studies referenced and/or reviewed for this rulemaking:**

Not applicable

**9. Showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision:**

Not applicable

**10. Summary of the economic, small business, and consumer impact:**

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement under A.R.S. § 41-1055.

**An identification of the rulemaking.**

This rulemaking rescinded Rule 339 (Vegetable Oil Extraction Processes).

**An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the rulemaking.**

This rulemaking rescinded Rule 339. There are currently no sources subject to Rule 339 in Maricopa County and the department does not anticipate any new sources will come to Maricopa County that would potentially be subject to Rule 339.

**A cost benefit analysis of the following:**

**(a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the rulemaking.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on either the department or any other agency.

**(b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the rulemaking**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on any political subdivision of this state.

**(c) The probable costs and benefits to businesses directly affected by the rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the rulemaking.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on any businesses.

**A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the rulemaking.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an impact on private and public employment for any businesses, agencies or political divisions.

**A statement of the probable impact of the rulemaking on small businesses.**

Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department does not anticipate this rulemaking will have an economic impact on any small businesses.

**(a) An identification of the small businesses subject to the rulemaking.**

There are no small businesses subject to Rule 339.

**(b) The administrative and other costs required for compliance with the rulemaking.**

This rulemaking rescinded Rule 339; there are no costs required for compliance. There are no sources subject to Rule 339.

**(c) A description of the methods that the agency may use to reduce the impact on small businesses.**

**(i) Establishing less costly compliance requirements in the rulemaking for small businesses.**

This rulemaking rescinded Rule 339 and there are no compliance costs required for small businesses.

**(ii) Establishing less costly schedules or less stringent deadlines for compliance in the rulemaking.**

This rulemaking rescinded Rule 339 and there are no compliance costs required for small businesses.

**(iii) Exempting small businesses from any or all requirements of the rulemaking.**

This rulemaking rescinded Rule 339 and there are no compliance costs required for small businesses.

**(d) The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.**

This rulemaking does not impose any new compliance burdens on regulated entities that are permitted or introduce additional regulatory requirements and will not impose increased monetary or regulatory costs on any permitted business, persons, or individuals so regulated. As such, there are no costs to pass through to consumers, which means there are no impacts on consumers.

**A statement of the probable effect on state revenues.**

The rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated. Without costs to pass through to customers, there is no projected change in consumer purchase patterns and, thus, no impact on state revenues from sales taxes.

**A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.**

This rulemaking rescinded Rule 339 and there are no compliance costs associated with this rulemaking.

**11. Name and address of department personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact:**

Name: Greg Verkamp or Hether Krause  
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Planning and Analysis Division  
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Phoenix, AZ 85004  
Telephone: (602) 506-6010  
Fax: (602) 506-6179  
E-mail: <http://www.maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94>

**12. Description of the changes between the proposed rule, including supplemental notices and final rule:**

No additional changes were made, since the Notice of Proposed Rulemaking was published on August 18, 2017 (23 A.A.R. 2237).

**13. Summary of the comments made regarding the rule and the department response to them:**

No comments were submitted during the 30-day comment period – August 18-September 18, 2017.

**14. Any other matters prescribed by statute that are applicable to the specific department or to any specific rule or class of rules:**

Not applicable

**15. Incorporations by reference and their location in the rule:**

Not applicable

**16. Was this rule previously an emergency rule?**

No

**17. Full text of the rule follows:**

**REGULATION III—CONTROL OF AIR CONTAMINANTS  
RULE 339  
VEGETABLE OIL EXTRACTION PROCESSES  
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**MARICOPA COUNTY**  
**AIR POLLUTION CONTROL REGULATIONS**  
**REGULATION III – CONTROL OF AIR CONTAMINANTS**  
**RULE 339**  
**VEGETABLE OIL EXTRACTION PROCESSES**

**SECTION 100 – GENERAL**

**101 PURPOSE:** To limit the emissions of volatile organic compounds (VOCs) from the extraction of vegetable oil using solvents.

**102 APPLICABILITY:** This rule applies to any vegetable oil extraction facility which has emitted 600 pounds (272 kg) or more of VOC in a day or 100 tons (90.7 Mg) or more of VOC in a year, or which would emit at such levels in the absence of existing VOC control measures, or reasonably could be expected to emit at such levels at current or proposed production rates.

**SECTION 200 – DEFINITIONS:** For the purpose of this rule, the following definitions shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definitions in this rule take precedence.

**201 APPROVED EMISSION CONTROL SYSTEM:** A system for reducing emissions of organic compounds, consisting of both collection and control devices which are approved in writing by the Control Officer and are designed and operated in accordance with good engineering practice.

**202 CONVEYOR:** Any device which moves material from one location to another location.

**203 COOLER:** A device which reduces the temperature and/or moisture from meal being processed.

**204 DESOLVENTIZER-TOASTER (D-T):** A heated process unit in which air and/or steam are applied to solvated vegetable matter to volatilize the extraction solvent.

**205 EQUIPMENT IN SOLVENT SERVICE:** Any pump, valve, pressure relief valve, sight glass, sample connection, open ended valve, connector, or other component which handles extraction solvent or material containing such solvent.

**206 EXTRACTOR:** Equipment which removes vegetable oil from vegetable material through the use of solvent.

**207 LEAK:** Any dripping or indication of dripping of liquid from equipment in solvent service, or an emission of gaseous VOC which exceeds 10,000 ppm (expressed as methane) above background when measurements are made using EPA Method 21.

**208 MEAL:** Pulverized vegetable matter from which oil has been extracted and which might still contain some extraction solvent.

- 209** ~~**MINERAL OIL SCRUBBER:** A packed tower which uses mineral oil as a sorbent for the extraction solvent.~~
- 210** ~~**SOLVENT:** The extraction medium used to extract oil from seeds, beans or other vegetable matter.~~
- 211** ~~**SOLVENT EXTRACTION:** Removal of vegetable oil from vegetable matter using a liquid solvent in a contact system to dissolve and suspend the oil.~~
- 212** ~~**VEGETABLE OIL PLANT:** Any facility or section of a facility engaged in the extraction or refining of vegetable oil through the use of solvent.~~

#### **SECTION 300—STANDARDS**

- 301** ~~**LIMITATION—VOC EMISSIONS:** No person shall operate a vegetable oil extraction plant or facility unless the emissions do not exceed either of the following:~~
- 301.1** ~~2.5 pounds of VOC per ton of processed seed (1.13 kg/Mg) for any 30 consecutive days of operation; and~~
- 301.2** ~~3.0 pounds of VOC per ton of processed seed (1.36 kg/Mg) for any seven consecutive days of operation.~~
- 302** ~~**EXTRACTORS AND DESOLVENTIZER TOASTERS:** No person shall operate any extractor or desolventizer toaster unless VOC emissions are controlled by both a condenser and a mineral oil scrubber. Such scrubber shall have an overall VOC control efficiency (capture with processing) of at least 90 percent by weight.~~
- 303** ~~**DESOLVENTIZER TOASTER CONVEYOR:** No person shall operate a vegetable oil plant unless the desolventizer toaster discharge conveyor is vented to a mineral oil scrubber having an overall VOC control efficiency (capture with processing) of at least 90 percent by weight.~~
- 304** ~~**OPERATION AND MAINTENANCE PLAN:** Owners or operators shall provide the Control Officer with an Operation and Maintenance (O&M) Plan. This Plan shall specify key system operating parameters, such as temperatures, pressures and/or flow rates, necessary to determine compliance with this rule and describe in detail procedures to maintain the Approved Emission Control System. The Control Officer's written approval of this plan shall be required for compliance with this rule to be achieved.~~
- 305** ~~**EQUIPMENT IN SOLVENT SERVICE:** The owner or operator of a vegetable oil extraction plant shall inspect at least once a month all equipment in solvent service for any indication of VOC leakage in accordance with EPA Method 21. If the detected gaseous leakage level exceeds 10,000 ppm (expressed as methane) or if leak(s) are visible, the leak shall be tagged with a weatherproof tag. The date and time of the leak's discovery shall be recorded in a permanent logbook. The operator shall attempt to repair such leak(s) as soon as possible. The operator shall notify the Control Officer by the Division's next working day of leak(s) which cannot be fixed within 24 hours of discovery. No leak shall remain unrepaired by the end of any plant shutdown.~~

**306 EXEMPTIONS:** In determining compliance with subsection 301.2 of this rule, the Division shall exclude from calculations a startup day and the VOC added on that day, subsequent to purging the extractor and/or the refinery of all solvent.

#### **SECTION 400—ADMINISTRATIVE REQUIREMENTS**

**401 COMPLIANCE SCHEDULE:** By February 14, 1993, any person subject to Section 301, 302, or 303, who does not comply with all provisions of said section(s) shall submit to the Control Officer for approval an emission control plan describing the method to be used to achieve full compliance by November 15, 1993. The plan shall specify dates for completing increments of progress, such as the contractual arrival date of new control equipment. The Control Officer may require a person submitting such emission control plan to submit subsequent reports on progress in achieving compliance.

#### **SECTION 500—MONITORING AND RECORDS**

**501 PROVIDING AND MAINTAINING MONITORING DEVICES:** Any person sorbing or otherwise processing VOC emissions to reduce them pursuant to this rule, shall provide, properly install and maintain in calibration, in good working order and in operation, devices described in an approved O&M Plan for indicating temperatures, pressures, rates of flow, or other operating conditions necessary to determine if air pollution control equipment is functioning properly and is properly maintained.

**502 RECORDKEEPING AND REPORTING:** Any person subject to this rule shall comply with the following requirements. Any records and lists required by this section shall be kept in a consistent and complete manner.

**502.1 Material Usage:** Maintain a current list of solvents, mineral oil and any other VOC-containing materials such as paints and cleaning liquids which annually exceed 20 gallons and state the VOC content of each in pounds per gallon or grams per liter. Daily record the amount of makeup solvent, the tons of vegetable matter subject to extraction, the amount of vegetable oil produced, and amount of mineral oil added.

**502.2 Operation and Maintenance:** Maintain a record of the times an Approved Emission Control Device is used to comply with this rule. Maintain daily records of the O&M Plan's key system operating parameters. Maintain records of all maintenance performed according to the O&M Plan.

**502.3 Calculations:** By the end of each day shift, calculate both the seven day and the thirty-day rolling averages yielding daily VOC consumption figures, using data gathered up to and including the previous shift.

**502.4 Logbook:** A permanent logbook shall be kept of dates, times, and locations of all: leak-detection activities, leaks found, leaks repaired, shutdowns and startups. During operating hours the logbook, as well as entries required under the preceding subsections 502.1,

~~502.2 and 502.3, shall immediately be made available to the Control Officer upon request.~~

**503 RECORDS RETENTION:** ~~Copies of reports and supporting documentation required by the Control Officer shall be retained at least three years after the date of submittal. Records and information required by this rule shall be retained for at least three years.~~

**504 COMPLIANCE DETERMINATION — TEST METHODS:** ~~An exceedance of the limits established in the rule determined by any of the applicable test methods constitutes a violation of this rule.~~

**504.1** ~~Control efficiency of an emissions control device shall be determined according to EPA Reference Method 25 or its applicable submethods, Title 40, CFR Part 60, Appendix A.~~

**504.2** ~~Gaseous leaks shall be tested for using EPA Method 21.~~