



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

EPA-R09-OAR-2016-0647; FRL-9960-40-Region 9]

Approval of California Air Plan Revisions, Mojave Desert Air Quality Management District, Northern Sierra Air Quality Management District, and San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Mojave Desert Air Quality Management District (MDAQMD), Northern Sierra Air Quality Management District (NSAQMD), and San Diego County Air Pollution Control District (SDCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern aerospace assembly, rework, and component manufacturing operations; emissions statements and recordkeeping; and definitions, respectively. We are approving local rules that regulate these sources and issues under the Clean Air Act (CAA or the Act).

DATES: This rule is effective on [**Insert date 60 days after the date of publication in the Federal Register**] without further notice, unless the EPA receives adverse comments by [**Insert date 30 days after the date of publication in the Federal Register**]. 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 your comments, identified by Docket ID No. EPA-R09-OAR-2016-0647

at <http://www.regulations.gov>, or via email to Andrew Steckel, Rulemaking Office Chief at Steckel.Andrew@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from [Regulations.gov](http://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Arnold Lazarus, EPA Region IX, (415) 972-3024, Lazarus.Arnold@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the 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 action with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULES

Local Agency	Rule #	Rule Title	Adopted/Amended/Revised	Submitted
MDAQMD	1118	Aerospace Assembly, Rework and Component Manufacturing Operations	10/26/2015	4/21/2016
NSAQMD	513	Emissions Statements and Recordkeeping	6/27/2016	9/6/2016
SDCAPCD	2	Definitions	6/14/2016	8/22/2016

On September 27, 2016, the EPA determined that the submittal for SDCAPCD Rule 2 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review. On May 18, 2016, the EPA determined that the submittal for MDAQMD Rule 1118

met the completeness criteria. On September 28, 2016, the EPA determined that the submittal for NSAQMD Rule 513 met the completeness criteria.

B. Are there other versions of these rules?

There are no previous versions of NSAQMD Rule 513 in the SIP. We approved an earlier version of MDAQMD Rule 1118 into the SIP on August 17, 1998 (63 FR 43884). We approved an earlier version of SDAPCD Rule 2 into the SIP on September 17, 2010 (75 FR 56889).

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

Volatile Organic Compounds (VOCs) help produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions.

MDAQMD Rule 1118 limits VOC emissions from aerospace primers, coatings, adhesives, maskants and lubricants and from cleaning, stripping, storing and disposal of organic solvents and waste solvent materials associated with the use of aerospace coatings and adhesives. This rule also provides administrative requirements including those for recordkeeping and for the measurement of VOC emissions. Rule 1118 was revised to increase stringency and to update the coatings and practices.

CAA section 182(a)(3)(B)(i) requires ozone nonattainment areas (regardless of classification) to require certified emission statement data from sources of VOC and oxides of nitrogen (NO_x). Emission statements are intended to help the state report and analyze ambient air emissions. The CAA also requires states to periodically compile and report a comprehensive, accurate and current inventory of all air contaminant sources. The western part of Nevada County, which is part of the NSAQMD, has been classified as moderate nonattainment for the 1997 and 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS). 40 CFR

81.305. NSAQMD Rule 513, “Emissions Statements and Recordkeeping,” is intended to comply with relevant CAA requirements regarding emission statements.

SDCAPCD Rule 2, “Definitions,” contains definitions for specific terms applicable to all SDCAPCD rules. Table 1 of Rule 2 was updated to add two exempt organic compounds to coincide with those that EPA has determined to have negligible photochemical reactivity as listed in 40 CFR 51.100. Rule 2 does not have a direct effect on emissions, but it improves clarity and enforceability of other SDCAPCD rules that do reduce emissions.

The EPA’s technical support documents (TSDs) have more information about these rules.

II. The EPA’s Evaluation and Action

A. How is the EPA evaluating the rules?

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOCs and NO_x in ozone nonattainment areas classified as moderate or above (see CAA section 182(b)(2), (f)). The MDAQMD regulates an ozone nonattainment area classified as severe nonattainment for the 1997 and 2008 ozone NAAQS (40 CFR 81.305).

Therefore, Rule 1118 must implement RACT.

The other two rules addressed in this action are not submitted in satisfaction of the RACT

requirements of CAA section 182(b)(2). CAA section 182(a)(3)(B)(i) requires all states with ozone nonattainment areas classified under subpart 2 (of part D of title I) as moderate or above, to submit SIP revisions that require owners and operators of stationary sources of VOCs and NO_x to provide the state with a statement showing the actual emissions from that source.

Because a portion of NSAQMD is designated as moderate nonattainment areas for the 1997 and 2008 8-hour ozone NAAQS, Rule 513 is a required SIP revision. Based on our evaluation of Rule 513, we find that it fulfills the relevant emission statement requirements of CAA section 182(a)(3)(B)(i).

SDCAPCD Rule 2 provides definitions that support emission controls found in other local agency requirements. In combination with the other requirements, this rule must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). We believe Rule 2 fulfills these requirements.

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. "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 and 57 FR 18070, April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations" ("the Bluebook," U.S. EPA, May 25, 1988; revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies" ("the Little Bluebook", EPA Region 9, August 21, 2001).

4. EPA's draft "Guidance on the Implementation of an Emission Statement Program," Dated July 1992.
5. EPA CTG *Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations* (December 1997, EPA-453/R-97-004).
6. USEPA National Emission Standards for Aerospace Manufacturing and Rework Facilities Risk and Technology Review; 80 FR 76152 Final Rule December 7, 2015.

B. *Do the rules meet the evaluation criteria?*

We believe these rule are consistent with the relevant policy and guidance regarding enforceability, RACT and SIP relaxations. The TSDs have more information on our evaluation.

C. *EPA recommendations to further improve the rules*

The TSDs describe additional rule revisions that we recommend for the next time the local agency modifies the rules.

D. *Public comment and final action*

As authorized in section 110(k)(3) of the Act, the EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by [**Insert date 30 days after date of publication in the Federal Register**], we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on [**Insert**

date 60 days after date of publication in the Federal Register]. This will incorporate these rules into the federally enforceable SIP.

Please note that if the 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, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the NSAQMD, MDAQMD, and SDAPCD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section of this preamble for more information).

IV. 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, the 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- 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 (Public Law 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 the 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, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 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. The EPA will submit a report containing this action 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 [**Insert date 60 days after date of publication in the Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Particulate matter, Emissions statements, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 19, 2016.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F – California

2. Section 52.220 is amended by adding paragraphs (c)(242)(i)(A)(2), (c)(379)(i)(B)(2), (c)(485)(B), (c)(487), and (c)(488) to read as follows:

§52.220 Identification of plan – in part.

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(c) * * *

(242) * * *

(i) * * *

(A) * * *

(2) Previously approved on August 17, 1998 in paragraph (c)(242)(i)(A)(1) of this section and now deleted with replacement in paragraph (c)(485)(B)(1), Rule 1118, adopted on October 28, 1996.

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(379) * * *

(i) * * *

(B) * * *

(2) Previously approved on September 17, 2010 in paragraph (c)(379)(i)(B)(1) of this section and now deleted with replacement in paragraph (c)(488)(i)(A)(1), Rule 2, “Definitions,” Rev. Adopted and Effective on June 30, 1999, Table 1—Exempt Compounds: Rev. and Effective on November 4, 2009

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(485) * * *

(i) * * *

(B) Mojave Desert Air Quality Management District.

(1) Rule 1118, “Aerospace Assembly, Rework and Component Manufacturing Operations,” amended on October 26, 2015.

(2) [Reserved]

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(487) New and amended regulations were submitted on September 6, 2016 by the Governor’s designee.

(i) Incorporation by reference.

(A) Northern Sierra Air Quality Management District.

(1) Rule 513, “Emissions Statements and Recordkeeping,” amended on June 27, 2016.

(2) [Reserved]

(488) New and amended regulations were submitted on April 21, 2016 by the Governor’s designee.

(i) Incorporation by reference.

(A) San Diego County Air Pollution Control District.

(1) Regulation 1, Rule 2, “Definitions,” Rev. Adopted and Effective on June 30, 1999, Table 1 – Exempt Compounds: Rev. and Effective on June 14, 2016.

(2) [Reserved]

Note: This document was received for publication by the Office of the Federal Register on June 12, 2017.

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