



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2016-0740; FRL-9965-07-Region 9]

### Approval of California Air Plan Revisions; Sacramento Metropolitan Air Quality

### Management District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the Sacramento Metropolitan Air Quality Management District (SMAQMD) portion of the California State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOC) from organic chemical manufacturing operations. We are proposing to approve a local rule and a rule rescission to regulate these emission sources under the Clean Air Act (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 [**Insert date 30 days after the date of publication in the Federal Register**].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2016-0740 at <https://www.regulations.gov>, or via email to Andrew Steckel, Rulemaking Office Chief at [Steckel.Andrew@epa.gov](mailto:Steckel.Andrew@epa.gov). For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from [Regulations.gov](https://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 <https://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Arnold Lazarus, EPA Region IX, (415) 972-3024, [lazarus.arnold@epa.gov](mailto:lazarus.arnold@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to the EPA.

## Table of Contents

- I. The State’s Submittal
  - A. What rules did the State submit?
  - B. Are there other versions of these rules?
  - C. What is the purpose of the submitted rule and rule rescission?
- II. The EPA’s Evaluation and Action
  - A. How is the EPA evaluating the rule and rule rescission?
  - B. Do the rule and rule rescission meet the evaluation criteria?

C. Public comment and proposed action

III. Incorporation by reference

IV. Statutory and Executive Order Reviews

**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 amended or repealed by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULES

Local Agency	Rule #	Rule Title	Amended	Repealed	Submitted
SMAQMD	455	Pharmaceutical Manufacturing		4/28/16	8/22/16
SMAQMD	464	Organic Chemical Manufacturing Operations	4/28/16		8/22/16

On September 27, 2016, the EPA determined that the submittal for SMAQMD Rule 455 and Rule 464 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal review by the EPA.

B. *Are there other versions of these rules?*

We approved an earlier version of SMAQMD Rule 464 into the SIP on October 3, 2011 (76 FR 61057), and we approved SMAQMD Rule 455 into the SIP on January 24, 1985 (50 FR

3338).<sup>1</sup>

C. *What is the purpose of the submitted rule and rule rescission?*

VOCs help produce ground-level ozone, also known as “smog,” and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. SMAQMD Rule 455, “Pharmaceutical Manufacturing,” was approved into the SIP on January 24, 1985 (50 FR 3338). EPA re-evaluated Rule 455 as part of our review of the SMAQMD’s 2006 Reasonably Available Control Technology (RACT) SIP, and concluded that Rule 455 did not meet the requirements of federal CAA section 110(a)(2) because it lacked test methods, recordkeeping, and monitoring requirements that are necessary to ensure that the rule is enforceable. 81 FR 53280, 53281 (August 12, 2016). The SMAQMD subsequently repealed Rule 455 and simultaneously amended Rule 464 to include pharmaceutical and cosmetic manufacture. Rule 464 limits VOC emissions from organic chemical plants and pharmaceutical and cosmetic manufacturing; its controls for pharmaceutical manufacturing replace Rule 455. 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 rule and rule rescission?*

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

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<sup>1</sup> EPA’s approval of Rule 455 refers to the Sacramento County Air Pollution Control District, which was then the name of the regulatory authority for air pollution in the Sacramento area.

nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules in ozone nonattainment areas classified as moderate or above must require RACT for each category of sources covered by a control techniques guidelines (CTG) document as well as each major source of VOCs (see CAA sections 182(b)(2)). The SMAQMD regulates an ozone nonattainment area classified as severe nonattainment for the 1997 and the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) (40 CFR 81.305). Therefore, Rule 464 must implement RACT.

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); 57 FR 18070 (April 28, 1992).
2. “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” U.S. EPA, May 25, 1988; revised January 11, 1990 (“The Bluebook”).
3. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (“The Little Bluebook”).
4. “Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products,” EPA-450/2-78-029, December 1978.

5. “Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry,” EPA-450/4-91-031, August 1993.

B. *Do the rule and rule rescission meet the evaluation criteria?*

We believe this rule and rule rescission are consistent with CAA requirements and relevant guidance regarding enforceability, RACT, and SIP revisions. The TSDs have more information on our evaluation.

The EPA partially approved and partially disapproved the RACT SIP revisions submitted by California on July 11, 2007 and January 21, 2009 for the SMAQMD severe ozone nonattainment area,<sup>2</sup> based in part on our conclusion that the state had not fully satisfied CAA section 182 RACT requirements for the pharmaceuticals manufacturing CTG category and for the municipal waste landfill category. We are separately but contemporaneously proposing approval of submitted portions of SMAQMD Permits 24360 and 24361 for the Kiefer Landfill, which are intended to address the deficiencies identified in our 2016 partial disapproval of the SMAQMD’s RACT SIP regarding the municipal waste landfill category.<sup>3</sup> Final approval of Rule 464 and the submitted portions of the Kiefer Landfill permits would satisfy California’s obligation to implement RACT under CAA section 182 for the 1997 8-hour ozone NAAQS and thereby terminate both the sanctions clocks and the Federal Implementation Plan clock associated with our August 12, 2016 final action.

C. *Public comment and proposed action*

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<sup>2</sup> See, 81 FR 53280 (August 12, 2016)

<sup>3</sup> We are submitting these two proposed actions together for publication, and expect the Federal Register notices to publish around the same time.

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule and rule rescission because we believe they fulfill all relevant requirements. We will accept comments from the public on this proposal until [**Insert date 30 days after date of publication in the Federal Register**]. If we take final action to approve the submitted rule and rule rescission, our final action will incorporate these rules into the federally enforceable SIP.

### **III. Incorporation by Reference**

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the SMAQMD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through <https://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 proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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 disproportionate human health or environmental effects with practical, appropriate, 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).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 29, 2017.

Alexis Strauss,  
Acting Regional Administrator,  
Region IX.

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