



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2019-0439; FRL-10002-89-Region 9]

#### Air Plan Approval; California; Mojave Desert Air Quality Management District

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

**ACTION:** Proposed rules.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the Mojave Desert Air Quality Management District (MDAQMD) portion of the California State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOC) from Metal Parts and Products Coating Operations, and Polyester Resin Operations.

We are proposing to approve two local rules to regulate these emission sources under the Clean Air Act (CAA or the Act) as well as proposing to approve negative declarations for three subcategories of control techniques guidelines (CTG) sources in the MDAQMD.

In addition, we are proposing to convert the partial conditional approval of the District's reasonably available control technology (RACT) SIPs for the 1997 and 2008 ozone standards, as it applies to these two rules, to a full approval.

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-2019-0439 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online

instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. 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://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Arnold Lazarus, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3024 or by email at [Lazarus.Arnold@epa.gov](mailto: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 did the State submit?*

Table 1 lists the rules and the negative declarations addressed by this proposal with the dates that they were amended/adopted by the local air agency and submitted by the California Air Resources Board.

TABLE 1 - SUBMITTED RULE and NEGATIVE DECLARATIONS

Local Agency	Document Title	Amended/ Adopted	Submitted
MDAQMD	Rule 1115 Metal Parts and Products Coating Operations	01/22/2018	05/23/2018
MDAQMD	Rule 1162 Polyester Resin Operations	04/23/2018	07/16/2018
MDAQMD	Federal Negative Declarations for Two Control Techniques Guidelines Source Categories	04/23/2018	07/16/2018
MDAQMD	Federal Negative Declaration for One Control Techniques Guidelines Source Category (Motor Vehicle Materials)	10/22/2018	12/07/2018

On November 23, 2018, the submittal for MDAQMD Rule 1115 was deemed by

operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review. On January 16, 2019, the submittal for Rule 1162 was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V. On January 16, 2019, the submittal for Federal Negative Declarations for Two Control Techniques Guidelines Source Categories was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V. On June 7, 2019, the submittal for Federal Negative Declaration for One Control Techniques Guidelines Source Category (Motor Vehicle Materials) was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V.

B. *Are there other versions of these rules and negative declarations?*

We approved an earlier version of Rule 1115 into the SIP on December 23, 1997 (62 FR 67002). There are no previous versions of the negative declarations in the MDAQMD portion of the California SIP for the 1997 and 2008 8-hour ozone national ambient air quality standards (NAAQS). We approved an earlier version of Rule 1162 into the SIP on November 24, 2008 (73 FR 70883). The MDAQMD adopted revisions to the SIP-approved version of Rule 1162 on August 28, 2017, and CARB submitted the revised rule to us on October 3, 2017. We have not yet acted on the October 3, 2017 submittal. In its July 16, 2018 submittal, the District states that it expects that its submittal will “supersede the submission of the August 28, 2017 amendment of Rule 1162.” We consider the July 16, 2018 submittal to supersede this earlier submittal and therefore are proposing to take action only on the July 16, 2018 submittal.

C. *What is the purpose of the submitted rules?*

Emissions of VOC contribute to ground-level ozone, 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 emissions of VOC. Rule 1115 controls VOC emitted from coating operations associated with metal parts and products, and Rule 1162 controls VOC emitted from polyester resin operations, including fiberglass boat manufacturing. The EPA's technical support documents (TSDs) have more information about these rules, negative declarations, and the EPA's evaluations thereof.

## **II. The EPA's Evaluation and Action**

### *A. How is the EPA evaluating the submissions?*

Rules in the SIP 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 RACT for each category of sources covered by a CTG document as well as each major source of VOCs in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2)). The MDAQMD regulates an ozone nonattainment area classified as Severe for the 1997 and 2008 8-hour ozone NAAQS (40 CFR 81.305). Therefore, these rules must implement RACT.

States should also submit for SIP approval negative declarations for those source categories for which they have not adopted CTG-based regulations (because they have no sources above the CTG-recommended applicability threshold), regardless of whether such negative declarations were made for an earlier SIP.<sup>1</sup> To do so, the submittal should provide

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<sup>1</sup> 57 FR 13498, 13512 (April 16, 1992).

reasonable assurance that no sources subject to the CTG requirements currently exist in the portion of the ozone nonattainment area that is regulated by the MDAQMD.

Additionally, the EPA is evaluating Rule 1115 and Rule 1162 to determine whether the updated rules meet the District's commitment to cure the deficiencies identified in the February 12, 2018 partial conditional approval of the District's RACT SIP<sup>2</sup> with respect to these two rules. Rules 1115 and 1162 did not meet RACT because two CTGs pertaining to these rules were issued in 2008 and the rules were written and entered into the SIP before the issuance of the 2008 CTGs. The rules were updated to meet the current CTG requirements and the MDAQMD made valid negative declarations where it was appropriate.

Guidance and policy documents that we used 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," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
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 Existing Stationary Sources -Volume VI: Surface Coating of Miscellaneous Metal Parts and Products" (EPA-450/2-78-15,

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<sup>2</sup> 83 FR 5921 (February 12, 2018).

June 1978).

5. “Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings” (EPA-453/R-08-003, September 2008).
  6. “Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials” (EPA-453/R-08-004, September 2008).
  7. 40 CFR Part 63 Subpart VVVV—National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing.
  8. 40 CFR Part 63 Subpart WWWW—National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production.
- B. *Do the submissions meet the evaluation criteria?*

These rules are consistent with CAA requirements and relevant guidance regarding enforceability, RACT, and SIP revisions. Additionally, the updates to Rules 1115 and 1162 cure the deficiencies identified in the partial conditional approval of the District’s RACT SIP with respect to these two rules. Moreover, the negative declarations satisfy the certification requirement, and the EPA’s independent research yielded no indication of sources in the MDAQMD portion of the nonattainment area that would be subject to the CTG subcategories. As explained in more detail in our TSDs, the EPA’s approval of these rules and negative declarations would satisfy the District’s RACT requirements for the following three CTGs: “Control of Volatile Organic Emissions from Existing Stationary Sources -Volume VI: Surface Coating of Miscellaneous Metal Parts and Products” (EPA-450/2-78-15), “Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings” (EPA-453/R-08-003), and “Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials” (EPA-453/R-08-

004). The TSDs have more information on our evaluations.

C. *EPA recommendations to further improve the rules*

The TSDs include recommendations for the next time the local agency modifies the rules.

D. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rules and the negative declarations because they fulfill all relevant requirements. In addition, we propose to convert the partial conditional approval of the District's RACT SIP with respect to Rule 1115 and Rule 1162 as found in 40 CFR 52.248(d)(1), to a full approval. 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 rules, 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 the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the MDAQMD 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 rules do 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, PM, Reporting and recordkeeping requirements, VOC.

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

Dated: November 19, 2019.

Deborah Jordan,  
Acting Regional Administrator,  
Region IX.

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