



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2019-0564; FRL-10002-24-Region 9]

Air Plan Approval; California; Mojave Desert 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 Mojave Desert Air Quality Management District (MDAQMD) portion of the California State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs) from organic liquid and gasoline transfer and storage operations. We are proposing to approve local rules 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 date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2019-0564 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. 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://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Rebecca Newhouse, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105, (415) 972-3004, newhouse.rebecca@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 proposal with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULES

Local Agency	Rule #	Rule Title	Amended	Submitted
MDAQMD	461	Gasoline Transfer and Dispensing	01/22/2018	05/23/2018
MDAQMD	462	Organic Liquid Loading	01/22/2018	05/23/2018
MDAQMD	463	Storage of Organic Liquids	01/22/2018	05/23/2018

On November 23, 2018, the submittal of Rules 461, 462, and 463 for MDAQMD 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.

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

The MDAQMD regulates portions of San Bernardino and Riverside Counties. On July 1, 1994, a portion of Riverside County left the South Coast Air Quality Management District (SCAQMD) and joined the MDAQMD. The EPA-approved SIP for this portion of Riverside County remained the same when the area changed districts. As a result, the Riverside County portion of the MDAQMD SIP retained the SCAQMD rules in place at that time.

We approved earlier versions of MDAQMD Rules 461 and 462 into the SIP on May 3,

1995 (60 FR 21702). These rules applied in both the San Bernardino and Riverside County portions of the MDAQMD and replaced the existing versions of Rules 461 and 462 in place in the District at that time.

On May 3, 1995 (60 FR 21702), we also approved a version of Rule 463 submitted by the San Bernardino County Air Pollution Control District on November 2, 1992. This rule was only approved to apply in the San Bernardino County portion of the District. In the Riverside County portion of the MDAQMD, the EPA approved the June 1, 1984 version of SCAQMD Rule 463 on January 15, 1987 (52 FR 1627). For a more complete discussion of the SIP history of these rules, see the technical support documents (TSDs).

The MDAQMD adopted revisions to all three rules on January 22, 2018, and CARB submitted them to us on May 23, 2018. In its submission, the District requested that in the San Bernardino County portion of the District the newly-adopted rules replace the versions of Rules 461, 462, and 463, approved in 1995, and that in the Riverside County portion of the District, the rules replace all versions of the rules that are applicable in Riverside County.

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

Emissions of VOCs contribute to the production of 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. SIP-approved Rules 461, 462, and 463 limit VOC emissions from organic liquid storage tanks and during transfers at bulk terminals, bulk gasoline plants, and gasoline dispensing facilities. Major revisions to the SIP-approved versions of the rules include requiring CARB-certification for vapor recovery systems, requiring a minimum vapor recovery efficiency for gasoline transfers to mobile fuelers, lowering

the threshold for determining vapor leaks, lowering the vapor pressure cut-off for stationary storage tanks, adding an emissions limit for organic liquid transfers at bulk terminals, adding backpressure requirements during organic liquid transfer, and strengthening recordkeeping and inspection requirements, among other changes. The EPA's TSDs have more information about these rules.

Additionally, on February 12, 2018 (83 FR 5921), the EPA partially conditionally approved MDAQMD's reasonably available control technology (RACT) demonstrations for the 1997 8-hr ozone National Ambient Air Quality Standards (NAAQS) and the 2008 8-hr ozone NAAQS (also referred to as the 2006 and 2015 RACT SIPs) with respect to Rules 461, 462, and 463, based on commitments from MDAQMD and CARB to adopt and submit amendments to those rules to implement current RACT.¹ These rules were revised by the District and submitted to the EPA by CARB for incorporation into the SIP to ensure continued compliance with the CAA RACT requirement, and to fulfill commitments necessary for the EPA to convert the partial conditional approval of the District's 2006 and 2015 RACT SIPs into a full approval for the VOC source categories covered by Rules 461, 462, and 463.

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

¹ Letter dated September 25, 2017, from Brad Poiriez, Air Pollution Control Officer, MDAQMD, to Alexis Strauss, Acting Regional Administrator, EPA, Region IX, and Richard Corey, Executive Officer, CARB; and letter dated October 3, 2017, from Jon Taylor, Acting Chief, Air Quality Planning and Science Division, CARB, to Alexis Strauss, Acting Regional Administrator, EPA, Region IX.

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 Control Techniques Guidelines (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, 2008, and 2015 8-hour ozone NAAQS (40 CFR 81.305). Therefore, these rules must implement RACT.

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 Storage of Petroleum Liquids in Fixed-Roof Tanks," EPA-450/2-77-036, December 1977.
5. "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks," EPA-450/2-78-047, December 1978.
6. "Control of Volatile Organic Emissions from Bulk Gasoline Plants," EPA-450/2-77-035,

December 1977.

7. “Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals,” EPA-450/2-77-026, October 1977.
8. “Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems,” EPA-450/2-78-051, December 1978.
9. “Design Criteria for Stage I Vapor Control Systems-Gasoline Service Stations,” EPA-450/R-75-102, November 1975.
10. “Alternative Control Techniques Document: Volatile Organic Liquid Storage in Floating and Fixed Roof Tanks,” EPA-453/R-94-001, January 1994.

B. Do the rules meet the evaluation criteria?

These rules are consistent with CAA requirements and relevant guidance regarding enforceability, RACT, and SIP revisions, and fulfill the District’s commitment to revise the rules to meet current RACT. 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 proposed action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rules because they fulfill all relevant requirements. In addition, we propose to convert the partial conditional approval of the District’s RACT SIPs with respect to Rules 461, 462, and 463, as found in 40 CFR 52.248(d), 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 document, 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 MDAQMD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials 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 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 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, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: November 4, 2019.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

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