



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2020-0435; FRL-10014-95-Region 9]

Air Plan Approval; California; Placer County Air Pollution Control District, Antelope Valley Air Quality Management District, Mariposa County Air Pollution Control District, and Easter Kern Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Placer County Air Pollution Control District (PCAPCD), Antelope Valley Air Quality Management District (AVAQMD), Mariposa County Air Pollution Control District (MCAPCD), and Eastern Kern Air Pollution Control District (EKAPCD) portions of the California State Implementation Plan (SIP). These revisions concern negative declarations for the Control Techniques Guidelines (CTG) for the Oil and Natural Gas Industry (Oil and Natural Gas CTG). We are taking comments on this proposal to approve the PCAPCD, AVAQMD, MCAPCD, and EKAPCD negative declarations into the California SIP. We plan to follow with a final action.

DATES: Comments must be received on or before [**Insert date 30 days after date of publication in the *Federal Register***].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2020-0435 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>. If you need assistance in a language other than English, or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Sina Schwenk-Mueller, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105 by phone: (415) 947-4100 or email at SchwenkMueller.Sina@epa.gov or Rebecca Newhouse, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105 by phone: (415) 972-3004 or email at 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 documents did the State submit?*

Table 1 lists the documents addressed by this proposal with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED DOCUMENTS

Local Agency	Document Title	Adopted	Submitted
PCAPCD	Negative Declaration for the Control Techniques Guidelines for the Oil and Natural Gas Industry Source Category	12/12/19	01/23/20 ¹
AVAQMD	Federal Negative Declaration for Control Techniques Guidelines (CTG) for the Oil and Natural Gas Industry Source Category	01/21/20	05/01/20 ²
MCAPCD	Negative Declaration for the Control Techniques Guidelines for the Oil and Natural Gas Industry Source Category	03/10/20	05/01/20 ³
EKAPCD	Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Revision for the 2008 Ozone National Ambient Air Quality Standards – Negative Declaration for Oil and Natural Gas CTG ⁴	05/11/17	08/09/17

¹ This submittal was transmitted to the EPA by a letter from CARB dated January 21, 2020.

² This submittal was transmitted to the EPA by a letter from CARB dated April 30, 2020.

³ This submittal was transmitted to the EPA by a letter from CARB dated April 30, 2020.

⁴ The EPA is only acting on the negative declaration for the Oil and Natural Gas CTG in Table 6 - CTG Categories with No Applicable Source (Negative Declarations) of the EKAPCD RACT SIP Submittal. At this time, the EPA is not proposing any action on the remainder of the EKAPCD RACT SIP that was submitted on August 9, 2017. The EPA will propose a separate action on the remainder of the EKAPCD RACT SIP at a future date.

On June 9, 2020, the EPA determined that the submittals for AVAQMD and MCAPCD negative declarations for the Oil and Natural Gas CTG met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

The submittals for the EKAPCD and PCAPCD negative declarations for the Oil and Natural Gas CTG were deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V on February 9, 2018, and July 23, 2020, respectively.

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

There are no previous versions of the PCAPCD, AVAQMD, MCAPCD, or EKAPCD negative declarations for the Oil and Natural Gas CTG in the California SIP.

C. *What is the purpose of the submitted negative declarations?*

Emissions of volatile organic compounds (VOCs) contribute to the production of 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 VOC emissions.

CAA section 182(b)(2) requires states to submit SIP revisions to implement RACT for each category of VOC sources in the nonattainment area covered by a CTG. On October 27, 2016, (81 FR 74798), the EPA announced the availability of the Oil and Natural Gas CTG. In lieu of adopting local regulations to implement the CTG, air agencies may adopt a negative declaration if the nonattainment area has no sources covered by the 2016 Oil and Natural Gas CTG.¹ The PCAPCD, AVAQMD, MCAPCD, and EKAPCD's negative declaration submittals are the districts' certifications that there are no sources covered by the 2016 Oil and Natural Gas

¹ Memorandum dated October 20, 2016, from Anna Marie Wood, Director, Air Quality Policy Division, U.S. EPA, to Regional Air Division Directors 1 - 10, Subject: "Implementing Reasonably Available Control Technology Requirements for Sources Covered by the 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry," Question #8.

CTG in their respective ozone nonattainment areas.²

The EPA's technical support documents (TSDs) for this action have more information about the PCAPCD, AVAQMD, MCAPCD, and EKAPCD negative declarations, and the EPA's evaluation thereof.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the negative declarations?

Generally, CAA section 110(a)(2)(A) requires SIPs to "include enforceable emission limitations and other control measures, means, or techniques ... as may be necessary or appropriate to meet the applicable requirements of [the CAA]," and SIPs must be consistent with the requirements of CAA sections 110(l) and 193.

SIPs must also require RACT for each category of sources covered by a CTG document as well as each major source in ozone nonattainment areas classified as Moderate or above (see CAA sections 182(b)(2) and (f)). States relying on negative declarations for CTG source categories for which the states have not adopted CTG-based regulations because they have no sources above the CTG-recommended applicability threshold must submit them for SIP approval, regardless of whether such negative declarations were made for an earlier SIP.³ To do so, the submittal should provide reasonable assurance that no sources subject to the CTG's requirements currently exist in the relevant ozone nonattainment area.

² The Placer County APCD, Antelope Valley AQMD, Mariposa County APCD and Eastern Kern APCD are subject to CAA section 182(b)(2) RACT. PCAPCD has jurisdiction over all of Placer County and is classified as Severe nonattainment for the 2008 ozone national ambient air quality standards (NAAQS). AVAQMD's jurisdiction includes the portion of the South Coast Air Quality Management District (SCAQMD) that is not within the South Coast Air Basin (SCAB) and is classified as Severe nonattainment for the 2008 ozone NAAQS. MCAPCD has jurisdiction over all of Mariposa County, which is classified as Moderate nonattainment for the 2008 ozone NAAQS. EKAPCD's jurisdiction includes the eastern portion of Kern County, which is classified as Serious nonattainment for the 2008 ozone NAAQS.

³ 57 FR 13498, 13512 (April 16, 1992).

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. EPA 453/B-16-001, Control Techniques Guidelines for the Oil and Natural Gas Industry.

B. *Do the negative declarations meet the evaluation criteria?*

With respect to the PCAPCD, AVAQMD, MCAPCD, and EKAPCD negative declarations for the Oil and Natural Gas CTG, the submittals contain the air districts’ certifications that there are no sources within the ozone nonattainment areas under the air districts’ jurisdiction that are subject to the Oil and Natural Gas CTG for the 2008 8-hour ozone national ambient air quality standards (NAAQS). The PCAPCD, AVAQMD, MCAPCD, and EKAPCD based their certifications on reviews of their permit files and emission inventories. We accessed California’s Department of Conservation Geologic Energy Management Division’s (CalGEM) Well Finder website, CARB’s pollution mapping tool, and a 2017 archived map of the California Natural Gas Pipelines⁴ and did not find indications of operations that would be subject to the Oil and Natural Gas CTG in the ozone nonattainment areas. For EKAPCD, we additionally used a geographic information system (GIS) mapping tool to ensure that there were

⁴ The California Energy Commission (CEC) map of natural gas pipelines and compressor stations in California we accessed and reviewed is an archived version from 2017 and can be found here: https://web.archive.org/web/20200217015846/https://ww2.energy.ca.gov/maps/infrastructure/Natural_Gas_Pipeline_s.pdf. More current and/or non-archived versions of this information from CEC are not available, because CEC has discontinued maintenance on the natural gas pipeline and station GIS datasets and related maps and removed them from their website. Email dated August 7, 2020, from Travis David (CEC) to Sina Schwenk-Mueller (EPA), Subject: “RE: California Natural Gas Pipelines.”

no oil and gas operations within EKAPCD's jurisdiction covered by the Oil and Natural Gas CTG. Based on our review, we agree with the PCAPCD, AVAQMD, MCAPCD, and EKAPCD negative declarations for the Oil and Natural Gas CTG. Our TSDs for each of the air districts' negative declarations have more information on our evaluation.

C. Public comment and proposed action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the PCAPCD, AVAQMD, MCAPCD, and EKAPCD negative declarations for the Oil and Natural Gas CTG because they fulfill the relevant requirements in CAA sections 110(a), 110(l), 182(b)(2), and 193. 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 documents, our final action will incorporate these documents into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

Under the CAA, 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 CAA. 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 3, 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, Volatile organic compounds.

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

Dated: September 22, 2020.

John Busterud,

Regional Administrator,
Region IX.

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