



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2020-0519; FRL-10017-54-Region 9]

### Air Quality Implementation Plan; California; Mendocino County Air Quality Management District; Stationary Source Permits

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve two rule revisions to the Mendocino County Air Quality Management District (MCAQMD or “District”) portion of the California State Implementation Plan (SIP). These revisions concern the District’s prevention of significant deterioration (PSD) permitting program for new and modified stationary sources of air pollution. We are proposing action on these local rules pursuant to requirements under Part C of Title I of the Clean Air Act as amended in 1990 (CAA or the “Act”). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Written 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-2020-0519 at <https://www.regulations.gov>, or via email to [R9AirPermits@epa.gov](mailto:R9AirPermits@epa.gov). For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited 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 the disclosure of which 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 and multimedia submissions, and general guidance on making effective comments, please visit

<https://www2.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:** Amber Batchelder, EPA Region IX, 75

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**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 MCAQMD and submitted by the California Air Resources Board (CARB), the Governor’s designee for California SIP submittals.

**Table 1 – Submitted Rules**

Rule No.	Rule Title	Amended	Submitted
1-220	New Source Review Standards (Including PSD Evaluations)	4/7/2020	8/10/2020
1-230	Action on Applications	4/7/2020	8/10/2020

This proposed action serves as our formal determination that the submittal for Rules 1-220 and 1-230 meets the completeness criteria in 40 CFR Part 51 Appendix V.

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

On July 3, 2017, the EPA finalized approval of Rule 1-230 and limited approval and limited disapproval of Rule 1-220. 82 FR 30770.

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

On July 3, 2017, we listed the following two deficiencies in our final limited approval and limited disapproval of Rule 1-220:

- Rule 1-220 does not contain any provisions specifying that required air quality modeling shall be based on the applicable models, databases, and other requirements specified in Part 51 Appendix W; therefore, the requirements of 40 CFR 51.160(f) and 51.166(l) have not been met.
- The requirements of 40 CFR 51.166(r)(2)<sup>1</sup> have not been met because the rule does not include the necessary information about a source’s obligations.

The District addressed the first deficiency by adding provisions to Rule 1-220 and addressed the second deficiency by revising Rule 1-230.

Rules 1-220 and 1-230 contain the requirements for review and permitting of individual stationary sources in the MCAQMD. The amended sections of these rules satisfy the statutory and regulatory requirements for the New Source Review (NSR) program, including the PSD

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<sup>1</sup> The 2017 final rule stated incorrectly that the criteria in 40 CFR 51.166(r)(1) had not been met. Our proposal notice (81 FR 95074, December 27, 2016) and Technical Support Document (TSD) correctly noted that only the criteria in 40 CFR 41.166(r)(2) had not been met. See e.g., Section 4.2, number 15 on Page 18 of the TSD for the 2017 final action.

program. The changes the District made to the rules listed above as they pertain to the PSD program were largely administrative in nature and provide additional clarity to the rules.<sup>2</sup>

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

### *A. How is the EPA evaluating these rules?*

The EPA reviewed the revised portions of Rules 1-220 and 1-230 for compliance with the CAA's general requirements for SIPs in CAA section 110(a)(2), the EPA's regulations for stationary source permitting programs in 40 CFR Part 51, §§ 51.160-51.164 and 51.166, and the CAA requirements for SIP revisions in CAA section 110(l). The EPA is proposing approval of Rules 1-220: New Source Review Standards (Including PSD Evaluations) and 1-230: Action on Applications.

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

With respect to procedural requirements, CAA sections 110(a)(2) and 110(l) require that revisions to a SIP be adopted by the state after reasonable notice and public hearing. Based on our review of the public process documentation included in the August 10, 2020 submittal of the MCAQMD Rules 1-220 and 1-230, we find that the MCAQMD has provided sufficient evidence of public notice, opportunity for comment and a public hearing prior to adoption and submittal of these rules to the EPA.

We have determined that the revised sections of the rules satisfy all of the statutory and regulatory requirements for a PSD permit program as set forth in the applicable provisions of Part C of Title I of the Act and in 40 CFR Part 51, §§ 51.160-51.164 and 51.166. The revisions to these rules address and correct the limited disapproval issues from our July 3, 2017 final action.

Our Technical Support Document, which can be found in the docket for this rule,

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<sup>2</sup> Rule 1-220 includes a potential typographical error. The term "bases" should be "databases." This error does not impact applicability nor enforceability. We recommend correcting the language the next time the rule is amended. Please see the TSD, located in the docket for this rule, for additional information.

contains a more detailed discussion and analysis of the approval criteria and the District's submittal.

### **III. Proposed Action and Public Comment**

As authorized in section 110(k)(3) of the Act, the EPA is proposing to approve the submitted rules because they correct the previously identified deficiencies and fulfill all relevant CAA 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 finalize this action as proposed, our action will be codified through revisions to 40 CFR 52.220a (Identification of plan-in part).

### **IV. 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 MCAQMD 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).

### **V. 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 Act. Accordingly, this 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 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, New source review, Reporting and recordkeeping requirements.

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

Dated: February 5, 2021.

Deborah Jordan,  
Acting Regional Administrator,  
Region IX.

[FR Doc. 2021-02912 Filed: 2/19/2021 8:45 am; Publication Date: 2/22/2021]