

## II. Procedural Requirements

### A. Determination To Issue Final Rule Effective in Less than 30 Days

IHS has determined that the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b) do not apply to this rulemaking. The changes being made relate solely to procedure and practice. The changes therefore, meet the requirements for exemption from notice and comment in 5 U.S.C. 553(b)(A).

### B. Review Under Procedural Statutes and Executive Orders

IHS has reviewed this rule under the following statutes and Executive Orders governing rulemaking procedures: The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*; the Regulatory Flexibility Enforcement Act, 5 U.S.C. 601 *et seq.*; the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.*; the Paperwork Reduction Act, 4 U.S.C. 3501 *et seq.*; Executive Order 12630 (Takings); Executive Order 12866 (Regulatory Planning and Review); Executive Order 12988 (Civil Justice Reform); Executive Order 13132 (Federalism); Executive Order 13175 (Tribal Consultation); and Executive Order 13211 (Energy Impacts). IHS has determined that this rule does not trigger any of the procedural requirements of those statutes and Executive Orders, since this rule is technical in nature and merely changes the mailing address for the Claims Branch.

### List of Subjects in 25 CFR Part 900

Administrative practice and procedure, Buildings and facilities, Claims, Government contracts, Government property management, Grant programs—Indians, Health care, Indians, Indians—business and finance.

■ For the reasons stated in the preamble, IHS amends its regulation in 25 CFR Part 900 as follows:

#### **PART 900—FEDERAL TORT CLAIMS ACT COVERAGE GENERAL PROVISIONS PROCEDURE FOR FILING MEDICAL-RELATED CLAIM**

■ 1. The authority citation for part 900 continues to read as follows:

*Authority:* 25 U.S.C. 450f *et seq.*

#### **§ 900.201 [Amended]**

■ 2. Section 900.201 is amended by removing “Chief, PHS Claims Branch,

Room 18–20, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857” and adding in its place Office of the General Counsel, General Law Division, Claims Office, 330 Independence Avenue, SW, Room 4256, Wilbur J. Cohen Federal Building, Washington, DC 20201.”

Dated: September 5, 2007.

**Robert G. McSwain,**

*Deputy Director, Indian Health Service.*

[FR Doc. 07–4585 Filed 9–14–07; 8:45 am]

**BILLING CODE 4165–16–M**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA–R09–OAR–2007–0276; FRL–8456–4]**

### **Revisions to the California State Implementation Plan, Mojave Desert Air Quality Management District**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Mojave Desert Air Quality Management District (MDAQMD) portion of the California State Implementation Plan (SIP). This revision concerns volatile organic compound (VOC) emissions from the usage of solvents. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on November 16, 2007 without further notice, unless EPA receives adverse comments by October 17, 2007. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number R09–OAR–2007–0276, by one of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.

2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov),

including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail. [www.regulations.gov](http://www.regulations.gov) is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Allen, EPA Region IX, (415) 947–4120, [allen.cynthia@epa.gov](mailto:allen.cynthia@epa.gov).

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

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#### **I. The State’s Submittal**

##### *A. What rule did the State submit?*

Table 1 lists the rule we are approving with the date that the amended rule was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local	Rule No.	Rule title	Adopted	Submitted
MDAQMD .....	442	Usage of Solvents .....	02/27/06	10/05/06

On October 24, 2006, we determined the submittal of October 5, 2006 met the completeness criteria in 40 CFR part 51 appendix V, which must be met before formal EPA review.

*B. Are there other versions of this rule?*

We approved a version of San Bernardino County Air Pollution Control District Rule 442 into the SIP on June 9, 1982 (47 FR 25013). This rule remains effective in the portion of San Bernardino County that is under the MDAQMD's jurisdiction. We also approved a version of South Coast Air Quality Management District Rule 442 into the SIP on November 16, 1983 (48 FR 52054). This rule remains effective in the portion of Riverside County that is under the MDAQMD's jurisdiction.

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

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. This rule was developed as part of the local air district's programs to control these pollutants.

The purposes of the MDAQMD Rule 442 revisions relative to the SIP rule are as follows:

- The rule is revised to conform to present MDAQMD rule format and to be consistent with other District rules.

- Section (A)—This section has been renamed "General" to conform with standard MDAQMD rule format.

- Subsections (A)(1) 'Purpose' and (A)(2) 'Applicability' have been revised to update terminology to reflect current regulatory trends and to remove unnecessary and obsolete references.

- Section (B)—This section has been modified to update the terminology to reflect current regulatory trends. A variety of other terms have been added and revised to conform to definitions contained in Regulation XIII. The organic materials definition was revised to more accurately reflect language that could be used to demonstrate compliance with other District rules requiring recording and labeling of VOC materials.

- Section (C)—This section has been renamed "Requirements" and all procedural requirements have been moved to this section. The rule amendments remove restrictions to the

use of non-photochemically reactive solvents and change the VOC usage restriction from 39.6 lbs/day to a monthly limit of 1190 lbs/month.

- Section (D)—This section has been renamed "Exemptions" because all exemptions have been moved to this section. An exemption for aerosol products has been added.

- Section (E)—This section has been renamed "Monitoring, Recordkeeping and Reporting." The language in this section has been modified for consistency with other MDAQMD rules and regulations.

- Section (F)—This section has been named "Test Methods" and contains the methods for determining VOC content. Test methods have been defined and language has been updated for consistency with other MDAQMD rules and regulations.

- The current VOC emissions limit that allows disposal of up to 1.3 gallons per day of VOC by any means is made more stringent by prohibiting disposal of VOC in a manner that would allow evaporation of VOC into the atmosphere.

- The current emissions limit of 18 kg (39.6 pounds) per day of photochemically reactive solvents is converted to the monthly emission limit of 540 kg (1,190 pounds) of VOC per month.

- The current emissions limit for organic materials that come in contact with a flame, are baked, are heater cured, or are heat polymerized of 195 kg (429 pounds) per month is removed; however, the VOC emissions limit for these processes are covered by other rules in Regulations IV and XI.

- The current emissions limit deletes the 8,036 kg (18,000 pounds) per day limit for "non-photochemically reactive" solvents. A part of these solvents are covered by the "VOC" limit and a part do not have a limit because they are not precursors to ozone.

- A limit on VOC emissions from coating aerospace assemblies and a limit for tire manufactures expired by their own terms.

- Exemptions for high solid or ultra-high solid materials are removed due to a change in VOC terminology.

The revised Rule 442 will apply throughout the MDAQMD and will supersede the two SIP versions of the rule identified above.

EPA's technical support document (TSD) has more information about this rule.

## II. EPA's Evaluation and Action

### A. How is EPA evaluating this rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not interfere with existing requirements concerning attainment of air quality standards (see section 110(1)) or relax existing control requirements (see section 193). The MDAQMD regulates an 8-hour ozone nonattainment area (see 40 CFR part 81). However, RACT is not required for Rule 442, because no major sources of VOC are expected to be covered by Rule 442. Major sources are covered by other rules in Regulations IV and XI.

Guidance and policy documents that we used to evaluate the enforceability and legal sufficiency of this rule include the following:

1. "Requirements for Preparation, Adoption, and Submittal of Implementation Plans," U.S. EPA, 40 CFR part 51.
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency," September 23, 1987.
5. "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," at 57 FR 13498, April 16, 1992.

### B. Does the rule meet the evaluation criteria?

We believe the rule is consistent with the relevant requirements and policy regarding enforceability, legal sufficiency, and SIP relaxations. The TSD has more information on our evaluation.

### C. EPA Recommendations to Further Improve the Rule

The TSD describes additional rule revisions that do not affect EPA's

current action but are recommended for the next time the local agency modifies the rule.

**D. Public Comment and Final Action**

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted MDAQMD Rule 442 because we believe it fulfills all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rule. If we receive adverse comments by October 17, 2007, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on November 16, 2007. This will incorporate the rule into the federally enforceable SIP.

**III. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes,

as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission; to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate

circuit by November 16, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**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.

Dated: July 25, 2007.

**Jane Diamond,**

*Acting Regional Administrator, Region IX.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

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

**Subpart F—California**

■ 2. Section 52.220 is amended by adding paragraph (c)(347)(i)(C) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*  
 (c) \* \* \*  
 (347) \* \* \*  
 (i) \* \* \*

(C) Mojave Desert Air Quality Management District.

(1) Rule 442, Adopted: 5/7/76; CARB Ex. Ord. G-73: 02/01/77; Readopted: 07/25/77; Amended: 02/02/79; Amended: 02/27/06.

\* \* \* \* \*

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**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 64**

[Docket No. FEMA-7989]

**Suspension of Community Eligibility**

**AGENCY:** Federal Emergency Management Agency, DHS.