

Issued on April 1, 2023.

Christina Underwood,

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Division, Aircraft Certification Service.*

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POSTAL REGULATORY COMMISSION

39 CFR Parts 3035, 3050, and 3060

[Docket No. PI2023-3; Order No. 6471]

RIN 3211-AA36

Postal Costing

AGENCY: Postal Regulatory Commission.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: Due to recent legislation, the Commission is initiating a review of regulations that relate to postal cost attribution in order to determine whether any revisions to those regulations, or to any analytical principles (including any costing methodologies or cost models) used in postal cost attribution, are appropriate. The Commission takes certain administrative steps and invites public comment.

DATES: *Comments are due:* June 14, 2023; *Reply Comments are due:* July 14, 2023.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

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I. Background

The PSRA, enacted on April 6, 2022, amended Title 39 of the United States Code and other relevant statutory provisions. Among other changes, section 203 of the PSRA added a note to 39 U.S.C. 3633, which requires that the Commission, no later than April 6, 2023, “initiate a review of the regulations issued pursuant to sections 3633(a) and 3652(a)(1) of title 39, United States Code, to determine whether revisions are appropriate to ensure that

all direct and indirect costs attributable to competitive and market-dominant products are properly attributed to those products, including by considering the underlying methodologies in determining cost attribution and considering options to revise such methodologies.” PSRA section 203.

Section 203 also specifies that, if, after notice and public comment, the Commission determines “that revisions are appropriate, the Commission shall make modifications or adopt alternative methodologies as necessary.” *See id.*

The Postal Service uses a two-tier costing system to categorize its accrued costs. The Postal Service first identifies all costs that can be reliably and causally linked to individual postal products or groups of products, using Commission-approved analytical principles, and attributes those costs to products or product groupings. All remaining costs are classified as institutional. This two-tier postal costing approach, which is deeply rooted in the Postal Service's historical treatment of costs,¹ has been adopted into Title 39 of the United States Code.² Specifically, Sections 3631(b) and 3622(c) of Title 39 of the United States Code expressly codify “reliably identified causal relationships” as the standard for cost attribution. A detailed description of the approach to postal cost attribution currently employed by the Postal Service and the Commission appears in Docket Nos. RM2017-1 and RM2022-2.³

Since the enactment of the Postal Accountability and Enhancement Act (PAEA) and the Commission's subsequent promulgation of regulations,⁴ the Postal Service has

¹ In implementing the Postal Reorganization Act, Public Law 91-375, 84 Stat. 719 (1970), the former Postal Rate Commission developed the two-tier approach to costing. That approach was upheld by the Supreme Court of the United States. *See Nat'l Ass'n of Greeting Card Publishers v. U.S. Postal Serv.*, 462 U.S. 810, 833 (1983) (specifically rejecting the imposition of an intermediary tier of costs, based on extended inferences of causation, between attributable and institutional costs).

² Postal Accountability and Enhancement Act, Public Law 109-435, 120 Stat. 3201, 3205 (2006); 39 U.S.C. 3622(c)(2), 3631(b); *see also* S. Rep. No. 108-318, at 9-10 (2004). The enactment of the PSRA did not disturb this two-tier approach. *See* Docket Nos. RM2017-1 and RM2022-2, Order Finalizing Rule Relating to the Institutional Cost Contribution Requirement for Competitive Products, January 9, 2023, at 37 n. 40 (Order No. 6399).

³ Supplemental Notice of Proposed Rulemaking and Order Initiating the Third Review of the Institutional Cost Contribution Requirement for Competitive Products, November 18, 2021, at 11-35 (Order No. 6043).

⁴ *See generally* Docket No. RM2007-1, Order Establishing Rulemaking Regulations for Market Dominant and Competitive Products, October 29, 2007 (Order No. 43).

improved the information used as the basis for cost attribution by changing or upgrading numerous data systems and updating and improving special cost studies. As a result, the Commission has presided over numerous rulemakings that have affected cost attribution.

Cost attribution can be affected in major or minor ways through Commission proceedings that involve changes in “analytical principles.” Analytical principles refer to economic, mathematical, or statistical theories, precepts, or assumptions applied by the Postal Service in producing required periodic reports. *See* 39 CFR 3050.1(c). Analytical principles include, but are not limited to, costing methodologies and cost models that the Postal Service relies upon to generate cost-related data. The Commission has presided over many such proceedings to change accepted analytical principles since the PAEA was enacted.

II. Invitation To Comment

The Commission invites interested persons to comment on regulations related to Postal Service cost attribution, as well as the analytical principles (including costing methodologies or cost models) underlying postal cost attribution. Comments should focus on whether revisions to any regulations or analytical principles are necessary “to ensure that all direct and indirect costs attributable to competitive and market-dominant products are properly attributed to those products” PSRA section 203. Commenters are reminded that the scope of this docket is focused on regulations and analytical principles pertaining to cost attribution.

III. Administrative Actions

Pursuant to section 203 of the PSRA, the Commission establishes Docket No. PI2023-2 in order to review regulations issued pursuant to 39 U.S.C. 3633(a) and 3652(a)(1) relevant to the issue of postal cost attribution, as well as analytical principles (including costing methodologies or cost models) relevant to postal cost attribution. The Commission intends to evaluate the comments received and use those suggestions to help carry out the responsibilities described in section 203 of the PSRA. Comments are due no later than June 14, 2023. Reply comments are due no later than July 14, 2023.

Comments and other material filed in this proceeding will be available for review on the Commission's website unless the information contained therein is subject to an application for non-public treatment. The Commission's rules on non-public materials (including access to

documents filed under seal) appear in 39 CFR part 3011.

Pursuant to 39 U.S.C. 505, the Commission appoints Katalin K. Clendenin to represent the interests of the general public (Public Representative) in this proceeding.

By the Commission.

Mallory Richards,

Attorney-Advisor.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2023-0202; FRL-10873-01-R9]

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 a revision to the Mojave Desert Air Quality Management District (MDAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) from internal combustion engines. We are proposing to approve a local rule 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: Comments must be received on or before May 8, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2023-0202 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 a disability 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: La Kenya Evans-Hopper, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3245 or by email at evanshopper.lakenya@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 rule did the State submit?

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Amended	Submitted
MDAQMD	1160	Internal Combustion Engines	01/23/23	03/03/23

Pursuant to CAA section 110(k)(1)(B) and 40 CFR part 51, appendix V, the EPA determined that the submittal for MDAQMD Rule 1160 met the completeness criteria on March 17, 2023.

B. Are there other versions of this rule?

On September 10, 2021 (86 FR 50643), we took final action on a limited approval and limited disapproval of an earlier version of Rule 1160. This limited approval final action approved this earlier version of Rule 1160 into the SIP, including those rule provisions identified as deficient. In response to our limited disapproval final action, the MDAQMD adopted revisions to the SIP-approved version on January 23, 2023 and CARB submitted them to us on March 3, 2023. In its submittal letter, CARB requested that, upon approval of

the revised version of Rule 1160, the EPA remove the old version of this rule from the SIP. If we take final action to approve the January 23, 2023 version of Rule 1160, this version will replace the previously approved version of this rule in the SIP.

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

Emissions of NO_x and 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 NO_x and VOC emissions. Sections 182(b)(2) and (f) require that SIPs for ozone nonattainment areas classified as Moderate or above implement reasonably available control technology

(RACT) for any source covered by a Control Techniques Guidelines (CTG) document and for any major source of VOCs or NO_x. Rule 1160 regulates NO_x emissions from major sources of NO_x and has been submitted by CARB and the air district to implement RACT for these sources. The revised version of Rule 1160 was submitted to address the deficiencies identified in our September 10, 2021 limited disapproval final action of the previous version of Rule 1160, and to ensure that the air district implements RACT level controls for all major stationary sources of NO_x.

II. The EPA’s Evaluation and Action

A. How is the EPA evaluating the rule?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), and must not interfere with applicable