

(c) \* \* \*  
 (85) Revisions to the New Jersey State Implementation Plan (SIP) for ozone concerning the control of nitrogen oxides from Trigen-Trenton Energy Co., L.P., dated August 7, 2007 submitted by the New Jersey State Department of Environmental Protection (NJDEP).

(i) Incorporation by reference:  
 (A) a letter from Lisa P. Jackson, Commissioner, New Jersey Department of Environmental Protection, addressed to Alan J. Steinberg, USEPA, dated August 7, 2007, and Attachment 1 to the letter, titled "Conditions of Approval, Alternative Maximum Emission Rate for NO<sub>x</sub> for Two (2) Cooper Bessemer Distillate Oil or Dual Fuel Fired 4-Stroke Diesel Internal Combustion Engines," Trigen-Trenton Energy Company L.P., Trenton, NJ. APC Plant ID No. 61015, approved January 11, 2007.

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 [FR Doc. E8-16122 Filed 7-15-08; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2007-1105; FRL-8580-3]

**Revisions to the California State Implementation Plan, Mojave Desert Air Quality Management District and Ventura County Air Pollution Control District**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Mojave Desert Air Quality Management District (MDAQMD) and Ventura County Air Pollution Control District (VCAPCD) portions of the California

State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from wood products and marine coating operations. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on September 15, 2008 without further notice, unless EPA receives adverse comments by August 15, 2008. 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 EPA-R09-OAR-2007-1105, 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*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 G. 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 rules did the State submit?*

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board.

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
MDAQMD .....	1106	Marine Coating Operations .....	10/23/06	05/08/07
VCAPCD .....	74.30	Wood Products Coatings .....	06/27/06	10/05/06

On July 23, 2007, the submittal of MDAQMD Rule 1106 was found to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review. On October 24, 2006, the submittal of VCAPCD Rule 74.30 was found 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?*

There is no previous version of Rule 1106 in the MDAQMD SIP, although the MDAQMD adopted an earlier version of this rule on August 28, 2006, and CARB submitted it to us on May 8, 2007.

While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals. A version of SCAQMD Rule 1106 adopted on November 4, 1988 and amended on August 2, 1991, was approved into the SIP on July 14, 1995 (60 FR 36227) and

is federally enforceable for portions of the area now regulated by MDAQMD.

A version of VCAPCD Rule 74.30 was approved into the SIP on October 25, 2005 (70 FR 61561).

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

Section 110(a) of the CAA requires States to submit regulations that control volatile organic compounds, nitrogen oxides, particulate matter, and other air pollutants which harm human health and the environment. These rules were developed as part of local air districts' programs to control these pollutants.

MDAQMD Rule 1106 reduces VOC emissions from marine coatings operations. The provisions of this rule apply to all marine coating operations of both commercial boats and ships, pleasure craft and their appurtenances, and to coating of buoy and oil drilling rigs, or their parts and components intended for the marine environment.

VCAPCD Rule 74.30 revisions involve a reduction in reactive organic compound (ROC) content for surface preparation and cleanup material. Currently, the effective date of the revisions are 90 days from the date of adoption. The revisions are required because, under the provisions of Health and Safety Code Section 40914(b)(2), staff is required to demonstrate that the District's plan to attain the California ambient ozone standard provides for expeditious implementation of 'every feasible measure' to reduce ozone precursor emission (including ROC). In addition, revisions include the removal of obsolete language and the rewording of certain subsections for clarity. EPA's technical support documents (TSD) have more information about these rules.

## II. EPA's Evaluation and Action

*A. How is EPA evaluating the rules?*

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see sections 182(a)(2) and 182(f)), and must not relax existing requirements (see sections 110(l) and 193). The MDAQMD and VCAPCD regulate ozone nonattainment areas (see 40 CFR part 81), so MDAQMD Rule 1106 and VCAPCD Rule 74.30 must fulfill RACT.

Guidance and policy documents that we use to help evaluate specific enforceability and RACT requirements consistently include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

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. Alternative Control Techniques Document: Surface Coating Operations at Shipbuilding and Ship Repair Facilities, EPA Region 9, April 1994 (EPA 453/R-94-932).

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

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSDs have more information on our evaluation.

*C. Public Comment and Final Action*

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill 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 rules. If we receive adverse comments by August 15, 2008, 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 September 15, 2008. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## 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 September 15, 2008. 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: June 3, 2008.

Wayne Nastri,

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 paragraphs (c)(347)(i)(D) and (c)(350)(i)(B)(2) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(347) \* \* \*

(i) \* \* \*

(D) Ventura County Air Pollution Control District.

(1) Rule 74.30, Wood Products Coatings, adopted May 17, 1994 and revised on June 27, 2006.

\* \* \* \* \*

(350) \* \* \*

(i) \* \* \*

(B) \* \* \*

(2) Rule 1106, Marine Coating Operations, adopted on August 28, 2006 and amended on October 23, 2006.

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[FR Doc. E8-16020 Filed 7-15-08; 8:45 am]

BILLING CODE 6560-50-P

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 174

[EPA-HQ-OPP-2007-0346; FRL-8369-3]

#### Bacillus thuringiensis Cry 1A.105 protein; Exemption from the Requirement of a Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of the *Bacillus thuringiensis* Cry 1A.105 protein in or on corn when used as a plant-incorporated protectant in the food and feed commodities of corn; corn, field; corn, sweet; and corn, pop. Monsanto Company submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting to amend the existing temporary tolerance in 40 CFR 174.502 for the *Bacillus thuringiensis* Cry 1A.105 protein to establish a permanent exemption from the requirement of a tolerance for residues of the *Bacillus thuringiensis* Cry 1A.105 protein in or on all food commodities when used as a plant-incorporated protectant in all food commodities. This regulation eliminates the need to establish a maximum permissible level for residues of the *Bacillus thuringiensis* Cry 1A.105 insecticidal protein in or on the food and feed commodities of corn; corn, field; corn, sweet; and corn, pop.

**DATES:** This regulation is effective July 16, 2008. Objections and requests for hearings must be received on or before September 15, 2008, and must be filed

in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2007-0346. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Susanne Cerrelli, Biopesticides and Pollution Prevention Division (7511P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8077; e-mail address: [cerrelli.susanne@epa.gov](mailto:cerrelli.susanne@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

##### A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be