under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987. 40 CFR 52.238, 52.222. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the above district's portion of the California SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991, for states to submit corrections of those deficiencies. Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.2 EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The MDAQMD is classified as severe; <sup>3</sup> therefore, this area was subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on January 11, 1993, and July 13, 1994, including the rules being acted on in this document. This document addresses EPA's proposed action for MDAQMD's Rule 461, "Gasoline Transfer and Dispensing," and Rule 462, "Organic Liquid Loading," and SBCAPCD's Rule 463, "Storage of Organic Liquids." MDAQMD adopted Rules 461 and 462 on May 25, 1994, and SBCAPCD adopted Rule 463 on November 2, 1992. These submitted rules were found to be complete on March 26, 1993 (Rule 463) and July 22, 1994 (Rules 461 and 462) pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V<sup>4</sup> and are being proposed for approval into the SIP.

These three rules work in concert to reduce VOC emissions by requiring submerged fill pipes and vapor recovery systems for the transfer and storage of organic liquids, including gasoline. VOCs contribute to the production of ground level ozone and smog. The rules were adopted as part of the district's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for these rules.

## EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 2. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTG's are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The following CTG's are applicable to these rules: (1) "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals (EPA-450/ 2-77-026)," (2) "Control of Volatile Organic Emissions from Bulk Gasoline Plants (EPA-450/2-77-035)," (3) "Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks (EPA-450/2-77-036)," (4) "Control of Volatile Organic

Emissions from Petroleum Liquid Storage in External Floating Roof Tanks (EPA-450/2-78-047)," and (5) "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems (EPA-450/2-78-051)." Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 2. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP. Rules 461, 462, and 463 include the following significant changes from the current SIP:

Applicability sections.

• Test methods for compliance determinations.

• Recordkeeping requirements.

• Exemptions consistent with the CTG's.

• Definitions of terms used in the rules.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, MDAQMD's Rule 461, "Gasoline Transfer and Dispensing," and Rule 462, "Organic Liquid Loading," and SBCAPCD's Rule 463, "Storage of Organic Liquids," are being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

## **Regulatory Process**

Under the Regulatory Flexibility Act, 5 U.S.C. Section 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, it

<sup>&</sup>lt;sup>2</sup> Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice" (Blue Book) (notice of availability was published in the Federal Register on May 25, 1988); and the existing control technique guidelines (CTG's).

<sup>&</sup>lt;sup>3</sup> The Mojave Desert Area retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA amendments of 1990. See 55 FR 56694 (November 6, 1991).

<sup>&</sup>lt;sup>4</sup> EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).