



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2013-0064; FRL-9813-9]

**Revision of Air Quality Implementation Plan; California;
Sacramento Metropolitan Air Quality Management District;
Stationary Source Permits**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and technical amendments.

SUMMARY: EPA is finalizing approval of two permitting rules submitted by California as a revision to the Sacramento Metropolitan Air Quality Management District (SMAQMD or District) portion of the California State Implementation Plan (SIP). These revisions were proposed in the Federal Register on February 14, 2013 and concern construction and modification of stationary sources of air pollution within Sacramento County. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA). Final approval of these rules makes the rules federally enforceable and corrects program deficiencies identified in a previous EPA rulemaking (76 FR 43183, July 20, 2011). EPA is also making technical amendments to the Code of Federal Regulations (CFR) to reflect this previous rulemaking, which removed an obsolete provision from the California SIP.

EFFECTIVE DATE: This rule is effective on [Insert date 30 days from the date of publication in the Federal Register].

ADDRESSES: EPA has established docket number EPA-R09-OAR-2013-0064 for this action. Generally, documents in the docket for this action are available electronically at www.regulations.gov or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), 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: Laura Yannayon, EPA Region IX, (415) 972-3534, yannayon.laura@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. Proposed Action

On February 14, 2013 (78 FR 10589), EPA proposed to fully approve the following rules that were submitted for incorporation into the California SIP.

Table 1 - Submitted Rules

Local Agency	Rule #	Rule Title	Amended / Adopted	Submitted
SMAQMD	214	Federal New Source Review	Amended 8/23/12	9/26/12
SMAQMD	217	Public Notice Requirements for Permits	Adopted 8/23/12	9/26/12

We proposed to approve these rules based on a conclusion that they satisfy the applicable CAA requirements. Our proposed rule and related Technical Support Document (TSD) contain more information on the basis for this rulemaking and on our evaluation of the submitted rules.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received one comment from the SMAQMD. We summarize the comment and provide our response below.

Comment: The SMAQMD requested confirmation that EPA's final rule to approve Rule 214 and Rule 217 into the SIP will remove the 1984 version of Rule 202 ("New Source Review") from the California SIP. The District stated that, based on EPA's statements in the TSD for a previous rulemaking action on SMAQMD

permitting rules that were intended to replace Rule 202 in the SIP (76 FR 43183, July 20, 2011), the District had expected that Rule 202 would be removed from the SIP but that the necessary language to amend the California SIP in 40 CFR part 52 had not been included in EPA's final rule. The SMAQMD stated that it supports EPA's proposed approvals and requests only that the regulatory language to delete Rule 202 from the SIP be included in EPA's final action on Rule 214 and Rule 217.

EPA Response: We agree with the District that SMAQMD Rule 202 should have been removed from the California SIP as a result of the referenced July 20, 2011 final action on SMAQMD permitting rules that were intended to replace Rule 202. Specifically, on July 20, 2011, EPA finalized a full approval of Rule 203 and limited approval/limited disapproval of Rule 214. See 76 FR 43183 (July 20, 2011). EPA explained in the proposal for this rulemaking that "[t]hese two new rules will replace in its entirety, the existing SIP approved NSR/PSD programs contained in Rule 202." 76 FR 28942 at 28943 (May 19, 2011); see also U.S. EPA, Region IX, Technical Support Document for EPA's Notice of Proposed Rulemaking for the California SIP, Sacramento Metropolitan Air Quality Management District, Rule 214 (Federal New Source Review), Rule 203 (Prevention of Significant Deterioration), May 6, 2011, at 1 ("Upon approval into the SIP,

[Rules 214 and 203] will replace current SIP Rule 202 - *New Source Review*, which was approved into the SIP by EPA on June 19, 1985 (50 FR 25417).” EPA received no comments on this proposed rule and finalized the rulemaking as proposed. See 76 FR 43183 (July 20, 2011). In the final regulatory text codifying this final action, however, EPA incorporated Rule 214 and Rule 203 into the SIP but neglected to remove Rule 202. See 76 FR at 43185.

In response to SMAQMD’s comment, we are making a technical amendment to 40 CFR 52.220 to correct this error by removing Rule 202 from the SMAQMD portion of the California SIP. This technical amendment makes no change to the substance of our July 20, 2011 final action or to today’s final action to fully approve Rule 214 and Rule 217 into the California SIP.

III. EPA Action

No comments were submitted that change our assessment that submitted Rule 214 and Rule 217 satisfy the applicable CAA requirements. Therefore, under CAA section 110(k)(3) and for the reasons set forth in our February 14, 2013 proposed rule, we are fully approving Rule 214 and Rule 217. This action incorporates the submitted rules into the SMAQMD portion of the California SIP and makes them federally enforceable.

Simultaneously, we are making a technical amendment to 40

CFR 52.220 to remove Rule 202 from the SIP, consistent with the District's intent and EPA's final rule at 76 FR 43183 (July 20, 2011).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, 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, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this final action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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 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, this final rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection,
Incorporation by reference, Intergovernmental relations,
Nitrogen dioxide, Ozone, Particulate matter, Reporting and
recordkeeping requirements, Volatile organic compounds.

Dated: April 25, 2013

Jared Blumenfeld,
Regional Administrator,
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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) (159) (i) (B) and (c) (427) to read as follows:

§52.220 Identification of plan.

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(c) * * *

(159) * * *

(i) * * *

(A) * * *

(B) Previously approved on February 6, 1985 and now deleted without replacement: Rule 202.

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(427) New and amended regulations for the following APCDs were submitted on September 26, 2012, by the Governor's Designee.

(i) Incorporation by Reference.

(A) Sacramento Metropolitan Air Quality Management District.

(1) Rule 214, "Federal New Source Review," amended on August 23, 2012.

(2) Rule 217, "Public Notice Requirements for Permits," adopted on August 23, 2012.

[FR Doc. 2013-20920 Filed 08/28/2013 at 8:45 am; Publication
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