



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2017-0259; FRL-9963-32-Region 9]

Approval of California Air Plan Revisions, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern emissions of oxides of nitrogen (NO_x) from facilities that emit four or more tons per year of NO_x or oxides of sulfur (SO_x). We are proposing to approve local rules 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: Any comments must arrive by [**Insert date 30 days after the date of publication in the Federal Register**].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2017-0259 at <https://www.regulations.gov>, or via email to Andrew Steckel, Rulemaking Office Chief at Steckel.Andrew@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from [Regulations.gov](https://www.regulations.gov). For either manner of submission, 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://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Nicole Law, EPA Region IX, (415) 947-4126, Law.Nicole@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 rules did the State submit?*

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

TABLE 1 - SUBMITTED RULES

Local Agency	Rule #	Rule Title	Amended	Submitted
SCAQMD	2001	Applicability	12/04/15	03/17/17
SCAQMD	2002	Allocations for NOx and SOx	10/07/16	03/17/17
SCAQMD	2005	New Source Review for Regional Clean Air Incentives Market	12/04/15	03/17/17
SCAQMD	2011: Attachment C	Requirements for Monitoring, Reporting, and Recordkeeping for SOx Emissions: Quality Assurance and Quality Control Procedures	12/04/15	03/17/17
SCAQMD	2011: Chapter 3	Requirements for Monitoring, Reporting, and Recordkeeping for SOx Emissions: Process Units- Periodic Reporting and Rule 219 Equipment	12/04/15	03/17/17
SCAQMD	2012: Attachment C	Requirements for Monitoring, Reporting, and Recordkeeping for NOx Emissions: Quality Assurance and Quality Control Procedures	12/04/15	03/17/17
SCAQMD	2012: Chapter	Requirements for Monitoring, Reporting, and Recordkeeping for NOx	12/04/15	03/17/17

Local Agency	Rule #	Rule Title	Amended	Submitted
	4	Emissions: Process Units- Periodic Reporting and Rule 219 Equipment		
SCAQMD	2011: Attachm ent E	Requirements for Monitoring, Reporting, and Recordkeeping for SO _x Emissions: Definitions	02/05/16	03/17/17
SCAQMD	2012: Attachm ent F	Requirements for Monitoring, Reporting, and Recordkeeping for NO _x Emissions: Definitions	02/05/16	03/17/17

On April 17, 2017, the EPA determined that the submittal for SCAQMD Rule 2001; SCAQMD Rule 2002; SCAQMD Rule 2005; SCAQMD Rule 2011, Attachment C; SCAQMD Rule 2011, Chapter 3; SCAQMD Rule 2012, Attachment C; SCAQMD Rule 2012, Chapter 4; SCAQMD Rule 2011, Attachment E; and SCAQMD Rule 2012, Attachment F 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 these rules?*

We approved earlier versions of Rule 2001; Rule 2011, Attachment C; Rule 2011, Chapter 3; Rule 2012, Attachment C; Rule 2012, Chapter 4; Rule 2011, Attachment E; and Rule 2012, Attachment F into the SIP on August 29, 2006 (71 FR 51120). The SCAQMD adopted revisions to the SIP-approved versions of these rules on May 6, 2005 and CARB submitted them to us on October 20, 2005. We approved earlier versions of Rule 2002 and Rule 2005 into the SIP on August 12, 2011 (76 FR 50128) and on December 20, 2011 (76 FR 78829). The SCAQMD adopted revisions to the SIP-approved versions of these rules on November 5, 2010

and June 3, 2011 and CARB submitted them to us on April 5, 2011 and September 27, 2011. We are acting on only the most recently submitted versions of these rules but have reviewed materials provided with previous submittals.

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

NO_x contributes to the formation of ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. PM, including PM equal to or less than 2.5 microns in diameter (PM_{2.5}) and PM equal to or less than 10 microns in diameter (PM₁₀), contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires states to submit regulations that control NO_x and PM emissions. SCAQMD's Regional Clean Air Incentives Market (RECLAIM) program consists of SCAQMD Rules 2000 through 2020. The RECLAIM amendments adopted in 2015 and 2016 were revisions to Rules 2001; 2002; 2005; 2011, Attachment C; 2011, Chapter 3; 2012, Attachment C; 2012, Chapter 4; 2011, Attachment E; and 2012, Attachment F. The primary purposes of these amendments to RECLAIM were to lower the NO_x emission cap in the RECLAIM program to achieve additional emission reductions, to allow electric generating facilities (EGFs) to exit RECLAIM, to add provisions regarding facility shutdowns, to create a Regional New Source Review (NSR) Holding Account for existing electricity generating facilities constructed after 1993, and to implement other administrative and clarifying changes. The EPA's technical support document (TSD) has more information about these rules.

II. The EPA's Evaluation and Proposed Action

A. *How is the EPA evaluating the rules?*

Generally, SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193). Because the submittal contains SIP rules that are part of an economic incentive program (EIP) and that address certain requirements of the nonattainment NSR program, we also evaluated the rule revisions in accordance with the EPA's requirements and recommendations for EIPs and NSR programs.

Additionally, SIP rules must require Reasonably Available Control Technology (RACT) for each major source of NO_x in ozone nonattainment areas classified as moderate or above (see CAA sections 182(b)(2) and 182(f)). The SCAQMD regulates an ozone nonattainment area classified as extreme for the 1997 8-hour ozone and 2008 8-hour ozone standards (40 CFR 81.305). Because the RECLAIM program applies to major sources of NO_x emissions, these rules must implement RACT. SIP rules must also implement Reasonably Available Control Measures (RACM), including RACT, in moderate and above PM_{2.5} nonattainment areas (see CAA sections 172(c)(1) and 189(a)(1)(C)) and must implement Best Available Control Measures (BACM), including Best Available Control Technology (BACT), in serious PM_{2.5} nonattainment areas (see CAA section 189(b)(1)(B)). The SCAQMD regulates a PM_{2.5} nonattainment area classified as serious for the 2006 24-hour PM_{2.5} NAAQS and as moderate for the 1997 and 2012 PM_{2.5} NAAQS (40 CFR 81.305). We generally evaluate submitted SIPs for RACM and BACM purposes as part of our action on an attainment plan as a whole.

Guidance and policy documents that we use to evaluate enforceability, SIP revisions, rule stringency requirements, and EIP recommendations include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
 2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
 3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
 4. "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule" (the NOx Supplement), 57 FR 55620, November 25, 1992.
 5. "Improving Air Quality with Economic Incentive Programs," EPA-452/R-01-001, EPA OAR, January 2001.
- B. *Do the rules meet the evaluation criteria?*

We propose to find that the revised RECLAIM regulations satisfy the applicable CAA requirements for enforceability, NSR, SIP revisions, and economic incentive programs. In order to prevent NO_x RECLAIM trading credits (RTCs) associated with facilities that have shut down from entering the RECLAIM market and potentially delaying the installation of pollution controls at other RECLAIM facilities, the revised regulations establish criteria for determining a facility shutdown and the methodology for calculating the amount of NO_x RTCs by which that facility's future RTC holdings will be reduced. These revisions are projected to reduce NO_x

emissions from RECLAIM sources by 12 tons per day by 2023.

In addition, the revised regulations allow certain electric generating facilities to use RTCs held in a “Regional NSR Holding Account” to satisfy the NSR offset requirements specified in Rule 2005(f) but do not alter the existing requirement for all sources to hold RTCs in amounts equal to the amounts of required offsets.

The revised rules are projected to achieve significant environmental benefits and would not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements. The TSD has more information on our evaluation.

We are not reviewing the submitted rule revisions with respect to RACT requirements at this time because the District has not yet submitted an evaluation of the revised program in accordance with RACT requirements. Following the District’s submission of a RACT evaluation for the revised RECLAIM rules, we intend to publish a separate proposed rule providing our evaluation of the program in accordance with RACT requirements and seeking public comment on that evaluation.

C. Public comment and proposed action

The EPA is proposing to fully approve the submitted rules under section 110(k)(3) of the Act based on our conclusion that they satisfy the applicable CAA requirements for enforceability, NSR, SIP revisions, and economic incentive programs. We will accept comments from the public on this proposal until **[Insert date 30 days after date of publication in the Federal Register]**. If we take final action to approve the submitted rules, our final action will incorporate these rules into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the SCAQMD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section of this preamble for more information).

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, the EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 the 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, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference,

Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: May 17, 2017.

Alexis Strauss,

Acting Regional Administrator,
Region IX.

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