



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2017-0196; FRL-9965-06-Region 9]

### Approval of California Air Plan Revisions, Sacramento Metropolitan 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 Sacramento Metropolitan Air Quality Management District (SMAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOC) from landfill gas flaring at the Kiefer Landfill in Sacramento, California. We are proposing to approve portions of two SMAQMD operating permits that limit VOC emissions from this facility 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-2017-0196 at <https://www.regulations.gov>, or via email to Andrew Steckel, Rulemaking Office Chief at [Steckel.Andrew@epa.gov](mailto: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://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Stanley Tong, EPA Region IX, (415) 947-4122, [tong.stanley@epa.gov](mailto:tong.stanley@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 documents did the State submit?*

On January 24, 2017, the California Air Resources Board (CARB) submitted portions of SMAQMD Permits to Operate for the Kiefer Landfill. Specifically, CARB submitted permit conditions 2, 8, 13, 14, 16, 17, 22, 23, 24, 25, 26, 27, 37, 39 and 40 (or portions thereof) and Attachment A from SMAQMD Permits 24360 and 24361. SMAQMD adopted these portions of Permits 24360 and 24361 for inclusion in the California SIP on July 28, 2016. Please see the docket for a copy of the complete submitted documents.

On April 17, 2017, the EPA determined that the submittals for SMAQMD 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 documents?*

There are no previous versions of SMAQMD Permits 24360 or 24361 regulating VOC emissions from the Kiefer Landfill in the SIP. However, the SMAQMD adopted and submitted Permit No. 17359 for oxides of nitrogen (NO<sub>x</sub>) emissions from the Kiefer Landfill gas flare on October 26, 2006, and we approved it into the SIP on April 12, 2011 (76 FR 20242).

C. *What is the purpose of the submitted documents?*

VOCs help produce 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 VOC emissions. Additionally, section 182(b)(2)(C) of the Act requires states to submit SIP provisions requiring the implementation of Reasonably Available Control Technology (RACT) for any major stationary source<sup>1</sup> of VOC located in an area classified as moderate nonattainment or above. The Sacramento Metro Area is classified as a severe-15 nonattainment area for the 1997 and 2008 8-hour ozone national ambient air quality standards (NAAQS),<sup>2</sup> and the Kiefer Landfill, which is operated by the County of Sacramento's Department of Waste Management and Recycling, is a major stationary source of VOC. The SMAQMD is therefore required to implement RACT at the facility under section 182(b)(2).

On August 12, 2016, the EPA partially approved and partially disapproved the SMAQMD's SIP revision to address RACT requirements for the 1997 8-hour ozone NAAQS, based in part on our conclusion that the submittal did not satisfy the CAA section 182 requirements for the Kiefer Landfill. See 81 FR 53280. Our final action stated that sanctions would be imposed under CAA section 179 and 40 CFR 52.31 unless the EPA approved SIP revisions correcting these deficiencies within 18 months of the effective date of our final rulemaking action.

The SMAQMD adopted the submitted portions of Permits 24360 and 24361 to address the VOC RACT deficiencies identified by the EPA for the Kiefer Landfill. The submitted portions relate to the control of VOC emissions from gas flares at the Kiefer Landfill (Permit

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<sup>1</sup> In severe ozone nonattainment areas, "major stationary source" includes any stationary source that emits or has a potential to emit at least 25 tons per year of VOCs. *See* CAA section 182(d).

<sup>2</sup> 40 CFR 81.305; 75 FR 24409 (May 5, 2010), 77 FR 30088 (May 21, 2012).

24360 applies to flare No. 1; and Permit 24361 applies to flare No. 2). They contain emission limits, equipment operational requirements, reporting and recordkeeping requirements, monitoring and testing requirements, and a stipulation that for federal enforcement purposes, the RACT provisions in the permits remain in effect as part of the SIP until replaced pursuant to 40 CFR part 51 and approved by the EPA.

## **II. The EPA's Evaluation and Action**

### *A. How is the EPA evaluating the submitted documents?*

SIP provisions 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).

Generally, the SIP must require RACT for each category of sources covered by a control techniques guidelines (CTG) document as well as each major source of VOCs or NO<sub>x</sub> in ozone nonattainment areas classified as moderate or above (see CAA section 182(b)(2)). The Kiefer Landfill is a major source of VOCs in an ozone nonattainment area, so the SIP must implement RACT for this facility.

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants 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; revised January 11, 1990 (“The Bluebook”).
  3. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (“The Little Bluebook”).
  4. “Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2,” 70 FR 71612 (November 29, 2005).
  5. Memorandum from William T. Harnett to Regional Air Division Directors, “RACT Qs & As—Reasonably Available Control Technology (RACT); Questions and Answers” (May 18, 2006).
- B. *Do the submitted documents meet the evaluation criteria?*

We are proposing to approve the submitted portions of SMAQMD Permits 24360 and 24361 into the SMAQMD portion of the California SIP because they satisfy the applicable CAA requirements for approval. Specifically, for SMAQMD Permit 24360, we propose to approve permit conditions 2, 8, 13, 14, 16, 17, 22, 23, 24, 25, 26, 27, 37, 39 and 40 (or portions thereof), and Attachment A, which together establish an enforceable VOC limitation satisfying RACT for landfill gas flare No. 1 at the Kiefer Landfill. Similarly, for SMAQMD Permit 24361, we are proposing to approve into the SMAQMD portion of the California SIP, permit conditions 2, 8, 13, 14, 16, 17, 22, 23, 24, 25, 26, 27, 37, 39 and 40 (or portions thereof) and Attachment A, which together establish an enforceable VOC limitation satisfying RACT for landfill gas flare No. 2 at the Kiefer Landfill.

The VOC limitations contained in these permits are consistent with the limitations

contained in other California air district rules for similar facilities. For example, permit condition 8 for landfill flares No. 1 and No. 2 specifies a VOC destruction efficiency of 98% or 20 parts per million by volume, dry, at 3% Oxygen, measured as hexane. South Coast Air Quality Management District Rule 1150.1, “Control of Gaseous Emissions from Municipal Solid Waste Landfills” (April 1, 2011), and Bay Area Air Quality Management District Rule 8-34, “Solid Waste Disposal Sites” (June 15, 2005), apply this same limit. Other California air district rules such as Yolo Solano Air Quality Management District Rule 2-38, “Standards for Municipal Solid Waste Landfills” (March 12, 1997) and San Diego Air Pollution Control District Rule 59.1, “Municipal Solid Waste Landfills” (June 17, 1998) reference 40 CFR part 60, subpart WWW, “Standards of Performance for Municipal Solid Waste Landfills,” for applicable requirements, which includes these same limits. The operational standards for the landfill flares are thus also consistent with the landfill flare standards in 40 CFR part 60, subpart WWW, and are also consistent with 40 CFR part 63, subpart AAAA, “National Emission Standards for Hazardous Air Pollutants, Municipal Solid Waste Landfills.” Because the applicable SIP currently does not contain VOC limitations for the Kiefer Landfill gas flares, the approval of these permit conditions strengthens the SIP. In sum, the submitted permit conditions satisfy the applicable requirements and guidance regarding enforceability, RACT, and SIP relaxations and may, therefore, be approved into the California SIP.

As stated earlier, on August 12, 2016 (81 FR 53280), the EPA partially approved and partially disapproved the SMAQMD’s RACT SIP revisions submitted by California on July 11, 2007 and January 21, 2009, based in part on our conclusion that the state had not fully satisfied CAA section 182 RACT requirements for the pharmaceuticals manufacturing CTG category and

for the Kiefer Landfill. We are separately but contemporaneously proposing approval of a SIP revision intended to address the deficiencies identified in our 2016 partial disapproval of the SMAQMD's RACT SIP regarding the pharmaceuticals manufacturing CTG category.<sup>3</sup> Final approval of the submitted portions of SMAQMD Permits 24360 and 24361, and SMAQMD Rule 464, *Organic Chemical Manufacturing Operations*, would satisfy California's obligation to implement RACT under CAA section 182 for the 1997 8-hour ozone NAAQS and thereby terminate both the offset sanctions clock and the Federal Implementation Plan clock associated with our August 12, 2016 final action.

Please see the docket for a copy of the complete submitted documents.

C. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the specific permit conditions of SMAQMD Permits 24360 and 24361 as submitted by CARB on January 24, 2017, because we believe they fulfill all relevant requirements. 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 documents, our final action will incorporate these documents into the federally enforceable SIP.

### **III. Incorporation by Reference**

In this rulemaking, 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

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<sup>3</sup> We are submitting these two proposed actions together for publication, and expect the Federal Register notices to publish around the same time.

EPA is proposing to incorporate by reference the SMAQMD permits described in Section I.A of this preamble. The EPA has made, and will continue to make, these materials available through <https://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 Order 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 29, 2017.

Alexis Strauss,  
Acting Regional Administrator,  
Region IX.

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