



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2017-0196; FRL-9970-92-Region 9]

Approval of California Air Plan Revisions, Sacramento Metropolitan Air Quality

Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action 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 (VOCs) from landfill gas flaring at the Kiefer Landfill in Sacramento, California. We are approving portions of two SMAQMD operating permits that limit VOC emissions from this facility under the Clean Air Act (CAA or the Act).

DATES: This rule will be effective on [**Insert date 30 days after date of publication in the Federal Register**].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-OAR-2017-0196. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the docket, 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 through <https://www.regulations.gov>, or please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Stanley Tong, EPA Region IX, (415) 947-4122, tong.stanley@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. Proposed Action

On January 15, 2016 (81 FR 2136) the EPA proposed to partially approve and partially disapprove SMAQMD’s SIP revision to address Reasonably Available Control Technology (RACT) requirements for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) based in part on our conclusion that the submittal did not satisfy the CAA section 182 requirements for major source VOC RACT from landfill gas flaring operations at the Kiefer Landfill. On August 12, 2016 we finalized our partial approval and partial disapproval and stated that sanctions would be imposed under CAA section 179 and 40 CFR 52.31 unless the EPA approved SIP revisions correcting this deficiency within 18 months of the effective date of our

final rulemaking action.

On July 28, 2016 the SMAQMD adopted portions of two operating permits (Operating Permit 24360 – issued March 24, 2016 and reissued April 14, 2016; and Operating Permit 24361 – issued March 24, 2016 and reissued April 14, 2016) to address the VOC RACT deficiency. On January 24, 2017 the California Air Resources Board (CARB) submitted these operating permits to the EPA for SIP approval and the EPA proposed to approve them into the California SIP on July 19, 2017 (82 FR 33032). Specifically, we proposed 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 from SMAQMD Operating Permit Nos. 24360 and 24361. We proposed to approve these portions of the operating permits into the SIP because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on these operating permits and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving the submitted portions of the operating permits into the California SIP. Specifically, we are approving 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 Operating Permit Nos. 24360 and 24361, which together establish enforceable VOC limitations that satisfy RACT for the landfill gas flares at the Kiefer Landfill. Please see the docket for a copy of the complete

submitted documents.

Final approval satisfies California's obligation, under CAA section 182 for the 1997 8-hour ozone NAAQS, to implement RACT for the landfill gas flares at the Kiefer Landfill. Our August 12, 2016 partial disapproval of SMAQMD's RACT SIP demonstration for the 1997 NAAQS also stated that amendments to SMAQMD's pharmaceuticals manufacturing rule were required to satisfy RACT. We are taking a separate action elsewhere in today's **Federal Register** to fully approve SMAQMD Rule 464, Organic Chemical Manufacturing Operations, into the SIP. Our final approval of both the operating permits for the flares at the Kiefer Landfill and approval of Rule 464 will terminate both the sanctions clock and the federal implementation plan clock associated with our August 12, 2016 partial disapproval of SMAQMD's RACT SIP.

IV. Incorporation by Reference

In this rule the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the SMAQMD operating permits described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents 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).

V. 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 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 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- 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, as appropriate, disproportionate human health or environmental effects, using practicable 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).

The Congressional Review Act, 5 U.S.C. section 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. The EPA will submit a report containing this action 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 **[insert date 60**

days after date of publication in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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.

November 6, 2017.
Dated:

Alexis Strauss,
Acting 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 paragraph (c)(497) to read as follows:

§52.220 Identification of plan—in part.

* * * * *

(c) * * *

(497) New and/or amended regulations for the following AQMDs were submitted on January 24, 2017 by the Governor’s designee.

(i) *Incorporation by reference.* (A) Sacramento Metropolitan Air Quality Management District.

(1) Permit to Operate for the Kiefer Landfill (“Permit to Operate No. 24360 – Air Pollution Control Landfill Gas Flare No. 1, Enclosed Type”) with Attachment A, as reissued on April 14, 2016.

(2) Permit to Operate for the Kiefer Landfill (“Permit to Operate No. 24361 – Air Pollution Control Landfill Gas Flare No. 2, Enclosed Type”) with Attachment A, as reissued on April 14, 2016.