



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2019-0272; FRL-9997-16-Region 9]

Air Plan Approval; California; South Coast Air Quality Management District; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the South Coast Air Quality Management District (SCAQMD or “the District”) portion of the California State Implementation Plan (SIP). We are finalizing approval of a revision governing issuance of permits for stationary sources, including review and permitting of major sources and major modifications under part D of title I of the Clean Air Act (CAA or “the Act”). Specifically, the revision pertains to SCAQMD Rule 1325 “Federal PM_{2.5} New Source Review Program.”

DATES: This rule is effective on [**Insert date 60 days after date of publication in the Federal Register**] without further notice, unless the EPA receives one or more adverse comments by [**Insert date 30 days after the date of publication in the Federal Register**]. If we receive such comments, we will publish a timely withdrawal in the *Federal Register* to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2019-0272 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online

instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. 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: Laura Yannayon, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3534 or by email at yannayon.laura@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 rule did the State submit?*

Table 1 lists the rule addressed by this action with the date it was adopted by the SCAQMD and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULE

Rule #	Rule Title	Amended	Submitted
1325	Federal PM _{2.5} New Source Review Program	1/4/2019	4/24/19

On June 5, 2019, the EPA determined that the submittal for Rule 1325 met the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal review by the EPA.

B. *Are there other versions of this rule?*

The current SIP contains a version of Rule 1325 “Federal PM_{2.5} New Source Review Program,” approved into the SIP on November 30, 2018.¹ The EPA’s final approval of the rule identified above in Table 1 would have the effect of entirely superseding our prior approval of the same rule in the current SIP-approved program.

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

Rule 1325 addresses nonattainment new source review (NNSR) permit requirements for major sources of PM_{2.5}. The rule has been amended to address the single deficiency the EPA identified in our November 18, 2018 action regarding the lack of inclusion of volatile organic compounds and ammonia as PM_{2.5} precursors when evaluating if a project will result in a major

¹ 83 FR 61551.

modification. The District also made minor clarifying edits.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule?

In our November 30, 2018 action conditionally approving Rule 1325 into the SCAQMD portion of the California SIP, we determined that separate from the identified deficiency, the rule satisfied the applicable requirements for a PM_{2.5} NNSR permit program. Therefore, in this action we are only evaluating whether the amendments to Rule 1325 address the identified deficiency and if the minor clarifying edits are approvable.

B. Does the rule meet the evaluation criteria?

The definition of term Regulated NSR Pollutant was revised to include all PM_{2.5} precursors. This revision corrects the deficiency previously identified by EPA.

The definitions of Major Polluting Facility in paragraph (b)(4) and Precursors in paragraph (b)(9), were revised to remove the existing August 14, 2017 applicability date since the date has passed. Likewise, revisions were made to section (f) – Two Year Limit on Facility Exemption, to implement the 70 ton per year applicability threshold, rather than provide a future effective date. In paragraphs (b)(6) and (b)(15), a new definition for the terms Oxides of Nitrogen and Volatile Organic Compound, respectively, were added. These definitions are consistent with EPA definitions for these terms. Other minor capitalization edits were made throughout the rule. EPA finds each of these revisions approvable.

C. Public comment and final action

As authorized in section 110(k)(3) of the Act, the EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements. Because the revisions to the rule are

minor, or correct the identified deficiency, we do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this issue of the *Federal Register*, we are simultaneously proposing approval of the same submitted rule. If we receive an adverse comment by [**Insert date 30 days after date of publication in the Federal Register**], we will publish a timely withdrawal in the *Federal Register* to notify the public that the direct final approval will not take effect and we will address the comment(s) in a subsequent final action based on the proposal. If we do not receive any timely adverse comment, the direct final approval will be effective without further notice on [**Insert date 60 days after date of publication in the Federal Register**]. This will incorporate the rule into the federally enforceable SIP.

III. 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 rule listed in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available electronically through <https://www.regulations.gov> and in hard copy 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 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides, Volatile organic compounds.

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

Dated: July 16, 2019.

Deborah Jordan,
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 paragraphs (c)(509)(i)(A)(2) and (c)(524) to read as follows:

§52.220 Identification of plan—in part.

* * * * *

(c) * * *

(509) * * *

(i) * * *

(A) * * *

(2) Previously approved on November 30, 2018 in paragraph (c)(509)(i)(A)(1) of this section and now deleted with replacement in paragraph (c)(524)(i)(A)(1) of this section, Rule 1325.

* * * * *

(524) New and amended regulations for the following APCDs were submitted on April 24, 2019 by the Governor’s designee.

- (i) *Incorporation by Reference.* (A) South Coast Air Quality Management District.
- (1) Rule 1325, “Federal PM_{2.5} New Source Review Program” amended on January 4, 2019.
- (2) [Reserved]
- (B) [Reserved]

(ii) [Reserved]

§52.248 [Amended]

3. Section 52.248 is amended by removing and reserving paragraph (f).

[FR Doc. 2019-19999 Filed: 9/19/2019 8:45 am; Publication Date: 9/20/2019]