



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2023-0625; FRL-11613-02-R9]

Air Plan Approval; California; Eastern Kern Air Pollution Control District; Tehama County Air Pollution Control District; San Diego County Air Pollution Control District; Emissions Statement Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions, under the Clean Air Act (CAA or “Act”), to portions of the California State Implementation Plan (SIP) regarding emissions statements (ES) requirements for the 2015 ozone national ambient air quality standards (NAAQS). In addition, we are approving that the following California nonattainment areas meet the ES requirements for the 2015 ozone NAAQS: Tuscan Buttes, Kern County (Eastern Kern), and San Diego County.

DATES: This rule is effective **[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-2023-0625. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, 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. If you need assistance in a language other than English or if you are a person with a disability who

needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Sina Schwenk-Mueller, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4100 or by email at *schwenkmuller.sina@epa.gov*.

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

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I. Proposed Action

On July 12, 2024, (89 FR 57120), the EPA proposed to approve the following rules into the California SIP.

Agency	Rule #	Rule Title	Amended/ Adopted	Submitted
Eastern Kern Air Pollution Control District (APCD)	Rule 108.2	Emission Statement Requirements	8/4/22	12/7/22
Tehama County APCD	Rule 2:20	Emissions Statement	3/1/22	7/5/22
San Diego County APCD	Rule 19.3	Emission Information	12/9/21	3/9/22

These rules were submitted by the relevant counties to fulfill CAA section 182(a)(3)(B) ES requirements. We proposed to approve these rules because we determined that they comply with the relevant CAA requirements. Our proposed action contains more information on the rules 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 one comment asserting that indoor cannabis growth is responsible for significant emissions of greenhouse gases. We acknowledge the information provided by the commenter regarding the potential for the cannabis cultivation industry to be a source of greenhouse gas emissions. As noted above and in our proposal notice, this action concerns administrative emission statement requirements under CAA section 182(a)(3)(B). As a result, we do not consider this comment to be germane because it is outside the scope of our proposed action.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is approving these rules into the California SIP. There are no previous versions of Tehama County APCD Rule 2:20 in the SIP. The December 9, 2021 version of San Diego County APCD Rule 19.3 and the August 4, 2022 version of Eastern Kern APCD Rule 108.2 will replace the previously approved versions of these rules in the 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 Eastern Kern APCD Rule 108.2 (amended 8/4/22), Tehama County APCD Rule 2:20 (adopted 3/1/22), and San Diego County APCD Rule 19.3 (adopted 12/9/21). The APCD rules regulate ES requirements for the 2015 ozone NAAQS. 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 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

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).

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. 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 oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: **February 28, 2025.**

Cheree D. Peterson,
Acting Regional Administrator, Region IX.

For the reasons stated in the preamble, the Environmental Protection Agency amends part 52, chapter I, title 40 of the Code of Federal Regulations 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)(190)(i)(E)(2), (c)(241)(i)(A)(9), (c)(604)(i)(A)(2), (c)(607)(i)(D), and (c)(625) to read as follows:

§ 52.220 Identification of plan – in part.

	*	*	*	*	*
(c)	*	*	*		
(190)	*	*	*		
(i)	*	*	*		
(E)	*	*	*		

(2) Previously approved on May 26, 2004, in paragraph (c)(190)(i)(E)(1) of this section and now deleted with replacement in (c)(625)(i)(A)(1) of this section: Rule 108.2, adopted on July 13, 1992.

	*	*	*	*	*
(241)	*	*	*		
(i)	*	*	*		
(A)	*	*	*		

(9) Previously approved on March 9, 2000, in paragraph (c)(241)(i)(A)(4) of this section and now deleted with replacement in (c)(604)(i)(A)(2) of this section: Rule 19.3, adopted on May 15, 1996.

	*	*	*	*	*
(604)	*	*	*		

(i) * * *

(A) * * *

(2) Rule 19.3, “Emission Information,” adopted on December 9, 2021.

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(607) * * *

(i) * * *

(D) Tehama County Air Pollution Control District.

(I) Rule 2:20, “Emissions Statement,” adopted on March 1, 2022.

(2) [Reserved]

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(625) The following regulation was submitted on December 7, 2022, by the Governor’s designee as an attachment to a letter dated November 30, 2022.

(i) *Incorporation by reference.*

(A) Eastern Kern Air Pollution Control District.

(I) Rule 108.2, “Emissions Statement Requirements,” amended on August 4, 2022.

(2) [Reserved]

(B) [Reserved]

(ii) [Reserved]

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