



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2024-0315; FRL-12098-02-R9]

### Air Plan Revisions; California; Feather River 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 Feather River Air Quality Management District (FRAQMD or “District”) portion of the California State Implementation Plan (SIP). This revision concerns recodification of certain rules to replace historical Sutter County Air Pollution Control District and Yuba County Air Pollution Control District rules with the corresponding FRAQMD rules. These rules regulate pollutants under the Clean Air Act (CAA or “Act”).

**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-2024-0315. 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:** Mae Wang, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; phone: (415) 947-4137; email: wang.mae@epa.gov.

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

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### **I. Proposed Action**

On September 5, 2024 (89 FR 72353), the EPA proposed to approve the submitted FRAQMD rules listed below into the California SIP because they represent recodifications of existing SIP rules. These rules will supersede the Sutter County Air Pollution Control District (SCAPCD) and Yuba County Air Pollution Control District (YCAPCD) rules of the same corresponding number. The EPA therefore also proposed to approve the rescissions of the corresponding SCAPCD and YCAPCD rules because they mirror recodified rules proposed for approval.

The rules were locally adopted by the FRAQMD on August 12, 1991. They were initially scheduled for adoption at a June 1991 Board Meeting, but the adoption was postponed to August 1991. The FRAQMD ultimately adopted the rules in this section on August 12, 1991, but “6/91” remained as the adoption date printed on the rules. Additionally, a typographic error in Rule 3.3 was corrected and adopted by the FRAQMD on October 3, 2022, without changing the official adoption date of the rule. The rules submitted by CARB on May 11, 2023, for inclusion in the California SIP are:

Rule 3.0, Visible Emissions

Rule 3.1, Exceptions to Rule 3.0 (excluding paragraph D)

Rule 3.2, Particulate Matter Concentration

Rule 3.3, Dust and Fumes

Rule 3.4, Separation of Emissions

Rule 3.5, Combination of Emissions

Rule 3.6, Abrasive Blasting

Rule 3.7, Reduction of Animal Matter

Rule 3.10, Sulfur Oxides

Rule 3.13, Circumvention

Rule 9.6, Equipment Breakdown

We proposed to approve these rules because they represent recodifications of existing SIP rules. 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 four comments, one of which is a duplicate of a previous submission. The three distinct comments were from members of the public. All the comment submissions can be found in the docket for this rulemaking.

*Comment 1:* One commenter acknowledged that the "idea of combining the regulations across both counties will make for a more cohesive plan and environment." However, while there was no clear objection to the recodification of the existing SIP rules, the commenter asserted that much has changed since the original rules were adopted with respect to environmental justice (EJ) and economic and environmental conditions. The commenter also suggested that the SIP revision at issue could represent an opportunity to evaluate the existing rules in light of current topics and conditions and provide for community growth and input and to restructure the laws and regulations to get the best outcome for everyone, rather than simply reestablishing existing rules.

*Response 1:* The commenter correctly states that "the original rules have been in place for several decades at this point." We acknowledge the commenter's interest in more current and

potentially better regulations or regulatory strategies from the FRAQMD. We encourage public participation in the FRAQMD's current and future rule development efforts. The purpose of this EPA rulemaking is to replace the SCAPCD and YCAPCD rules now existing in the federally enforceable SIP in favor of rules that reflect the FRAQMD's current locally enforceable rulebook. This aligns the federally enforceable SIP versions of the rules with those that are in effect in the FRAQMD until the FRAQMD develops more current regulations.

As explained in our September 5, 2024 proposal, we consider the recodification of existing SIP rules to be administrative in nature and not warranting a new review of the substance of the rules. The rules being approved have all been previously approved into the SIP, and this rulemaking merely reflects that the rules were recodified by the FRAQMD when it was created. Without this rulemaking, the FRAQMD portion of the California SIP would continue to contain certain rules from the SCAPCD and the YCAPCD, which are FRAQMD predecessor agencies that no longer exist. This rulemaking does not imply any position with respect to the approvability of the substance of the rules. The substance of these rules is already in the SIP because the submitted FRAQMD rules are essentially identical to the corresponding SCAPCD and YCAPCD rules. Therefore, we are not reviewing the substance of the rules at this time.

*Comment 2:* Another commenter expressed support for the proposed action and a desire for stricter open burning regulations in the FRAQMD.

*Response 2:* We acknowledge the interest in stricter open burning regulations. FRAQMD's requirements related to open burning are found in Regulation II, but the FRAQMD rules that are the subject of this action are found in Regulation III and Regulation IX. As such, the comment for stricter open burning regulations lies outside the scope of this rulemaking.

*Comment 3:* The third commenter expressed support for the proposed action, saying that updating the SIP to replace outdated rules with the FRAQMD rules "ensures that there is a clear and consistent regulatory framework" and "provides clarity and transparency in regulatory enforcement." Additionally, the commenter stated that "Having less confusing regulatory

requirements fosters better compliance and enforcement, ultimately leading to cleaner air for everyone,” and expressed that the proposed action is a proactive approach to improving air quality and embodies a commitment to public health.

*Response 3:* The EPA acknowledges the support for our action. In this document, we are taking final action to replace certain historical SCAPCD and YCAPCD rules in the SIP with the corresponding FRAQMD rules.

### **III. EPA Action**

No comments were submitted that change our assessment of the submitted request as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is approving the following rules into the California SIP: FRAQMD Rules 3.0, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.10, 3.13, and 9.6. These rules will replace the corresponding historical SCAPCD and YCAPCD 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 FRAQMD Rule 3.0, “Visible Emissions”; FRAQMD Rule 3.1, “Exceptions to Rule 3.0” (excluding paragraph D); FRAQMD Rule 3.2, “Particulate Matter Concentration”; FRAQMD Rule 3.3, “Dust and Fumes”; FRAQMD Rule 3.4, “Separation of Emissions”; FRAQMD Rule 3.5, “Combination of Emissions”; FRAQMD Rule 3.6, “Abrasive Blasting”; FRAQMD Rule 3.7, “Reduction of Animal Matter”; FRAQMD Rule 3.10, “Sulfur Oxides”; FRAQMD Rule 3.13, “Circumvention”; and FRAQMD Rule 9.6, “Equipment Breakdown,” all adopted on August 12, 1991, which regulate emissions of air pollutants. The EPA has made, and will continue to make, these documents 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).

### **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 (CRA), 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, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 4, 2025.

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

For the reasons stated in the preamble, the EPA 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)(89)(iii)(G), (c)(98)(i)(H), (c)(125)(vii)(B), and (c)(610)(i)(E).

The additions read as follows:

**§ 52.220 Identification of plan - in part.**

\* \* \* \* \*

(c) \* \* \*

(89) \* \* \*

(iii) \* \* \*

(G) Previously approved on April 12, 1982, in paragraph (c)(89)(iii)(B) of this section and now deleted with replacement in (c)(610)(i)(E)(I)-(IO) of this section: Rules 3.0-3.7, 3.10, and 3.13.

\* \* \* \* \*

(98) \* \* \*

(i) \* \* \*

(H) Previously approved on April 12, 1982, in paragraph (c)(98)(i)(B) of this section and now deleted with replacement in (c)(610)(i)(E)(I)-(II) of this section: Rules 3.0-3.7, 3.10, 3.13, and 9.6.

\* \* \* \* \*

(125) \* \* \*

(vii) \* \* \*

(B) Previously approved on November 10, 1982, in paragraph (c)(125)(vii)(A) of this section

and now deleted with replacement in (c)(610)(i)(E)(II) of this section: Rule 9.6.

\* \* \* \* \*

(610) \* \* \*

(i) \* \* \*

(E) Feather River Air Quality Management District.

(1) Rule 3.0, “Visible Emissions,” adopted on August 12, 1991.

(2) Rule 3.1, “Exceptions to Rule 3.0,” (excluding paragraph D), adopted on August 12, 1991.

(3) Rule 3.2, “Particulate Matter Concentration,” adopted on August 12, 1991.

(4) Rule 3.3, “Dust and Fumes,” adopted on August 12, 1991.

(5) Rule 3.4, “Separation of Emissions,” adopted on August 12, 1991.

(6) Rule 3.5, “Combination of Emissions,” adopted on August 12, 1991.

(7) Rule 3.6, “Abrasive Blasting,” adopted on August 12, 1991.

(8) Rule 3.7, “Reduction of Animal Matter,” adopted on August 12, 1991.

(9) Rule 3.10, “Sulfur Oxides,” adopted on August 12, 1991.

(10) Rule 3.13, “Circumvention,” adopted on August 12, 1991.

(11) Rule 9.6, “Equipment Breakdown.” adopted on August 12, 1991.

Note 1 to paragraph (c)(610)(i)(E): The FRAQMD rules referenced in this paragraph

(c)(610)(i)(E) were initially scheduled for adoption at a June 1991 Board Meeting, but the adoption was postponed to August 1991. The FRAQMD ultimately adopted the rules in this section on August 12, 1991, but “6/91” remained as the adoption date printed on the rules.

Additionally, a typographic error in Rule 3.3 was corrected and adopted by the FRAQMD on October 3, 2022, without changing the official adoption date of the rule.

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