



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2024-0620; FRL-12530-01-R9]

### Air Plan Revision; California; Placer County Air Pollution Control District; New Source Review

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the Placer County Air Pollution Control District (PCAPCD or “District”) portion of the California State Implementation Plan (SIP). This revision concerns the District’s Clean Air Act (CAA or “Act”) nonattainment new source review permitting program that regulates construction and modifications of major stationary sources of air pollution in nonattainment areas. We are proposing to approve a local rule that has been revised to address deficiencies previously identified by the EPA in a prior action that included a limited approval / limited disapproval of a prior version of the rule. We are taking comments on this proposal and plan to follow with a final action. Elsewhere in this *Federal Register*, we are making an interim final determination that will defer the imposition of CAA sanctions associated with our previous limited disapproval.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2024-0620 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>. 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:** Kira Wiesinger, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; phone: (415) 972-3827; email: [wiesinger.kira@epa.gov](mailto:wiesinger.kira@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?*

On November 15, 2025, the California Air Resources Board (CARB) submitted District

Rule 502 to the EPA for approval as a revision to the California SIP.<sup>1</sup> Table 1 lists the rule addressed by this proposal, including the date on which it was adopted by the District and the date on which it was submitted to the EPA by CARB, which is the governor’s designee for California SIP submittals.

TABLE 1 – SUBMITTED RULE

Rule #	Rule Title	Amended	Submitted
502	New Source Review	6/13/24	11/15/24

The EPA has reviewed submitted Rule 502 and finds that it fulfills the completeness criteria of appendix V.<sup>2</sup>

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

The SIP-approved version of Rule 502 is identified in table 2.

TABLE 2 – SIP-APPROVED RULE

Rule #	Rule Title	SIP Approval Date	<i>Federal Register</i> citation
502	New Source Review	9/26/23	88 FR 65816

If the EPA finalizes the action proposed herein, the rule listed in table 2 will be replaced in the SIP by the submitted rule listed in table 1. Additionally, as described below, the EPA’s final approval of Rule 502 will resolve our September 26, 2023 limited disapproval of Rule 502 (“2023 NSR Action”)<sup>3</sup> as adopted locally on August 12, 2021.

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

The submitted rule constitutes part of the District’s program for preconstruction review and permitting of new or modified stationary sources under its jurisdiction. It addresses elements of the new source review (NSR) preconstruction review program requirements applicable to nonattainment areas under part D of title I of the Act (“nonattainment NSR” or “NNSR”), the

<sup>1</sup> Letter dated November 13, 2024, from Steven S. Cliff, Executive Officer, CARB, to Martha Guzman, Regional Administrator, U.S. EPA Region 9 (submitted electronically November 15, 2024).

<sup>2</sup> See EPA Region 9 Completeness Checklist dated December 13, 2024, included in the docket for this proposed rulemaking.

<sup>3</sup> 88 FR 65816 (September 26, 2023).

general requirements under section 110(a)(2)(C) of the Act (“minor NSR”), and related EPA regulations. The submitted revisions are intended to resolve deficiencies identified in the 2023 NSR Action.

For more information on the purpose and content of Rule 502, as well as the NNSR and minor NSR requirements applicable to the area, see the 2023 NSR Action and accompanying proposal and technical support document (TSD).<sup>4</sup>

## **II. The EPA’s Evaluation and Proposed Action**

### *A. How is the EPA evaluating the rule?*

The EPA has evaluated Rule 502 to determine whether it addresses the deficiencies identified in our 2023 NSR Action. We have also reviewed the submitted revisions for compliance with CAA sections 172(c)(5), 173, 182, and 189, which establish the requirements for stationary source preconstruction permitting programs, including those specifically applicable based on the area’s ozone and PM<sub>2.5</sub> nonattainment classifications, as well as the Federal regulations applicable to stationary source permitting at 40 CFR 51.160 through 51.165.<sup>5</sup> Additionally, the EPA reviewed the rule for consistency with other general CAA requirements for SIP submittals, including requirements at CAA section 110(a)(2)(A) regarding rule enforceability and requirements at CAA sections 110(l) and 193 for SIP revisions. We have also considered whether the rule meets the Federal visibility requirements related to State NNSR programs as described in 40 CFR 51.307.

### *B. Does the rule meet the evaluation criteria?*

The submitted rule complies with the substantive and procedural requirements of CAA section 110(l). With respect to the procedural requirements, based on our review of the public process documentation included with the submitted rule, we find that the District has provided

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<sup>4</sup> 88 FR 65816 (September 26, 2023); 88 FR 47409 (July 24, 2023); The TSD can be found in the docket for the 2023 NSR Action at <https://www.regulations.gov/docket/EPA-R09-OAR-2021-0933/document>.

<sup>5</sup> See the 2023 NSR Action and accompanying TSD for additional analysis of how District Rules 501 and 502 satisfy applicable NSR requirements, including the minor NSR requirements.

sufficient evidence of public notice and opportunity for comment and public hearings prior to submittal of this SIP revision.

With respect to the substantive requirements of CAA section 110(l), we have determined that our approval of the submitted rule would not interfere with the area's ability to attain or maintain the NAAQS or with any other applicable requirements of the CAA. Similarly, we find that the submitted rule is approvable under section 193 of the Act because it does not modify any control requirement in effect before November 15, 1990, without ensuring equivalent or greater emission reductions. The submitted rule is otherwise consistent with criteria for the EPA's approval of regulations submitted for inclusion in the SIP, including the requirement at CAA section 110(c)(2)(A) that submitted regulations be clear and legally enforceable.

In evaluating the substance of the submitted revisions, we have focused especially on how the changes address the deficiencies described in the 2023 NSR Action. The 2023 NSR Action identified five deficiencies that precluded our full approval of the previous version of Rule 502:

1. The rule did not contain provisions to restrict permitting if the EPA found that the SIP was not being adequately implemented in the area, as required under CAA section 173(a)(4).
2. The definition of the term "Major Modification" in section 231 of the rule did not correctly apply the CAA section 182(c)(6) requirements regarding aggregation of net emission increases and incorrectly specified use of potential to emit as the basis for calculating emission increases.
3. The rule did not contain the definition of "Federal Land Manager" from 40 CFR 51.165(a)(1)(xlii).
4. The definition of the term "Major Stationary Source – Sacramento Air Basin" in section 229 of the rule did not specify a major source threshold for ammonia, which is a PM<sub>2.5</sub> precursor, as required by 40 CFR 51.165(a)(13). Similarly, the definition of the term

“Major Modification” in section 231 of the rule was deficient because it relied on the section 229 definition.

5. The definition of “Sacramento Valley Air Basin” in section 251 did not include a portion of the federally-defined Sacramento PM<sub>2.5</sub> nonattainment area, and therefore the rule did not apply the PM<sub>2.5</sub> NNSR program requirements to that area, as required under CAA section 173.

See the 2023 NSR Action and accompanying proposal and TSD for more information regarding the identified deficiencies.

The PCAPCD addressed the first deficiency by adding a new provision in section 305.3 that prohibits the District from issuing a permit under Rule 502 “when the EPA Administrator has determined that the applicable implementation plan is not being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified, in accordance with the requirements of Part D of Title I of the Federal Clean Air Act.” We propose to find that this revision corrects the identified deficiency.

The District addressed the second deficiency by revising the definition of “Major Modification” in section 231 to allow aggregation of a project’s nitrogen oxides and volatile organic compounds emissions increases with emissions only from recent projects that resulted in a net emissions increase (rather than allowing aggregation of emissions increases and decreases), and to require that net emissions increases be calculated based on increases from baseline actual emissions as defined in section 206 (rather than changes in potential to emit). We propose to find that this revision corrects the identified deficiency.

The District addressed the third deficiency by referencing the definition of the term “Federal Land Manager” in 40 CFR 51.165(a)(1)(xlii) in section 304.3. We propose to find that this revision corrects the identified deficiency.

The District addressed the fourth deficiency by revising the definition of “Major Stationary Source – Sacramento Air Basin” in section 229 to include any stationary source that

emits or has the potential to emit over 100 tons per year of ammonia. We propose to find that this revision corrects the identified deficiency.

The District addressed the fifth deficiency by adding a new provision in section 251.2 that delineates the area boundaries for the Federal PM<sub>2.5</sub> nonattainment area within the District's jurisdiction. The amended Rule 502 now applies to the entire portion of the Sacramento PM<sub>2.5</sub> nonattainment area within the District's jurisdiction. We propose to find that this revision corrects the identified deficiency.

The PCAPCD also revised the definition of "Class I Area" in section 201 to specify that the term has the same meaning as "Mandatory Class I Federal Area" as used in the rule. This revision addresses a recommendation from the 2023 NSR Action for the District to clarify definitions related to visibility impacts consistent with the Federal definition of "Federal Class I Area" found in 40 CFR 51.301.

Additionally, the District revised language in sections 301.3 and 301.8 to clarify the rule's emissions offset quantification procedures for modifications that do not trigger Federal NSR permitting thresholds. These revisions relate only to state offset requirements and do not affect requirements for emissions offsets needed for Federal major sources and modifications.

For the reasons stated above, we are proposing to find that the submitted rule corrects the deficiencies described in the 2023 NSR Action and satisfies the applicable CAA and regulatory requirements. We are concurrently making an interim final determination to defer CAA section 179 sanctions associated with the 2023 NSR Action's limited disapproval of Rule 502. Consistent with our order of sanction regulations,<sup>6</sup> our determination is based on this proposal to approve SIP revisions from the District that resolve the deficiencies identified in our prior limited disapproval that triggered sanctions under section 179 of the CAA.

### *C. Proposed Action and Public Comment*

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<sup>6</sup> 40 CFR 52.31.

As authorized in section 110(k)(3) of the Act, the EPA is proposing a full approval of Rule 502 because it corrects the previously identified deficiencies and continues to satisfy the applicable statutory and regulatory provisions governing regulation of stationary sources, including provisions of CAA sections 110(l), 172(c)(5), 173, 182, 189, and 193, and 40 CFR 51.160 through 51.165 and 51.307.

If finalized as proposed, our action will be codified through revisions to 40 CFR 52.220a (Identification of plan—in part). This action would incorporate the submitted Rule 502 into the SIP.

We will accept comments from the public on this proposal until [**Insert date 30 days after date of publication in the *FEDERAL REGISTER***].

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

In this rule, 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 EPA is proposing to incorporate by reference the rule listed in table 1 of this preamble. PCAPCD Rule 502 implements the District's NNSR permitting program for new and modified major stationary sources of air pollution in nonattainment areas and further described in sections I and II of this preamble. The EPA has made, and will continue to make, this document available electronically 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 CAA, 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 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.

Additional information about these statutes and Executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

*B. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by State law.

*C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by State law.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by State law. Accordingly, no additional costs to State, local, or Tribal governments, or to the private sector will result from this action.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

*F. Executive Order 13175: Coordination with Indian Tribal Governments*

This action does not have Tribal implications, as specified in Executive Order 13175, because 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 and will not impose substantial direct costs on Tribal governments or preempt Tribal law. Thus, Executive Order 13175 does not apply to this action.

*G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive order. Therefore, this action is not subject to Executive Order 13045 because it is merely proposing a limited approval and limited disapproval of State law as meeting Federal requirements. Furthermore, the EPA’s Policy on Children’s Health does not apply to this action.

*H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA)*

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Administrative practice and procedure, Air pollution control, Ammonia, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone,

Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 14, 2025.

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

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