



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2022-0526; FRL-10286-02-R9]

Air Quality Plans; California; Tehama County Air Pollution Control District; New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Tehama County Air Pollution Control District's (TCAPCD or "District") portion of the California State Implementation Plan (SIP). This revision governs the District's issuance of permits for stationary sources and focuses on the preconstruction review and permitting of major sources and major modifications under part D of title I of the Clean Air Act (CAA or "the 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-2022-0526. 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 the disclosure of which 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.

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

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I. Proposed Action

On March 26, 2024 (89 FR 20915), the EPA proposed to approve the rule listed in Table 1 into the California SIP.

TABLE 1 SUBMITTED RULE

District	Rule or Regulation #	Rule Title	Adopted	Submitted ¹
Tehama County APCD	Rule 2:3C	New and Modified Major Sources in the Tuscan Buttes Nonattainment Areas	02/28/23	05/11/23

For areas designated nonattainment for one or more of the National Ambient Air Quality Standards (NAAQS), the applicable SIP must include preconstruction review and permitting requirements for new or modified major stationary sources of such nonattainment pollutant(s) under part D of title I of the Act, commonly referred to as Nonattainment New Source Review (NNSR). The rule listed in Table 1 contains the TCAPCD’s NNSR permit program applicable to

¹ The submittal was transmitted to the EPA via a letter from the California Air Resources Board (CARB or “the State”) dated May 10, 2023. On December 5, 2023, CARB submitted a corrected version of Rule 2:3C, as the copy of the clean version of the rule that had been included in the May 11, 2023 SIP submittal did not include its adoption date and also contained an additional formatting error, and thus did not reflect the final rule that had been adopted on February 28, 2023.

new and modified major sources located in the area within the District that is designated nonattainment for the NAAQS.

We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. Rule 2:3C is intended to address the CAA's statutory and regulatory requirements for NNSR permit programs for major sources emitting nonattainment air pollutants and their precursors. Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

The 30-day public comment period for the proposed rule closed on April 25, 2024. During this period, the EPA received two comments. The first commenter expressed concerns about the environmental effects of cannabis cultivation, asserting that commercial cannabis cultivation can produce volatile organic compounds which may lead to ozone pollution and that cannabis is a water-hungry crop. The second commenter questioned why the budget does not provide for ozone monitoring that is more representative of the jurisdiction, noting the high elevation location of the monitor at the Tuscan Buttes, over 1,800 feet above mean sea level, with meteorological conditions likely different than in the main part of Tehama County.

After reviewing each comment, the EPA has determined that these comments fail to raise issues germane to the EPA's proposed approval of Rule 2:3C into the California SIP, which is based specifically upon the Clean Air Act's requirements for state NNSR programs. Therefore, we have determined that these comments do not necessitate a response, and the EPA will not provide specific responses to the comments in this notice.

III. EPA Action

No comments were submitted that change our assessment of Rule 2:3C as described in our proposed action. We continue to find that Rule 2:3C satisfies the relevant requirements for a

CAA NNSR program for ozone,² as well as the associated visibility requirements for sources subject to review under such a program in accordance with 40 CFR 51.307. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is approving this rule into the California SIP.

This action incorporates the submitted rule into the California SIP. In conjunction with the EPA's SIP approval of the District's visibility program for sources subject to the NNSR program, this action also revises the scope of the visibility Federal Implementation Plan (FIP) at 40 CFR 52.281 for California so that this FIP no longer applies to sources located in the TCAPCD nonattainment area that is subject to the District's visibility program.

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 incorporating by reference Rule 2:3C, "New and Modified Major Sources in the Tuscan Buttes Nonattainment Areas," adopted on February 28, 2023, as described in Section I of this preamble, which regulates the District's issuance of preconstruction permits for major sources emitting nonattainment air pollutants and their precursors under part D of title I of the CAA. The EPA has made, and will continue to make, these materials available <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

² As discussed in our proposed action, we determined that Rule 2:3C satisfies the NNSR program requirements applicable to nonattainment areas classified as Marginal for ozone, and that the submittal addressed the NNSR requirements both the 2008 and 2015 ozone NAAQS. 89 FR 20916-17.

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);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review 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 (Pub. L. 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, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 25, 2025.

Joshua F. W. Cook,
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 paragraph (c)(610)(i)(F) to read as follows:

§52.220 Identification of plan – in part.

* * * * *

(c) * * *

(610) * * *

(i) * * *

(F) Tehama County Air Pollution Control District.

(I) Rule 2:3C, “New and Modified Major Sources in the Tuscan Buttes Nonattainment Areas,” adopted on February 28, 2023.

(2) [Reserved]

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3. Section 52.281 is amended by adding paragraph (d)(16) to read as follows:

§ 52.281 Visibility protection.

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(d) * * *

(16) Tehama County Air Pollution Control District.

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