



ENVIRONMENTAL PROTECTION AGENCY

40 CFR part 52

[EPA-R09-OAR-2025-0216; FRL-12613-01-R9]

Air Quality Plans; Guam; Guam Environmental Protection Agency; New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a revision to the Guam State Implementation Plan (SIP). This revision governs the Guam Environmental Protection Agency's (GEPA'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"). We are taking comments on this proposal and plan to follow with a final action.

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-2025-0216 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 the disclosure of which 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 <http://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities 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: Cecelia Working, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; by phone: (213) 244-1911; or by email to working.cece@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 proposal, including the date on which it was adopted by Guam, the State effective date, and the date on which it was submitted to the EPA by the GEPA. The GEPA is the air pollution control agency for Guam and the designated State¹ lead agency for submitting revisions of the Guam SIP to the EPA.

TABLE 1 SUBMITTED RULE

¹ CAA section 302(d) defines the term “State” to include Guam.

Air Agency	Rule or Regulation #	Rule Title	State Adoption Date	State Effective Date	State Submittal Date
Guam EPA	Title 22, Division 1, Chapter 1, Article 8	Guam Air Pollution Standards and Regulations New Source Review Requirements for New and Modified Major Sources in SO ₂ Nonattainment Areas Adopted on October 17, 2022	12/28/22	12/29/22	03/13/25

This document proposes to approve Guam Administrative Rules and Regulations (GAR) Title 22, Division 1, Chapter 1, Article 8 (“Article 8”) into the GEPA portion of the Guam SIP. This rule was submitted to the EPA by the GEPA on March 13, 2025, by a letter of the same date. The rule was adopted into the GAR on December 28, 2022, and became effective on December 29, 2022.² We find that GEPA’s March 13, 2025 SIP submittal for Article 8 meets the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

There are no previous versions of Article 8 in the Guam SIP.

C. What is the purpose of the submitted rule?

Article 8 is intended to address the CAA’s statutory and regulatory requirements for Nonattainment New Source Review (NNSR) permit programs for major sources emitting nonattainment air pollutants. The NNSR requirements are applicable to Guam as a result of the designation of the Piti-Cabras area in Guam as nonattainment for the 2010 1-hour sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS).

II. The EPA’s Evaluation and Action

A. What is the background for this proposal?

² The Guam Governor signed the law completing the multi-step process for adopting Article 8 into the GAR on December 28, 2022, following an earlier rulemaking process by the GEPA that concluded on October 17, 2022 and a subsequent legislative approval process that concluded on December 16, 2022.

The EPA's January 2018 designation of the Piti-Cabras area of Guam as a nonattainment area for the 2010 1-hour SO₂ NAAQS³ triggered the requirement for the GEPA to develop and submit an NNSR program to the EPA for SIP approval pursuant to CAA sections 172(c)(5) and 173 and 40 CFR 51.160-51.165. Because the Piti-Cabras portion of Guam is designated nonattainment for the 2010 1-hour SO₂ NAAQS, the GEPA's NNSR program must satisfy the NNSR requirements applicable to SO₂ nonattainment areas. This action and the EPA's evaluation of the GEPA's submitted NNSR rule specifically address whether the rule satisfies the applicable NNSR requirements associated with the designation of the Piti-Cabras area as nonattainment for the 2010 1-hour SO₂ standard.

Additional information regarding Guam's SO₂ nonattainment status and attainment/nonattainment designations for other criteria pollutants is included in our Technical Support Document (TSD), which may be found in the docket for this rule.

B. How is the EPA evaluating the rule?

The EPA reviewed Article 8 for compliance with CAA requirements for: (1) stationary source preconstruction permitting programs as set forth in CAA part D, including CAA sections 172(c)(5) and 173; (2) the review and modification of major sources in accordance with 40 CFR 51.160-51.165 as applicable to the area in Guam designated as nonattainment for the 2010 1-hour SO₂ NAAQS; (3) SIPs in general as set forth in CAA section 110(a)(2), including 110(a)(2)(A) and 110(a)(2)(E)(i);⁴ and (4) SIP revisions as set forth in CAA section 110(l)⁵ and 193.⁶ Our review evaluated the submittal for compliance with the NNSR requirements applicable

³ 83 FR 1098, 1171 (January 9, 2018); see 40 CFR 81.353.

⁴ CAA section 110(a)(2)(A) requires that regulations submitted to the EPA for SIP approval be clear and legally enforceable, and CAA section 110(a)(2)(E)(i) requires that states have adequate personnel, funding, and authority under state law to carry out their proposed SIP revisions.

⁵ CAA section 110(l) requires SIP revisions to be subject to reasonable notice and public hearing prior to adoption and submittal by states to EPA and prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA.

⁶ CAA section 193 prohibits the modification of any SIP-approved control requirement in effect before November 15, 1990, in a nonattainment area, unless the modification ensures equivalent or greater emission reductions of the relevant pollutants.

to SO₂ nonattainment areas, and it specifically ensured that the submittal addressed the NNSR requirements applicable to Guam for the 1-hour 2010 SO₂ NAAQS.

C. Does the rule meet the evaluation criteria?

With respect to procedural requirements, CAA sections 110(a)(2) and 110(l) require that revisions to a SIP be adopted by the state after reasonable notice and public hearing. Based on our review of the public process documentation included in the March 13, 2025 submittal of Article 8, we find that the GEPA has provided sufficient evidence of public notice, opportunity for comment, and a public hearing prior to adoption and submittal of this rule to the EPA.

With respect to the substantive requirements found in CAA sections 172(c)(5) and 173 and 40 CFR 51.160-51.165, we have evaluated Article 8 in accordance with the applicable CAA and regulatory requirements that apply to NNSR permit programs under part D of title I of the Act for the 2010 1-hour SO₂ NAAQS. Article 8 satisfies these requirements as they apply to sources subject to the NNSR permit program requirements applicable to Guam's Piti-Cabras 1-hour SO₂ NAAQS nonattainment area. In addition, we have determined that Article 8 satisfies the requirement in CAA section 110(a)(2)(A) that regulations submitted to the EPA for SIP approval be clear and legally enforceable, and have determined that the submittal demonstrates in accordance with CAA section 110(a)(2)(E)(i) that the GEPA has adequate personnel, funding, and authority under state law to carry out this proposed SIP revision. Our TSD contains a more detailed discussion of our analysis of Article 8.

Regarding the additional substantive requirements of CAA sections 110(l) and 193, our action will result in a more stringent SIP, while not relaxing any existing provision contained in the SIP. We have concluded that our action would comply with section 110(l) because our approval of Article 8 will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other CAA applicable requirement. In addition, our approval of Article 8 will not relax any pre-November 15, 1990 requirement in the SIP, and therefore changes to the SIP resulting from this action ensure greater or equivalent emission

reductions of SO₂ in the Piti-Cabras area of Guam; accordingly, we have concluded that our action is consistent with the requirements of CAA section 193.

D. Proposed action and public comment

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule because it fulfills all relevant requirements.

We have concluded that our approval of the submitted rule would comply with the relevant provisions of CAA sections 110(a)(2), 110(l), 172(c)(5), 173, and 193, and 40 CFR 51.160-51.165. If we finalize this action as proposed, our action will be codified through revisions to 40 CFR 52.2670 (Identification of plan).

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 GAR Title 22, Division 1, Chapter 1, Article 8, “Guam Air Pollution Standards and Regulations New Source Review Requirements for New and Modified Major Sources in SO₂ Nonattainment Areas Adopted on October 17, 2022,” which was adopted by Guam on December 28, 2022, and effective December 29, 2022. Article 8 is intended to address the CAA’s statutory and regulatory requirements for NNSR permit programs for major sources emitting nonattainment air pollutants under part D of title I of the CAA. The EPA has made, and will continue to make, these materials 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).

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 CAA. 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. For that reason, this proposed 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 proposes to approve 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).

List of Subjects in 40 CFR Part 52

Administrative practice and procedure, Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, and Sulfur dioxide.

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

Dated: **June 4, 2025.**

Joshua F. W. Cook,
Regional Administrator, Region IX.

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