



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2025-0199; FRL-12749-01-R9]

Air Plan Approval; California; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP) concerning a rule submitted to address section 185 of the Clean Air Act (CAA or “Act”) with respect to the 1997 and 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS or “standard”). 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-2025-0199 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; telephone number: (415) 972-3827; email address: 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?

Table 1 lists the rule addressed by this proposal with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

Table 1 - Submitted Rule

Local Agency	Rule #	Rule Title	Adopted	Submitted
SCAQMD	317.1	Clean Air Act Nonattainment Fees For 8-Hour Ozone Standards	06/07/24	08/13/24

On February 13, 2025, the submittal for SCAQMD Rule 317.1 was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V.

B. Are there other versions of this rule?

There are no previous versions of Rule 317.1 in the SIP.

C. What is the purpose of the submitted rule?

Under sections 182(d)(3), (e), (f) and 185 of the Act, states with ozone nonattainment areas classified as “Severe” or “Extreme” are required to submit a SIP revision that would require major stationary sources of volatile organic compounds (VOC) or oxides of nitrogen (NO_x) to pay a fee for each ton of VOC or NO_x emitted in excess of 80% of baseline emissions. Under section 185(a) of the Act, the SIP revision must provide that the fees be paid if the area to which the SIP revision applies fails to attain the primary NAAQS by the applicable attainment date. A source's baseline emissions are the lower of its actual emissions during the applicable attainment year or the emissions allowed under the permit applicable to the source. The fee rate is \$5,000 per ton in 1990 dollars, which must be adjusted for inflation based on the Consumer Price Index (CPI). The required SIP revision must provide for annual payment of the fees, computed in accordance with CAA section 185(b). More information on CAA section 185 is provided in our technical support document (TSD).

The South Coast Air Basin and the Riverside County portion of the Salton Sea Air Basin (Coachella Valley) are classified as “Extreme” nonattainment areas for the 1997 8-hour ozone standard and the 2008 8-hour ozone standard. Therefore these areas are subject to the CAA section 182(d)(3) requirement to submit a plan revision that includes the provisions required under section 185 of the Act. The SCAQMD regulates these areas and must therefore adopt a section 185 program for these NAAQS for inclusion in the portion of the California SIP that applies to these areas. The SCAQMD submitted Rule 317.1 to satisfy the requirement to submit a CAA section 185 fee program for the 1997 and 2008 ozone NAAQS. The EPA’s TSD has more information about this rule.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)) and must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)). The EPA is also evaluating the rule for consistency with the statutory requirements of CAA section 185.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation, and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

B. Does the rule meet the evaluation criteria?

Rule 317.1 specifies how fees are calculated, payment due dates, and reporting requirements. It also includes a provision for a facility owner or operator to challenge the applicability of the rule to their particular facility, as well as a provision to challenge the assigned baseline emissions used in fee calculation.

Consistent with CAA section 185, Rule 317.1 specifies that the fee is calculated for each major stationary source whose actual emissions of VOC or NO_x exceed 80% of its baseline emissions. A source's baseline emissions are generally associated with its emissions during the attainment year for a particular ozone NAAQS. The baseline emissions and the fee obligation are calculated separately for each ozone NAAQS. The fee rate is \$5,000 per ton in 1990 dollars,

adjusted for inflation based on the Consumer Price Index (CPI), and sources are to pay this fee annually for each ton emitted over the source's baseline in that year. Facility owners or operators are to report emissions annually.

This rule meets CAA requirements and is consistent with relevant guidance regarding enforceability and SIP revisions. The TSD has more information on our evaluation.

C. Proposed action and public comment

As authorized in section 110(k)(3) of the Act, the EPA proposes to approve submitted Rule 317.1 because it fulfills all relevant requirements. We will accept comments from the public on this proposal until [**Insert date 30 days after date of publication in the FEDERAL REGISTER**]. If we take final action to approve the submitted rule, our final action will incorporate this rule into the federally enforceable SIP.

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 SCAQMD Rule 317.1, Clean Air Act Nonattainment Fees for 8-Hour Ozone Standards, adopted on June 7, 2024, which addresses CAA section 185 fee program requirements. 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 Clean Air 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. 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

Environmental protection, Air pollution control, Incorporation by reference,
Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements,
Volatile organic compounds.

Dated: **July 17, 2025.**

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

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