

- 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 an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- 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 CAA; and,
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 12, 2011.

**James B. Martin,**

*Acting Regional Administrator, Region 8.*

[FR Doc. 2011-12357 Filed 5-18-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2011-0460; FRL-9309-5]

#### Revisions to the California State Implementation Plan, Sacramento Metropolitan Air Quality Management District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing both an approval and a limited approval and limited disapproval of permitting rules submitted for the Sacramento Metropolitan Air Quality Management District (SMAQMD or District) portion of the California State Implementation Plan (SIP). The District is required under Parts C and D of title I of the Clean Air Act (CAA) to adopt and implement SIP-approved New Source Review (NSR) and Prevention of Significant Deterioration (PSD) permit programs. These rules update and revise the District's NSR and PSD permitting programs for new and modified major sources of air pollution. If EPA finalizes the limited approval and limited disapproval action, as proposed, then a sanctions clock would be triggered. We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by June 20, 2011.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2011-0460, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* [R9airpermits@epa.gov](mailto:R9airpermits@epa.gov).

3. *Mail or deliver:* Gerardo Rios (Air-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail.

<http://www.regulations.gov> is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* EPA has established a docket for this action under EPA-R09-OAR-2011-0460. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Laura Yannayon, EPA Region IX, (415) 972-3534, [yannayon.laura@epa.gov](mailto:yannayon.laura@epa.gov).

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

#### Table of Contents

- I. The State's Submittal
  - A. What rules did the State submit?
  - B. Are there other versions of these rules?
  - C. What is the purpose of the submitted rules?
- II. EPA's Evaluation and Action
  - A. How is EPA evaluating the rules?
  - B. Do the rules meet the evaluation criteria?
  - C. Public Comment and Proposed Action
- III. Statutory and Executive Order Reviews

#### I. The State's Submittal

##### A. What rules did the State submit?

Table 1 lists the rules addressed by this proposal, including the dates they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Amended	Submitted
SMAQMD .....	214	Federal New Source Review .....	10/28/10	12/07/10
SMAQMD .....	203	Prevention of Significant Deterioration .....	1/27/11	1/28/11

On January 13, 2011 and May 12, 2011, EPA determined that the submittals for SMAQMD Rules 214 and 203, respectively, met the completeness criteria in 40 CFR Part 51, Appendix V, which must be met before formal EPA review.

#### *B. Are there other versions of these rules?*

There are no previous versions of Rules 203 or 214 in the SIP, but SIP approved Rule 202 (New Source Review), which these rules will replace in the SIP, was approved on June 19, 1985 (50 FR 25417).

The SMAQMD originally adopted new Rule 203 on February 26, 1991, and CARB submitted the rule to EPA on October 30, 2001, however EPA has not taken action on this submittal. While we can act on only the most recently submitted version, we have reviewed materials provided with the previous submittal.

#### *C. What is the purpose of the submitted rules?*

Section 110(a) of the CAA requires states to submit regulations that include a pre-construction permit program for certain new or modified stationary sources of pollutants, including a permit program as required by Parts C and D of Title I of the CAA.

The purpose of District Rule 214 (Federal New Source Review) and Rule 203 (Prevention of Significant Deterioration) is to implement a federal preconstruction permit program for new and modified sources. These two new rules will replace in its entirety, the existing SIP approved NSR/PSD programs contained in Rule 202. The basic NSR program requirements from Rule 202 have been included in Rule 214, with revisions made to clarify that the rule only applies to major sources and all modifications at such sources, major agricultural sources and only applies to pollutants for which the District is designated as nonattainment. In accordance with the District's May 5, 2010 (75 FR 24409) reclassification as a severe ozone nonattainment area, the rule lowers the BACT<sup>1</sup> and offset

applicability thresholds to 25 tpy or less, and increases the required offset ratio to 1.3 to 1. Pursuant to the 2002 NSR Reforms adopted by EPA (67 FR 80186), the rule adds provisions for calculating emission increases from proposed modifications by adding a definition for "Federal Major Modifications" which incorporates the necessary provisions to perform this calculation. The rule does not contain a provision for the implementation of Plantwide Applicability Limits (PALs) as required by 40 CFR 51.165(f).

The basic PSD program requirements from Rule 202 have been included in Rule 203. This rule mainly incorporates by reference the federal PSD program as codified in 40 CFR 52.21 which only applies to new major sources and major modifications at existing major sources. The rule also revises several terms used within 40 CFR 52.21 to replace NSR Reform provisions with pre-reform language and requirements. (67 FR 80186)

## **II. EPA's Evaluation and Action**

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

The relevant statutory provisions for our review of the submitted rules include Parts C and D of Title I of the CAA, section 110(a)(2)(C), section 110(l) and section 182(d). Section 110(a) requires a pre-construction permit programs for certain new or modified stationary sources of pollutants, including a permit program as required by Parts C and D of Title I, while section 110(l) precludes EPA approval of SIP revisions that would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Act. Section 182(d) (together with section 182(f) for NO<sub>x</sub>), requires NSR SIPs in "severe" nonattainment areas to define "major sources" and "major modifications" to be sources that emit 25 tpy or more of VOC or NO<sub>x</sub>, and have an offset ratio of at least 1.3 to 1. In addition, we have reviewed the submitted rules for compliance with EPA implementing regulations for NSR, including 40 CFR 51.160 through 40 CFR 51.166.

### *B. Do the rules meet the evaluation criteria?*

EPA has reviewed the submitted rules in accordance with the Rule Evaluation criteria described above. The TSD for this action contains a complete discussion of our evaluation. EPA is proposing to find that these rules meet the statutory requirements for SIPs as specified in sections 110(a), 110(l), 182(d) and 193 of the CAA. In addition, except for the deficiencies noted in the TSD and summarized in the Proposed Action section of this notice, we are proposing to find that the rules meet the regulatory requirements of 40 CFR 51.160 through 40 CFR 51.166. EPA is proposing to find that it is acceptable for SMAQMD to not incorporate the NSR Reform provisions of 40 CFR 51.165 and 51.166 into their SIP approved NSR programs because the same level of control will be required for modified sources, with or without inclusion of these provisions in the SIP, and SMAQMD's program will not be any less stringent than the federal program.

The TSD has more information on our evaluation.

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

For the reasons given above, under CAA section 110(k)(3) and 301(a), we are proposing a limited approval and limited disapproval of Rule 214 because, although it would strengthen the SIP and meets the applicable requirements for SIPs in general, it contains certain deficiencies related to NSR SIPs in particular that prevent our full approval. The primary deficiencies pertain to missing definitions, the removal of public notice requirements for the minor source program from the SIP, and missing provisions pursuant to 40 CFR 51.165(a)(5)(ii) and 40 CFR 51.307(b)(2). Please refer to the TSD for this action for additional information. The deficiencies in Rule 214 can be remedied by the District by revising Rule 214 to provide the missing definitions, and necessary provisions pursuant to the 40 CFR part 51 sections cited above. The minor source public notice program deficiency can be remedied by either adding such provisions to Rule 201 or 214, submitting an analysis showing why a

<sup>1</sup> While the District uses the term BACT as the level of control required, a review of the definition has shown that it is equivalent to the requirements for federal LAER.

minor NSR program for minor sources is not needed, submitting an approvable justification for why a chosen level of public notice is appropriate, or submitting local District Rule 202 (State New Source Review) to EPA for SIP approval. If EPA finalizes the limited approval and limited disapproval action, as proposed, then a sanctions clock, and EPA's obligation to promulgate a Federal implementation plan, would be triggered because the revisions to the District rule for which a limited approval and limited disapproval is proposed is required under the 8-hour ozone standard.

Because EPA has determined that Rule 203 fulfills all relevant requirements, we are proposing to fully approve it as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final action that will incorporate these rules into the federally enforceable SIP.

### III. 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, 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 an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- 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; and
- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

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

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

Dated: May 13, 2011.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 2011-12443 Filed 5-18-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2011-0461; FRL-9309-4]

#### Revisions to the California State Implementation Plan, Placer County Air Pollution Control District and Feather River Air Quality Management District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a limited approval and limited disapproval of permitting rules submitted for the Placer County Air Pollution Control District (PCAPCD) and Feather River Air Quality Management District (FRAQMD) portion

of the California State Implementation Plan (SIP). The districts are required under Part D of title I of the Clean Air Act (CAA) to adopt and implement a SIP-approved New Source Review (NSR) permit program. These rules update and revise the District's NSR permitting program for new and modified sources of air pollution. If EPA finalizes the limited approval and limited disapproval action, as proposed, then a sanctions clock would be triggered. We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by June 20, 2011.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2011-0461, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.
2. *E-mail:* [R9airpermits@epa.gov](mailto:R9airpermits@epa.gov).
3. *Mail or deliver:* Gerardo Rios (Air-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* EPA has established a docket for this action under EPA-R09-OAR-2011-0461. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents are listed at <http://www.regulations.gov>, some information