

prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and 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 April 8, 2024. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 31, 2024.

Jeaneanne Gettle,

Acting Regional Administrator, Region 4.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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 L—Georgia

■ 2. In § 52.570, amend table 1 to paragraph (c) by revising the entry for "391-3-1-.02(4)" to read as follows:

§ 52.570 Identification of plan.

* * * * *
(c) * * *

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED GEORGIA REGULATIONS

Table with 5 columns: State citation, Title/subject, State effective date, EPA approval date, Explanation. Row 1: 391-3-1-.02, Provisions. Row 2: 391-3-1-.02(4), Ambient Air Standards, 9/19/2022, 2/6/2024, [Insert citation of publication], Except paragraphs (a), (c), (d), (e), (f), (g), and (h), approved on 12/4/2018 with a state effective date of 7/20/2017.

* * * * *
[FR Doc. 2024-02321 Filed 2-5-24; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2023-0355; FRL-11176-02-R9]

Air Quality Plans; Approvals and Promulgations: California; Amador Air 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 permitting rule submitted as a revision to the Amador Air District (AAD or "District") portion of the California State Implementation Plan

(SIP). This revision concerns the District's New Source Review (NSR) permitting program for new and modified sources of air pollution under part D of Title I of the Clean Air Act (CAA or "Act"). This action will update the District's applicable SIP with a rule revised to address deficiencies identified in a previous limited disapproval action by the EPA related to the District's NSR permitting program under Part D. This final approval action permanently terminates all sanctions, sanctions clocks, and federal implementation plan clocks triggered by our January 12, 2022 limited disapproval action. This action also finalizes regulatory text to clarify that Amador County is not subject to the Federal Implementation Plan related to protection of visibility.

DATES: This rule will be effective March 7, 2024.

ADDRESSES: The EPA has established a docket for this action under Docket No.

EPA-R09-OAR-2023-0355. All documents in the docket are listed on the https://www.regulations.gov website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure 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. 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: Karima Zulfo, EPA Region IX, 75

Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3953 or by email at zulfo.karima@epa.gov.

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

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- II. Public Comments and EPA Responses

- III. EPA Action
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I. Proposed Action

On September 25, 2023, the EPA proposed to approve the rule listed in Table 1 into the California SIP.¹ The rule revisions that are the subject of this action represent an update to the

District’s preconstruction review and permitting program and are intended to satisfy the requirements under part D of title I of the Act (“Nonattainment NSR” or “NNSR”).² We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

TABLE 1—SUBMITTED RULE

Rule No.	Rule title	Amended date	Submitted date
400	NSR Requirements for New and Modified Major Sources in Nonattainment Areas.	1/17/2023	3/3/2023

The current SIP-approved version of the submitted rule is identified below in Table 2.

TABLE 2—SIP-APPROVED RULE

Rule No.	Rule title	SIP approval date	Federal Register citation
400	NSR Requirements for New and Modified Major Sources in Nonattainment Areas.	1/12/2022	87 FR 1683

As discussed in our proposal, the rule listed in Table 2 will be replaced in the SIP by the submitted rule listed in Table 1 upon our final approval. As described in our proposal, the EPA’s final approval of Rule 400 will resolve all deficiencies forming the basis for our previous limited disapproval of the prior version of Rule 400, adopted by the District on August 20, 2019, which is listed in Table 2.³

II. Public Comments and EPA Responses

The EPA’s proposed action provided a 30-day public comment period. During this period, one non-germane comment was submitted on our proposal. A copy of the comment is included in the docket for this action.

III. EPA Action

No germane comments were submitted on our proposal. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is approving the submitted rule. This action incorporates the submitted rule into the California SIP

and replaces the previously submitted rule listed in Table 2. This approval resolves all deficiencies forming the basis for our previous limited disapproval in 2022 of the prior version of Rule 400, as we find that submitted Rule 400 fully satisfies the relevant requirements for preconstruction review and permitting under section 110 and part D of the Act.⁴ This action also permanently terminates all sanctions, sanctions clocks, and federal implementation plan clocks triggered by our January 12, 2022 limited disapproval action.

As noted in our proposal, this action also revises the regulatory provisions at 40 CFR 52.281(d) concerning the applicability of the visibility federal implementation plan (FIP) at 40 CFR 52.28 as it pertains to California, to provide that this FIP does not apply to sources subject to review under the District’s SIP-approved NNSR program. The EPA has previously found Rule 400 acceptable to meet the visibility provisions for sources subject to the NNSR program at 40 CFR 51.307, and

the EPA finds that revised Rule 400 continues to satisfy those requirements.⁵

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 finalizing the incorporation by reference of Rule 400 NSR Requirements for New and Modified Major Sources in Nonattainment Areas, amended 1/17/2023, which implements a nonattainment NSR permit program. The EPA has made, and will continue to make, these documents 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).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the

¹ 88 FR 65647.

² As discussed in Section 2.2 of the Technical Support Document (TSD) for this action, dated August 2023, Amador County was designated as a Moderate nonattainment area for the 1997 ozone National Ambient Air Quality Standard (NAAQS) at the time that standard was revoked, and is currently designated as a Marginal nonattainment area for the 2015 ozone NAAQS. See 40 CFR 81.305. On

October 7, 2022, the EPA determined that Amador County attained the 2015 ozone NAAQS by the applicable attainment date. 87 FR 60897.

³ 87 FR 1683 (“2022 NSR Action”).

⁴ These requirements include all relevant NNSR requirements for the 1997 and 2015 ozone NAAQS for areas classified as Moderate or Marginal.

⁵ See TSD for our 2022 NSR Action, dated July 20, 2021, Sections 1, 4.3, 6, and 9. As we noted in

our TSD for the current action, the submitted revised Rule 400 adds a provision that more clearly provides the District the authority to require monitoring in Federal Class I areas if deemed necessary, consistent with a recommendation by the EPA in our 2022 NSR Action. We find this new provision consistent with the EPA’s visibility requirements in 40 CFR 51.307(d). See TSD dated August 2023, Section 3.2.

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 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 Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
 - 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 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).
- Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the

greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.” The State did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

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 April 8, 2024. 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, Administrative practice and procedure, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 29, 2024.

Martha Guzman Aceves,
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 paragraphs (c)(568)(i)(A)(2) and (c)(609) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

- (c) * * *
- (568) * * *
- (i) * * *
- (A) * * *

(2) Previously approved on January 12, 2022, in paragraph (c)(568)(i)(A)(1) of this section and now deleted with replacement in paragraph (c)(609)(i)(A)(1) of this section: Rule 400, “NSR Requirements for New and Modified Major Sources in Nonattainment Areas,” adopted on August 20, 2019.

* * * * *

(609) The following regulation was submitted electronically on March 3, 2023, by the Governor’s designee as an attachment to a letter dated March 2, 2023.

(i) *Incorporation by reference.* (A) Amador Air District.

(1) Rule 400, “NSR Requirements for New and Modified Major Sources in Nonattainment Areas,” adopted on January 17, 2023.

- (2) [Reserved]
- (B) [Reserved]
- (ii) [Reserved]

* * * * *

■ 3. Section 52.281 is amended by adding paragraph (d)(14) to read as follows:

§ 52.281 Visibility protection.

* * * * *

- (d) * * *
- (14) Amador Air District.

* * * * *

[FR Doc. 2024-02164 Filed 2-5-24; 8:45 am]

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