



Billing Code: 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2013-0064; FRL-9777-7]

**Revision of Air Quality Implementation Plan; California;
Sacramento Metropolitan Air Quality Management District;
Stationary Source Permits**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to fully approve two permitting rules submitted by California as a revision to the Sacramento Metropolitan Air Quality Management District (SMAQMD or District) portion of the California State Implementation Plan (SIP). These rules were adopted by the SMAQMD to regulate the construction and modification of stationary sources of air pollution within Sacramento County. EPA is proposing to approve this SIP revision based on the Agency's conclusion that the rules are consistent with applicable Clean Air Act (CAA) requirements, policies and guidance. Final approval of these rules would make the rules federally enforceable and correct program deficiencies identified in a previous EPA rulemaking on July 20, 2011.

DATES: Any comments must arrive by [Insert date 30 days from the date of publication in the Federal Register].

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2013-0064, 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.

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-2013-0064. 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.

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 Proposed Action

A. How is EPA evaluating the rules?

B. Do the rules meet the evaluation criteria?

C. Proposed action and request for public comment.

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 #	Rule Title	Amended / Adopted	Submitted
SMAQMD	214	Federal New Source Review	Amended 8/23/12	9/26/12
SMAQMD	217	Public Notice Requirements for Permits	Adopted 8/23/12	9/26/12

CARB's SIP submittal includes evidence of public notice and adoption of these regulations. We find that the submittals for SMAQMD Rules 214 and 217 meet 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?*

EPA approved a previous version of Rule 214 into the SIP on July 20, 2011 (76 FR 43183). There are no previous versions of Rule 217 in the SIP.

C. What is the purpose of the submitted rules?

Section 110(a)(2) of the CAA requires that each SIP include, among other things, a preconstruction permit program to provide for regulation of the construction and modification of stationary sources within the areas covered by the plan as necessary to assure that the National Ambient Air Quality Standards (NAAQS) are achieved, including a permit program as required in parts C and D of title I of the CAA. For areas designated as nonattainment for one or more NAAQS, the SIP must include preconstruction permit requirements for new or modified major stationary sources of such nonattainment pollutant(s), commonly referred to as "Nonattainment New Source Review" or "NSR." CAA 172(c)(5).

Sacramento County is currently designated and classified as severe nonattainment for the 1997 and 2008 8-hour ozone NAAQS and moderate nonattainment for the 24-hour PM₁₀ NAAQS. The area is also designated nonattainment for the 2006 24-hour PM_{2.5} NAAQS. See 40 CFR 81.305. Therefore, California is required under part D of title I of the Act to adopt and implement a SIP-approved NSR program for the Sacramento area that applies, at

minimum, to new or modified major stationary sources of the following pollutants: volatile organic compounds (VOCs), nitrogen oxides (NO_x), particulate matter of 10 microns or less (PM₁₀), particulate matter of 2.5 microns or less (PM_{2.5}) and sulfur oxides (SO_x).¹

Rule 214 (Federal New Source Review) implements the NSR requirements under part D of title I of the CAA for new or modified major stationary sources of these nonattainment pollutants within Sacramento County. Rule 217 (Public Notice Requirements for Permits) contains the public notice and other procedural requirements for issuance of permits to all minor sources and to new or modified major sources of nonattainment pollutants in the County.² The SMAQMD amended Rule 214 and adopted Rule 217 to correct program deficiencies identified by EPA on July 20, 2011 (76 FR 43183).

II. EPA's Evaluation and Proposed Action

A. How is EPA evaluating the rules?

EPA has reviewed the submitted permitting rules for compliance with the CAA's general requirements for SIPs in CAA

¹ VOCs and NO_x are subject to NSR as precursors to ozone, and NO_x and SO_x are subject to NSR as precursors to PM_{2.5} in Sacramento County. See 40 CFR 51.165(a)(1)(xxxvii)(C).

² New or modified major stationary sources of air pollutants for which Sacramento County is designated attainment or unclassifiable are subject to separate permitting procedures and requirements under Rule 203 (Prevention of Significant Deterioration), which EPA fully approved into the California SIP on July 20, 2011. See 76 FR 43183.

section 110(a)(2), EPA's regulations for stationary source permit programs in 40 CFR part 51, subpart I ("Review of New Sources and Modifications"), and the CAA requirements for SIP revisions in CAA section 110(l).³ As explained below, EPA is proposing to fully approve the submitted rules.

B. Do the rules meet the evaluation criteria?

With respect to procedures, CAA sections 110(a) and 110(l) require that revisions to a SIP be adopted by the State after reasonable notice and public hearing. EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of notices, by prominent advertisement in the relevant geographic area, of a public hearing on the proposed revisions, a public comment period of at least 30 days, and an opportunity for a public hearing.

Based on our review of the public process documentation included in the SMAQMD's September 26, 2012 rule submittals, we find that the State has provided sufficient evidence of public notice and opportunity for comment and public hearings prior to adoption and submittal of these rules to EPA.

³ Section 110(l) of the CAA 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 Act.

With respect to substantive requirements, EPA has reviewed the submitted rules in accordance with the CAA and regulatory requirements that apply to NSR permit programs under part D of title I of the Act and the general public notice requirements for stationary source permits in 40 CFR section 51.161. Based on our evaluation of these rules, we are proposing to fully approve Rule 214 as satisfying the CAA and regulatory requirements for NSR permit programs in part D of title I of the Act and EPA's NSR implementing regulations in 40 CFR section 51.165 for new or modified major stationary sources proposing to locate in Sacramento County. Additionally, we are proposing to fully approve Rule 217 as satisfying the general public notice requirements in 40 CFR 51.161 for both minor source permits and major source NSR permits issued in Sacramento County. Final approval of Rule 214 and Rule 217 would correct all deficiencies in SMAQMD's permit programs identified in our July 20, 2011 final rule. See 76 FR 43183. The Technical Support Document (TSD) for this action contains a more detailed discussion of our evaluation.

C. Proposed action and request for public comment.

For the reasons given above and described more fully in the TSD for this rulemaking, EPA is proposing to fully approve Rule 214 and Rule 217 into the California SIP pursuant to CAA section

110(k)(3). We will accept comments from the public on this proposal for the next 30 days.

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 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);
- 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 proposed 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: January 29, 2013.

Jared Blumenfeld,
Regional Administrator,
Region IX.

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