



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2013-0468; FRL-9826-1]

Revisions to the California State Implementation Plan, South  
Coast Air Quality Management District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC), oxides of nitrogen (NO<sub>x</sub>), and particulate matter (PM) emissions from open burning and wood-burning devices. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATE:** 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- 2013-0468, by one of the following methods:

1. Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
2. E-mail: [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
3. Mail or deliver: Andrew Steckel (Air-4), 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 [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or e-mail. [www.regulations.gov](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.

*Docket:* Generally, documents in the docket for this action are available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov), some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), 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:** Rynda Kay, EPA Region IX, (415) 947-4118, [kay.rynda@epa.gov](mailto:kay.rynda@epa.gov).

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

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#### I. The State's Submittal

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

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB). Rule 444 subdivision (g) and Rule 445 subdivision (h), related to fees and penalties respectively, were excluded from the versions of the rules submitted for consideration by the EPA for SIP approval.

Table 1 - Submitted Rules

Local Agency	Rule #	Rule Title	Amended	Submitted
SCAQMD	444	Open Burning	05/03/13	06/11/13
SCAQMD	445	Wood Burning Devices	05/03/13	06/11/13

We find that the submittal for SCAQMD Rules 444 and 445 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 these rules?

We approved earlier versions of Rule 444 and Rule 445 into the SIP on April 8, 2002 (67 FR 16644) and June 11, 2009 (74 FR 27716) respectively. The SCAQMD adopted revisions to Rule 444 on November 7, 2008, but did not submit them to us. The SCAQMD adopted additional revisions to Rule 444 and revisions to Rule 445 on May 3, 2013, and CARB submitted these revised rules to us on June 11, 2013.

C. What is the purpose of the submitted rule revisions?

Emissions of VOCs and NO<sub>x</sub> help produce ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. PM emissions contribute to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control NO<sub>x</sub>, VOC and PM emissions.

Rule 444 is designed to minimize the impacts of smoke and other air pollutants generated by open burning conducted within

the SCAQMD. Changes from the SIP approved rule include the following: (a) forecast criteria for issuing permissive, marginal, and no-burn days was modified to be based on the Air Quality Index rather than on 1-hour ozone forecasted values; (b) forecast criteria for allowing a permissive burn day was amended to exclude days in which a "Mandatory Winter Burning Curtailment" day is in effect, as provided in Rule 445; (c) limited exemptions were added for burning to protect crops from freezing and for product testing; (d) daily maximum agricultural and prescribed burning acreage was increased to account for less permissive burn days resulting from the new no burn day forecast criteria (total emissions over the season/year remain the same); (e) new requirements were added for burning associated with pyrotechnics used in filmmaking, fire prevention/suppression training, prescribed burning and agricultural burning; (f) definitions were added or amended for clarity; and (g) other minor editorial changes and clarifications were made to the rule.

Rule 445 is designed to minimize the impacts of smoke and other air pollutants generated during the use of wood burning devices. The rule establishes requirements for the sale, operation, and installation of such devices. Changes from the SIP approved rule include the following: (a) the "Mandatory

Winter Burning Curtailment" provision was modified to reduce the forecast threshold for a given source/receptor area from 35 to 30 µg/m<sup>3</sup> and to add a new provision describing when such curtailment would apply basin-wide; (b) new wood-labeling requirements for wood suppliers were added; (c) a provision was removed which allowed uncertified wood-burning devices to be installed in existing homes if emission equivalency could be demonstrated; (d) modifications were made to clarify that cookstove and wood labeling exemptions apply only to commercial cooking; and (e) the definition of "Wood Burning Device" was modified to include both open and enclosed devices. EPA's technical support documents (TSDs) contain more detailed information about these rules.

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

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

Generally, SIP rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(1) and 193).

Guidance and policy documents that we use to evaluate enforceability requirements consistently include the following:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 Federal Register Notice," (Blue Book), notice of

availability published in the May 25, 1988 Federal Register.

2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

Section 172(c)(1) of the CAA requires nonattainment areas to implement all reasonably available control measures (RACM), including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT), as expeditiously as practicable. The Los Angeles - South Coast Air Basin (South Coast) is currently designated as an extreme 1-hr ozone nonattainment area and an extreme 8-hr ozone nonattainment area, and is also designated nonattainment for the 1997 annual, 1997 24-hour, and 2006 24-hour fine particulate matter (PM<sub>2.5</sub>) standards (40 CFR 81.305). Open burning emits direct PM<sub>2.5</sub>, as well as volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>), which are regulated as precursors to PM<sub>2.5</sub> and ozone in the South Coast. Therefore, SCAQMD must implement RACM for open burning and residential wood burning if those measures will advance attainment of the National Ambient Air Quality Standard (NAAQS) for PM<sub>2.5</sub> or ozone in the South Coast, when considered collectively with other reasonable measures. Additional control

measures may be required pursuant to CAA section 172(c)(1) if both: (1) additional measures are reasonably available; and (2) these additional reasonably available measures will advance attainment in the area when considered collectively.

The South Coast is also currently designated as a serious nonattainment area for the PM-10 NAAQS (40 CFR 81.305). On June 12, 2013, however, EPA signed a final rule to redesignate the area to attainment for the PM-10 NAAQS, which will become effective 30 days after publication in the Federal Register. See "Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; California; South Coast Air Basin; Approval of PM10 Maintenance Plan and Redesignation to Attainment for the PM10 Standard," pre-publication final rule signed June 12, 2013. Thus, we are not evaluating Rule 444 and 445 for compliance with BACT/BACM requirements in this rulemaking.

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the statutory requirements concerning enforceability and SIP relaxations as interpreted in EPA guidance. Rule 444 and 445 are generally as stringent as or more stringent than analogous rules in other California Districts. As necessary, in separate rulemakings, EPA will take action on the State's RACM demonstrations for

PM2.5 and ozone based on evaluation of the control measures submitted as a whole and their overall potential to advance the applicable attainment dates in the South Coast. See 40 CFR 51.1010, 51.912(d). Our TSDs have more information on our evaluation and recommendations for additional control measures which may be reasonably available.

C. EPA recommendations to further improve the rules.

The TSDs describe additional rule revisions that we recommend for the next time the local agency modifies the rules but are not currently the basis for rule disapproval.

D. Public comment and proposed action.

Because EPA believes the submitted rules fulfill all applicable requirements, we are proposing to fully approve them 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 approval 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 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);
- 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 action 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,  
Nitrogen dioxide, Ozone, Particulate matter, Reporting and  
recordkeeping requirements, Volatile organic compounds.

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

Dated: June 12, 2013

Jared Blumenfeld,  
Regional Administrator,  
Region IX.

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