



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2015-0246; FRL-9928-09-Region 9]

Revisions to the California State Implementation Plan, Butte County Air Quality Management District, Feather River Air Quality Management District, and San Luis Obispo County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Butte County Air Quality Management District (BCAQMD), Feather River Air Quality Management District (FRAQMD), and San Luis Obispo County Air Pollution Control District (SLOCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern emission statements, definitions, and vehicle and mobile equipment coating operations (VMECO). We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule is effective on [Insert date 60 days after the date of publication in the Federal Register] without further

notice, unless the EPA receives adverse comments by [**Insert date 30 days after the date of publication in the Federal Register**].

If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2015-0246, by one of the following methods:

1. *Federal eRulemaking Portal:* www.regulations.gov. Follow the on-line instructions.
2. *E-mail:* 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, 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 or e-mail. www.regulations.gov is an "anonymous access" system, and the 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 the EPA, your e-mail address will be automatically captured and included as part of the public comment. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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: Generally, documents in the docket for this action are available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901. While all documents in the docket are listed at 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: Arnold Lazarus, EPA Region IX, (415) 972-3024 lazarus.arnold@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," and "our" refer to the 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. The EPA's Evaluation and Action.
 - A. How is the EPA evaluating the rules?
 - B. Do the rules meet the evaluation criteria?
 - C. The EPA recommendations to further improve the rules.
 - D. Public comment and final action.
- III. Incorporation by Reference.
- IV. 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 action with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

Table 1 - Submitted Rules

Local Agency	Rule #	Rule Title	Adopted/ Amended	Submitted
BCAQMD	101	Definitions	4/24/14	11/06/14

Local Agency	Rule #	Rule Title	Adopted/ Amended	Submitted
BCAQMD	434	Emissions Statements	4/25/13	2/10/14
FRAQMD	3.19	Vehicle and Mobile Equipment Coating Operations	8/01/11	2/10/14
SLOCAPCD	222	Federal Emission Statement	5/28/14	11/06/14

On May 5, 2014, the EPA determined that the submittal for BCAQMD Rule 434 and FRAQMD Rule 3.19 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review. On December 18, 2014, the EPA determined that BCAQMD Rule 101 and SLOCAPCD Rule 222 met the completeness criteria.

B. Are there other versions of these rules?

There are no previous versions of BCAQMD Rule 434, FRAQMD Rule 3.19, and SLOCAPCD Rule 222 in the SIP. We approved an earlier version of BCAQMD Rule 101 into the SIP on February 3, 1987 (52 FR 3226).

C. What is the purpose of the submitted rules?

Volatile Organic Compounds (VOCs) help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations

that control VOC emissions.

BCAQMD Rule 101, "Definitions" is amended by adding new definitions and revising existing definitions which improve clarity and enforceability of other BCAQMD rules which reduce emissions.

BCAQMD Rule 434 and SLOCAPCD Rule 222 require "Emissions Statements." CAA section 182(a)(3)(B)(i) directs ozone nonattainment areas to require certified emission data from sources of VOCs and oxides of nitrogen (NOx).

FRAQMD Rule 3.19, Vehicle and Mobile Equipment Coating Operations, establishes limits on the emission of VOC from VMECO.

The EPA's technical support documents (TSDs) have more information about these rules.

II. EPA's Evaluation and Action.

A. How is the EPA evaluating the rules?

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(1)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA

section 193).

Guidance and policy documents that we use 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 and 57 FR 18070, April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations" ("the Bluebook," U.S. EPA, May 25, 1988; revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies" ("the Little Bluebook", EPA Region 9, August 21, 2001).
4. EPA's draft "Guidance on the Implementation of an Emission Statement Program," July 1992.
5. FRAQMD "Reasonably Available Control Technology Analysis and Negative Declaration", July 3, 2014.
6. National Volatile Organic Compound Emission Standards, 40 CFR 59.102, Subpart B, Table 1, VOC Content Limits for Automobile Refinish Coatings.
7. California Air Resources Board (CARB) Resolution 05-46,

October 20, 2005, Attachment A, "Suggested Control Measure for Automotive Coatings," Section 4.1 "Coating Limits."

8. South Coast Air Quality Management District Rule 1151, Motor Vehicle and Motor Equipment Non-Assembly Line Coating Operations, amended December 2, 2005, and approved into the SIP on September 24, 2013 (78 FR 58459.)
9. San Joaquin Valley Unified Air Pollution Control District Rule 4612, Motor Vehicle and Mobile Equipment Coating Operations, amended October 21, 2010, and approved into the SIP on February 13, 2012 (77 FR 7536.)
10. Ventura County Air Quality Management District, Rule 74.18, Motor Vehicle and Mobile Equipment Coating Operations amended November 11, 2008, and approved into the SIP on September 24, 2013 (78 FR 58459.)

Generally, SIP rules must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each VOC major source in ozone nonattainment areas classified as moderate or above (see sections 182(b)(2) and 182(f)).

The FRAQMD covers both Yuba and Sutter Counties, and the EPA has designated a portion of the FRAQMD (specifically, southern Sutter County) as a Severe nonattainment area for the 1-hour ozone standard and the 1997 and 2008 8-hour ozone

national ambient air quality standards (NAAQS or standards). See 40 CFR 81.305. Therefore, FRAQMD must implement RACT for at least portions of the District. The EPA believes that FRAQMD Rule 3.19 does not implement RACT-level requirements. However, on September 29, 2014, CARB submitted to the EPA on behalf of FRAQMD, "Reasonably Available Control Technology Analysis and Negative Declaration," dated July 3, 2014, which demonstrates that Rule 3.19 does not have to implement RACT because no CTGs apply to the source category and there are no major sources in the non-attainment area that the rule addresses. RACT is not required of the other rules addressed in this action because they are not intended to directly control emissions.

As noted above, CAA section 182(a)(3)(B)(i) requires all states with ozone nonattainment areas classified under subpart 2 (of part D of title I), i.e., as Marginal, Moderate, Serious, etc., to submit SIP revisions that require owners and operators of stationary sources of VOCs and NO_x to provide the state with a statement showing the actual emissions from that source. The EPA has designated all or portions of BCAQMD and SLOCAPCD as Marginal nonattainment areas for the 1997 or the 2008 8-hour ozone standards. See 40 CFR 81.305. Thus, BCAQMD Rule 434 and SLOCAPCD Rule 222 are required SIP revisions. Based on our evaluation of these two emissions statement rules, we find that

they meet the requirements of CAA section 182(a)(3)(B)(i).

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, rule stringency, and SIP relaxations. The TSDs have more information on our evaluation.

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 final action.

As authorized in section 110(k)(3) of the Act, the EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements.¹ We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section

¹ BCAQMD Rule 434, FRAQMD Rule 3.19, and SLOCAPCD Rule 222 are all new to the SIP and thus would not supersede any existing SIP rules. Upon the effective date of this final action, BCAQMD Rule 101 would supersede existing SIP BCAQMD Rules 101 ("Title") and 102 ("Definitions"), approved at 52 FR 3226 (February 3, 1987), in the applicable California SIP, except for the following definitions from existing SIP BCAQMD Rule 102: "approved ignition devices," "open out-door fire," "permissive burn day," "range improvement burning," "submerged fill pipe," and "vapor recovery system." While these terms are no longer included in BCAQMD's definitions rule (i.e., Rule 101), they are relied upon by certain existing SIP prohibitory rules, such as existing SIP BCAQMD Rules 213, 215, 302, 313, 317, and 323.

of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by [**Insert date 30 days after date of publication in the Federal Register**], we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on [**Insert date 60 days after date of publication in the Federal Register**]. This will incorporate these rules into the federally enforceable SIP.

Please note that if the EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. 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 the BCAQMD, FRAQMD and SLOCAPCD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these

documents generally available electronically through www.regulations.gov and in hard copy at the appropriate EPA office (see the **ADDRESSES** 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 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 13563 (76 FR 3821, January 21, 2011);
- 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 the 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, 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).

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. 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 [**Insert**

date 60 days after date of publication in the Federal Register].

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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 8, 2015. Alexis Strauss,
Acting Regional Administrator,
Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended 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) (442) (i) (E) (4) and (G) and (c) (457) (i) (C) and (D) to read as follows:

§52.220 Identification of plan.

* * * * *

(c) * * *

(442) * * *

(i) * * *

(E) * * *

(4) Rule 3.19, "Vehicle and Mobile Equipment Coating Operations," amended on August 1, 2011.

* * * * *

(G) Butte County Air Quality Management District.

(1) Rule 434, "Emission Statements," adopted on April 25, 2013.

* * * * *

(457) * * *

(i) * * *

(C) * * *

(1) Rule 101, "Definitions," amended on April 24, 2014.

(D) San Luis Obispo County Air Pollution Control District.

(1) Rule 222, "Federal Emission Statement," adopted on May 28, 2014.

* * * * *