



This document is scheduled to be published in the Federal Register on 04/04/2018 and available online at <https://federalregister.gov/d/2018-06878>, and on [FDsys.gov](https://www.fdsys.gov)

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2018-0171; FRL-9976-43-Region 9]

Approval of California Plan Revisions, Northern Sonoma County Air Pollution Control District; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Northern Sonoma County Air Pollution Control District (NSCAPCD or District) portion of the California State Implementation Plan (SIP). This revision concerns the District's prevention of significant deterioration (PSD) permitting program for new and modified sources of air pollution. We are proposing action on these local rules 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.

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

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2018-0171 at <http://www.regulations.gov>, or via email to T. Khoi Nguyen, at nguyen.thien@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not

submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: T. Khoi Nguyen, EPA Region IX, (415) 947-4120, *nguyen.thien@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the 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 action with the dates that they were adopted by the NSCAPCD and submitted by the California Air Resources Board (CARB), the governor's designee for California SIP submittals.

TABLE 1 - SUBMITTED RULES

Local Agency	Rule #	Rule Title	Amended	Submitted
NSCAPCD	130	Definitions	5/3/2017	6/12/17
NSCAPCD	220	New Source Review	5/3/2017	6/12/17
NSCAPCD	230	Action on Applications	5/3/2017	6/12/17

On December 12, 2017, the submittal for the NSCAPCD was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V that must be met before formal EPA review.

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

On October 6, 2016, the EPA finalized approval of Rule 230 and limited approval and limited disapproval of Rules 130 and 220. 81 FR 69390. Though Rule 230 was inadvertently fully approved with a deficiency, the revised Rule 230 in this SIP submittal addresses the deficiency. Our proposed approval of the rules in this action would update the SIP to be consistent with the local rules.

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 Part C of Title I of the CAA.

On October 6, 2016, the EPA listed four items that need addressing for the three rules with limited approval to become fully approved – listing lead as a pollutant and indicating a significant emission rate, requiring provisions for air quality modeling based on applicable models, databases, and other requirements as specified in Part 51 Appendix W, correcting a typographic error, and including specific language regarding source obligations. The revisions to the three submitted rules address these four deficiencies.

Rules 130, 220, and 230 contain the requirements for review and permitting of individual stationary sources in NSCAPCD. These rules satisfy the statutory and regulatory requirements for the New Source Review (NSR) program, including the PSD program. The changes the District made to the rules listed above as they pertain to the PSD program were largely administrative in nature and provide additional clarity to the rules. We present our evaluation under the CAA and the EPA's regulations of the revised NSR rules submitted by CARB, as identified in Table 1, and provide our reasoning in general terms below and a more detailed analysis in our TSD, which is available in the docket for the proposed rulemaking.

II. The EPA's Evaluation and Action

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

The EPA has reviewed the rules submitted by the NSCAPCD governing PSD for stationary sources for compliance with the CAA's general requirements for SIPs in CAA section 110(a)(2), the EPA's regulations for stationary source permitting programs in 40 CFR part 51,

sections 51.160 through 51.164 and 51.166, and the CAA requirements for SIP revisions in CAA section 110(l). The EPA is proposing full approval of Rules 130 (Definitions), 220 (New Source Review) and 230 (Action on Applications).

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

The EPA has reviewed the submitted rules in accordance with the rule evaluation criteria described above. With respect to procedures, based on our review of the public process documentation included in the June 12, 2017 submittal, we are proposing to approve the submitted rules in part because we have determined that the NSCAPCD has provided sufficient evidence of public notice and opportunity for comment and public hearings prior to adoption and submittal of this rule, in accordance with the requirements of CAA sections 110(a)(2) and 110(l).

We are also approving Rules 130, 220, and 230 because we have determined these rules satisfy all of the statutory and regulatory requirements for an NSR permit program (including the PSD program) as set forth in the applicable provisions of part C of title I of the Act and in 40 CFR 51.165 and 40 CFR 51.307. The revisions to these rules also resolve the limited disapproval issues from the October 2016 action.

Our TSD, which can be found in the docket for this rule, contains a more detailed discussion of the approval criteria.

C. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rules because they fulfill all relevant requirements. We will accept comments from the public on this proposal until [Insert date **30 days after date of publication in the Federal Register**]. If we take final action to approve the submitted rules, our final action will incorporate

these rules into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the NSCAPCD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through 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).

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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.

- 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, 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 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. 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. 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, New Source Review, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: March 26, 2018.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

[FR Doc. 2018-06878 Filed: 4/3/2018 8:45 am; Publication Date: 4/4/2018]