



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2019-0381; FRL-10001-25-Region 9]

Air Plan Approval; California; Placer County Air Pollution Control District; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing a limited approval and limited disapproval of a revision to the Placer County Air Pollution Control District (PCAPCD 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 the Clean Air Act (CAA or “Act”). This action updates the PCAPCD’s applicable SIP with current administrative requirements for the issuance of permits. 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-2019-0381 at <https://www.regulations.gov>, or via email to R9AirPermits@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://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Laura Yannayon, EPA Region IX, Air-3-1, 75 Hawthorne St., San Francisco, CA 94105, (415) 972-3534, yannayon.laura@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 rule did the State submit?*

Table 1 lists the rule addressed by this proposal, including the date it was adopted by the PCAPCD and submitted by the California Air Resources Board (CARB).

Table 1 – Submitted Rule

Rule #	Rule Title	Adopted or Amended	Submitted
501	General Permit Requirements	8/12/10	12/7/10

On January 13, 2011, the EPA determined that this SIP submittal met the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. *Are there other versions of this rule?*

There is no previous version of Rule 501 approved in the SIP. Rule 501 will replace the current SIP-approved rules listed in Table 2, which are applicable to specific air basins in Placer County, as noted.

Table 2 – SIP-Approved Rules

Rule #	Rule Title	Air Basin	SIP Approval Date	Federal Register Citation
2 (aka Article 2)	Application for Building Permit	Lake Tahoe	5/31/1972	37 FR 10856
403	Responsibility of Permittee	Lake Tahoe	6/14/1978	43 FR 25684
502	Permit Exemptions	Lake Tahoe	6/23/1982	47 FR 27065
503	Transfer	Lake Tahoe	6/23/1982	47 FR 27065
505	Cancellation of Authority to Construct	Lake Tahoe	6/23/1982	47 FR 27065
507	Provision of Sampling and Testing Facilities	Lake Tahoe	4/23/1982	47 FR 17486
514	Standards for Granting Applications	Lake Tahoe	6/23/1982	47 FR 27065
2 (aka Article 2)	Application for Building Permit	Mountain	5/31/1972	37 FR 10856
403	Responsibility of Permittee	Mountain	6/14/1978	43 FR 25684
501	Permit to Operate, <i>paragraph b</i>	Mountain	5/18/1981	46 FR 27115
502	Permit Exemptions	Mountain	5/18/1981	46 FR 27115
505	Cancellation of Authority to Construct	Mountain	7/12/1990	55 FR 28622

Rule #	Rule Title	Air Basin	SIP Approval Date	Federal Register Citation
507	Provision of Sampling and Testing Facilities	Mountain	11/15/1978	43 FR 53035
507	Provision of Sampling and Testing Facilities, <i>paragraph d</i>	Mountain	7/12/1990	55 FR 28622
2 (aka Article 2)	Application for Building Permit	Sacramento	5/31/1972	37 FR 10856
403	Responsibility of Permittee	Sacramento	6/14/1978	43 FR 25684
507	Provision of Sampling and Testing Facilities	Sacramento	11/15/1978	48 FR 53035

If the EPA finalizes the action proposed herein, these rules will be removed from the SIP.

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

The submitted rule is intended to satisfy the “general” or “minor” NSR requirements of section 110(a)(2)(C) and related EPA regulations. General NSR requirements are applicable to all permits issued by the PCAPCD. Rule 501 consolidates the requirements from several existing rules and codified these requirements into a single administrative rule.

II. The EPA’s Evaluation and Action

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

The submitted rule must meet the CAA’s general requirements for SIPs and SIP revisions in CAA sections 110(a), 110(l), and 193, as well as contain the applicable regulatory provisions required by 40 CFR 51.160-51.164.

Section 110(a)(2)(A) of the Act requires that regulations submitted to the EPA for SIP approval must be legally enforceable. Section 110(l) of the Act prohibits the EPA from approving any SIP revisions that would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the Act.

Section 193 of the Act prohibits the modification of a SIP-approved control requirement in effect before November 15, 1990 in a nonattainment area, unless the modification ensures equivalent or greater emission reductions of the relevant pollutant(s). With respect to procedures, CAA sections 110(a) and 110(l) require that a state conduct reasonable notice and hearing before adopting a SIP revision.

Section 110(a)(2)(C) of the Act requires each SIP to include a program to regulate the modification and construction of any stationary source within the areas covered by the SIP as necessary to assure attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). The EPA's regulations at 40 CFR 51.160–51.164 provide general programmatic requirements to implement this statutory mandate. These requirements, commonly referred to as the “minor NSR” or “general NSR” program, apply generally to both major and non-major stationary sources and modifications and in both attainment and nonattainment areas, in contrast to the specific statutory and regulatory requirements for permitting programs under parts C and D of title I of the Act that apply to major sources in attainment and nonattainment areas, respectively.

B. *Does the rule meet the evaluation criteria?*

The EPA has reviewed the submitted rule in accordance with the rule evaluation criteria described above. With respect to the procedural requirements, based on our review of the public process documentation included with the submitted rule, we find that that the PCAPCD 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) and 110(l).

With respect to the substantive requirements of CAA sections 110(l) and 193, we find that our approval of this SIP submittal would not interfere with any applicable requirement concerning attainment and RFP or any other applicable requirement of the Act, and that the submitted rule is not subject to section 193 of the Act because it does not contain any control requirements.

With respect to the substantive statutory and regulatory requirements for a general NSR permit program as contained in CAA section 110(a)(2)(C) and 40 CFR 51.160–51.164, we find the submitted rule satisfies these requirements, except as discussed below.

Submitted Rule 501 contains the following deficiencies. The technical support document (TSD) included in the docket for this proposed rulemaking contains a more detailed analysis.

1. Rule 501, Section 303.1 is deficient because it does not specifically require the Air Pollution Control Officer (APCO) to determine and deny a permit if a proposed project will (1) cause a violation of the SIP or (2) interfere with attainment or maintenance of a NAAQS. It is also deficient because it only requires the APCO to evaluate whether an emission unit will be operated in compliance with all applicable requirements as of the application completeness date, rather than as of the date of permit issuance. (See TSD Section 5.2.1, Item 1.(b).)
2. The District's minor NSR program is deficient because it does not contain any public notice requirements for new or modified emission units located in the Lake Tahoe Air Basin portion of Placer County. (See TSD Section 5.2.1, Item 2.(a).)
3. Rule 501 is deficient because it does not contain any provisions that address stack height procedures as required by 40 CFR 51.164. (See TSD Section 5.2.1, Item 5.)

4. Rule 501, Section 200 – *Definitions*, is deficient because it references and relies on the definitions contained in Rule 504, “Emission Reduction Credits,” which is not SIP-approved. (See TSD Section 5.2.3.)

The submitted rules are otherwise consistent with criteria for the EPA’s approval of regulations submitted for inclusion in the SIP, including the requirement at CAA section 110(c)(2)(A) that submitted regulations be legally enforceable.

For the reasons stated above and explained further in our TSD, we find that the submitted NSR rules generally satisfy the applicable CAA and regulatory requirements for a general NSR permit program, subject to the four deficiencies noted above.

C. Proposed action and public comment

As authorized by CAA section 110(k)(3) and 301(a), we are proposing limited approval and limited disapproval of Rule 501 “General Permit Requirements” into the PCAPCD portion of the California SIP. If finalized, this action will incorporate the submitted rule into the SIP, including those provisions identified as deficient. The approval of Rule 501 is limited because EPA is simultaneously proposing a limited disapproval of Rule 501 under section 110(k)(3).

If we finalize this action as proposed, our action will be codified through revisions to 40 CFR 52.220 (Identification of plan—in part).

We will accept comments from the public on this proposal until [**Insert date 30 days after the date of publication in the Federal Register**].

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 PCAPCD rule described in Table 1 of this preamble.

The EPA has made, and will continue to make, these materials 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).

IV. Statutory and Executive Order Reviews

Under the CAA, the EPA 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 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 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).

List of Subjects in 40 CFR Part 52

Administrative practice and procedure, Environmental protection, Air pollution control,

Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

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

Dated: October 4, 2019.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

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