

and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: October 2, 1996.

Felicia Marcus,

Regional Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart D—Arizona

2. Subpart D is amended by adding § 52.150 to read as follows:

§ 150 Yavapai-Apache Reservation.

(a) The provisions for prevention of significant deterioration of air quality at 40 CFR 52.21 are applicable to the Yavapai-Apache Reservation, pursuant to § 52.21(a).

(b) In accordance with section 164 of the Clean Air Act and the provisions of 40 CFR 52.21(g), the Yavapai-Apache Indian Reservation is designated as a Class I area for the purposes of preventing significant deterioration of air quality.

[FR Doc. 96-27849 Filed 10-31-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[CA 126-0011a; FRL-5616-6]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision; Mojave Desert Air Quality Management District; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the California State Implementation Plan (SIP). The revisions concern rules from the Mojave Desert Air Quality

Management District (MDAQMD) and the South Coast Air Quality Management District (SCAQMD). The rules control oxides of nitrogen (NO_x) from boilers and process heaters, internal combustion engines, residential natural gas-fired water heaters, and stationary gas turbines. This action will incorporate these rules into the Federally approved SIP. The intended effect of approving these rules is to regulate emissions of NO_x in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

DATES: This action is effective on December 31, 1996 unless adverse or critical comments are received by December 2, 1996. If the effective date is delayed, a timely notice will be published in the Federal Register.

ADDRESSES: Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

Mojave Desert Air Quality Management District, 15428 Civic Drive, Suite 200, Victorville, CA 92392.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765-4182.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Section (A-5-3), Air and Toxics Division, U.S.

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1200.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being approved into the California SIP include: MDAQMD Rule 1157, Boilers and Process Heaters; MDAQMD Rule 1160, Internal Combustion Engines; SCAQMD Rule 1121, Control of Nitrogen Oxides from Residential Type Natural Gas-Fired Water Heaters; and SCAQMD Rule 1134, Emissions of Oxides of Nitrogen from Stationary Gas Turbines.

Background

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA or the Act) were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. The air quality planning requirements for the reduction of NO_x emissions through reasonably available control technology (RACT) are set out in section 182(f) of the CAA. On November 25, 1992, EPA published a Notice of Proposed Rulemaking entitled "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO_x Supplement) which describes and provides preliminary guidance on the requirements of section 182(f). 57 FR 55620. The NO_x Supplement should be referred to for further information on the NO_x requirements and is incorporated into this notice of direct final rulemaking by reference.

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO_x ("major" as defined in section 302 and section 182 (c), (d), and (e)) as are applied to major stationary sources of volatile organic compound (VOC) emissions, in moderate or above ozone nonattainment areas. The Southeast Desert Air Basin is classified as severe, and the Los Angeles-South Coast Air Basin Area is classified as extreme;¹ therefore these areas were subject to section 182(f), the RACT requirements of section 182(b)(2), and the November 15, 1992 deadline, cited below.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC (and NO_x) emissions not covered by either a pre-enactment or post-enactment control techniques guideline (CTG) document by November 15, 1992. There were no NO_x CTGs issued before enactment and EPA has not issued a CTG document for any NO_x sources since enactment of the CAA. The RACT rules covering NO_x sources and submitted as SIP revisions, are expected to require final installation of the actual NO_x controls as expeditiously as practicable, but no later than May 31, 1995.

MDAQMD Rule 1157 and Rule 1160 were both adopted on October 26, 1994, and submitted by CARB to EPA on November 30, 1994. SCAQMD Rule 1121 was adopted on March 10, 1995,

¹ The Southeast Desert Air Basin and the Los Angeles-South Coast Air Basin Area retained their designations of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

and submitted on May 24, 1995. SCAQMD Rule 1134 was adopted on December 7, 1995 and submitted on March 26, 1996. These submitted rules were found to be complete on January 30, 1995, July 24, 1995, and May 15, 1996, respectively, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V.² By today's document, EPA is taking direct final action to approve these rules into the SIP.

MDAQMD Rule 1157 controls emissions of NO_x from boilers and process heaters, and MDAQMD Rule 1160 regulates internal combustion engines. SCAQMD Rule 1121 controls emissions from residential water heaters, and SCAQMD Rule 1134 applies to stationary gas turbines. NO_x emissions contribute to the production of ground level ozone and smog. The rules were adopted as part of each district's efforts to achieve the National Ambient Air Quality Standards for ozone and in response to the CAA requirements cited above. The following section contains EPA's evaluation and final action for these rules.

EPA Evaluation

In determining the approvability of a NO_x rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for this action, appears in various EPA policy guidance documents.³ Among these provisions is the requirement that a NO_x rule must, at a minimum, provide for the implementation of RACT for stationary sources of NO_x emissions.

For the purposes of assisting State and local agencies in developing NO_x RACT rules, EPA prepared the NO_x Supplement to the General Preamble. In the NO_x Supplement, EPA provides guidance on how RACT will be determined for stationary sources of NO_x emissions. While most of the guidance issued by EPA on what constitutes RACT for stationary sources

has been directed towards application for VOC sources, much of the guidance is also applicable to RACT for stationary sources of NO_x (see section 4.5 of the NO_x Supplement). In addition, pursuant to section 183(c), EPA is issuing alternative control technique documents (ACTs), which identify alternative controls for all categories of stationary sources of NO_x. The ACT documents will provide information on control technology for stationary sources that emit or have the potential to emit 25 tons per year or more of NO_x. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of NO_x. In general, the guidance documents cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted NO_x RACT rules are fully enforceable and strengthen or maintain the SIP.

MDAQMD Rule 1157 is a new rule which controls emissions from boilers, steam generators, and process heaters with rated heat inputs of 5 million British Thermal Units per hour (MMBTU/hr) or more, used in a variety of industrial, institutional, and commercial operations. This rule contains NO_x RACT limits of 70 ppmv for units operated on gaseous fuel and 115 ppmv for units operated on liquid or solid fuel. Units permitted to emit more than 5 tons/day or more than 250 tons/year of NO_x must meet stricter emission limits. This rule also requires monitoring of fuel usage and annual source testing.

MDAQMD Rule 1160 is a new rule regulating internal combustion engines rated at 500 brake horsepower (bhp) or greater. The rule contains a VOC limit of 106 ppmv and a CO limit of 4500 ppmv. NO_x limits depend on the type of engine: 50 ppmv for rich-burn engines, 140 ppmv for lean-burn, and 700 ppmv for diesel. The rule also contains provisions for an alternative method of compliance with NO_x limits by requiring reductions of uncontrolled NO_x emissions by at least 90% for rich-burn engines, 80% for lean-burn engines, and 30% for diesel engines. Operator inspections are required at least every calendar quarter or after every 2,000 hours of operation, whichever is more frequent.

SCAQMD Rule 1121 applies to manufacturers, distributors, retailers, and installers of residential natural gas-fired water heaters. This submitted rule is a revision to the existing SIP rule, and contains the following major changes:

- An "Applicability" section has been added for clarification.

- Definitions have been added for several terms, such as: independent testing laboratory, mobile home water heater, and rated heat input capacity.
- Certification requirements have been amended to require source testing and verification from an independent testing laboratory, and reverification every three years.

SCAQMD Rule 1134 is a new rule that controls emissions from stationary gas turbines of 0.3 megawatt and larger. The rule contains NO_x emission limits ranging from approximately 9 ppmv to 25 ppmv, depending on the size of the unit. Annual source testing is required for units emitting 25 tons of NO_x per year or more. All other units must source test after every 8,400 hours of operation. This rule requires the use of a continuous emissions monitoring system with data gathering and retrieval capability, and requires maintenance of a daily operating log.

A more detailed discussion of the sources controlled,⁴ the controls required, and the justification for why these controls represent RACT can be found in the Technical Support Document (TSD) for each rule, available from the U.S. EPA Region IX office.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations and EPA policy. Therefore, MDAQMD Rule 1157, MDAQMD Rule 1160, SCAQMD Rule 1121, and SCAQMD Rule 1134 are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a), section 182(b)(2), section 182(f) and the NO_x Supplement to the General Preamble.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this document without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revisions should adverse or critical comments be filed. This action will be effective December 31, 1996, unless, within 30 days of its

²EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

³Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); and "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 was published in the Federal Register on May 25, 1988).

⁴SCAQMD Rule 1121 and Rule 1134 will apply to sources which are not covered in the SCAQMD NO_x RECLAIM program.

publication, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective December 31, 1996.

Regulatory Process

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this State implementation plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this direct final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. Section 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on affected small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Dated: September 17, 1996.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c) (207)(i)(D)(3), (220)(i)(C), and (230)(i)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(207) * * *

(i) * * *

(D) * * *

(3) Rule 1157 and Rule 1160, adopted on October 26, 1994.

* * * * *

(220) * * *

(i) * * *

(C) South Coast Air Quality Management District.

(I) Rule 1121, adopted on March 10, 1995.

* * * * *

(230) * * *

(i) * * *

(B) South Coast Air Quality Management District.

(I) Rule 1134, adopted on December 7, 1995.

* * * * *

[FR Doc. 96-27846 Filed 10-31-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[CA 168-0019a; FRL-5641-7]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Sacramento Metropolitan Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern negative declarations from the Sacramento Metropolitan Air Quality Management District (SMAQMD) for five source categories that emit oxides of nitrogen (NO_x): Nitric and Adipic Acid Manufacturing Plants, Utility Boilers, Cement Manufacturing Plants, Glass Manufacturing Plants, and Iron and Steel Manufacturing Plants. The SMAQMD has certified that these source categories are not present in the District and this information is being added to the federally approved State Implementation Plan. The intended effect of approving these negative declarations is to meet the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is