

6, 1984 and amended on January 11, 2002.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 279-0401a; FRL-7526-4]

Revisions to the California State Implementation Plan; Sacramento Metropolitan 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 Sacramento Metropolitan Air Quality Management District's portion of the California State Implementation Plan. These revisions concern a local fee rule that applies to major sources of volatile organic compound and nitrogen oxide emissions within the Sacramento Metropolitan ozone nonattainment area. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990.

DATES: This rule is effective on October 27, 2003 without further notice, unless EPA receives adverse comments by September 25, 2003. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andrew Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect copies of the submitted State Implementation Plan revisions and EPA's technical support document at our Region IX office during normal business hours. You may also see copies of the submitted revisions at the following locations:

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B-102, 1301 Constitution Avenue NW., (Mail Code 6102T), Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Sacramento Metropolitan Air Quality Management District, 777 12th Street, Third Floor, Sacramento, CA 95814.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/>

[drdb/drdbtxt.htm](#). Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Mae Wang, EPA Region IX, (415) 947-4124.

SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What Rule Did the State Submit?

The Sacramento Metropolitan Air Quality Management District (SMAQMD) adopted Rule 307, Clean Air Act Fees, on September 26, 2002. This rule was submitted by the California Air Resources Board (CARB) on December 12, 2002, for incorporation into the California State Implementation Plan (SIP). On February 7, 2003, this rule submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. There are no previous versions of Rule 307 in the SIP, and no previous versions of this rule have been submitted.

B. What Is the Purpose of the Submitted Rule?

SMAQMD Rule 307 requires major stationary sources of volatile organic compounds (VOCs) and nitrogen oxides (NO_x) in the Sacramento Metropolitan ozone nonattainment area to pay a fee to the SMAQMD if the area fails to attain the one-hour national ambient air quality standard for ozone by its federally established attainment year. The fee must be paid beginning in the second year after the attainment year, and in each calendar year thereafter, until the area is redesignated to attainment of the 1-hour ozone standard. EPA's technical support document (TSD) has more information about this rule.

C. Why Was This Rule Submitted?

Under sections 182(d)(3), (e), and 185 of the Clean Air Act as amended in 1990 (CAA or the Act), States are required to adopt an excess emissions fee regulation for ozone nonattainment areas classified as severe or extreme. In California, the Sacramento Metropolitan nonattainment area is classified as severe. The fee regulation specified by the Act requires major stationary sources of VOCs in the

nonattainment area to pay a fee to the State if the area fails to attain the standard by the attainment date set forth in the Act. Emissions of VOCs play a role in producing ground-level ozone and smog, which harm human health and the environment. Section 182(f) of the Act requires States to apply the same requirements to major stationary sources of NO_x as are applied to major stationary sources of VOCs. SMAQMD Rule 307 applies to major sources of both NO_x and VOCs.

II. What Action Is EPA Taking?

As authorized in section 110(k)(3) of the Act, EPA is fully approving SMAQMD Rule 307 because we believe it fulfills all relevant requirements. We believe the submitted rule is consistent with the requirements of the Act and relevant policy and guidance regarding SIP revisions. The TSD has more information on our evaluation.

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 of this **Federal Register**, we are simultaneously proposing approval of the same submitted rule. If we receive adverse comments by September 25, 2003, 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 October 27, 2003. This will incorporate SMAQMD Rule 307 into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose

any additional enforceable duty beyond that required by State law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 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 rule 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 October 27, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 12, 2003.

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—[AMENDED]

■ 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 paragraph (c)(308)(i)(C) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

(308) * * *

(i) * * *

(C) Sacramento Metropolitan Air Quality Management District.

(1) Rule 307, adopted on September 26, 2002.

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[FR Doc. 03-21588 Filed 8-25-03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 245-0403a; FRL-7535-2]

Revisions to the California State Implementation Plan, San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the San Diego County Air Pollution Control District (SDCAPCD) portion of the California State Implementation Plan (SIP). This revision concerns volatile organic compound (VOC) emissions from the transfer of organic compounds to mobile transport tanks. We are approving a local rule that regulates this emission source under the Clean Air Act as amended in 1990 (CAA or the Act). We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on October 27, 2003 without further notice, unless EPA receives adverse comments by September 25, 2003. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, steckel.andrew@epa.gov.

You can inspect copies of the submitted SIP revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revision at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.