

Dated: December 29, 2010.

**Susan Hedman,**

*Regional Administrator, Region 5.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2010-1078; FRL-9252-7]

#### Revision to the South Coast Portion of the California State Implementation Plan, CPV Sentinel Energy Project AB 1318 Tracking System

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed Rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a source-specific State Implementation Plan (SIP) revision for the South Coast Air Quality Management District (District) portion of the California SIP. This source-specific SIP revision is known as the CPV Sentinel Energy Project AB 1318 Tracking System. The submitted SIP revision, which consists of enabling language and the AB 1318 Tracking System, supplements the District's SIP approved New Source Review (NSR) program to allow the District to transfer offsetting emission reductions for particulate matter less than 10 microns in diameter (PM<sub>10</sub>) and one of its precursors, sulfur oxides (SO<sub>x</sub>), to the CPV Sentinel Energy Project. The District's SIP approved NSR program currently allows the District to provide offsetting emission reductions for certain exempt sources and sources that qualify as essential public services. The Sentinel Energy Project, which will be a natural gas fired power plant, does not qualify under either of these SIP approved exceptions. This proposed action supplements the District's SIP to allow the District to transfer offsetting emission reductions to the Sentinel Energy Project. In this action, EPA is proposing to incorporate the District's enabling language, which in turn incorporates the AB 1318 Tracking System by reference into the SIP. EPA's proposal to approve this source-specific SIP revision is based on finding that the offsetting emission reductions the District has transferred to the AB 1318 Tracking System meet the requirements of the Clean Air Act (CAA).

**DATES:** Comments on this Notice of Proposed Rulemaking (NPR) must be submitted no later than February 14, 2011.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2010-1078, by one of the following methods:

1. *Federal eRulemaking Portal:*

<http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* [r9airpermits@epa.gov](mailto:r9airpermits@epa.gov).

3. *Mail or deliver:* Gerardo Rios (Air-3), 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](http://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 <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, and 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 EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

**Docket:** The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), 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:** Laura Yannayon, EPA Region IX, (415) 972-3524, [yannayon.laura@epa.gov](mailto:yannayon.laura@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

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#### I. Background

##### A. Facility Description and Background

The proposed Sentinel Energy Project is designed to be a nominally rated 850 megawatt electrical generating facility covering approximately 37 acres within Riverside County, adjacent to Palm Springs, California. The Sentinel Energy Project will emit air pollutants from eight General Electric LMS100 combustion turbine generators equipped with oxidation catalyst and selective catalytic reduction equipment, eight single cell mechanical draft cooling towers, and a 240 brake horsepower Tier III diesel emergency fire pump engine.

The California Energy Commission (CEC) approved the application for certification for Sentinel on December 1, 2010. The District issued a Final Determination of Compliance (FDOC) and an Addendum to the FDOC, known as Appendix N, on March 2, 2010. Appendix N to the FDOC has evolved into the AB 1318 Tracking System submitted as part of this SIP revision. The CEC certification and the District's FDOC require the Sentinel Energy Project to install and operate stringent emissions controls to reduce emissions of NO<sub>x</sub>, VOC, CO and PM<sub>10</sub> to the lowest achievable emissions rates.

##### B. Emission Offsets

Pursuant to section 173 of the CAA, new major stationary sources are required to provide offsetting emission reductions for any non-attainment pollutants that continue to be emitted after operation of the most stringent emissions controls, if those levels exceed certain thresholds. 42 U.S.C. 7503(a)(1)(A). The District implements these requirements through its NSR program in Regulation XIII, which EPA approved into the SIP in 1996 as

meeting the requirements for CAA Section 110, Part D. 61 FR 64291.

The District estimated the amount of offsetting emission reductions that Sentinel must provide to comply with District Rule 1303 and CAA § 173 for all non-attainment pollutants. For all pollutants other than PM<sub>10</sub> and SO<sub>x</sub>, Sentinel has purchased Emission Reduction Credits (ERCs) on the open market. Those ERCs comply with Rule 1309.

For PM<sub>10</sub> and SO<sub>x</sub> emissions, the California Legislature enacted California Assembly Bill (AB) 1318, which went into effect on January 1, 2010. AB 1318 requires the District, upon making a specified finding, to transfer SO<sub>x</sub> and PM<sub>10</sub> emission offsets from its internal bank to eligible electric generating facilities. The District determined that the Sentinel Energy Project met all of the requirements of an eligible electric generating facility and made the required finding.

AB 1318 also establishes requirements for the District's implementation of transferring the offsetting emission reductions from its internal bank to an eligible electric generating facility and for tracking the transfer of offsetting emissions reductions. The District completed those requirements as documented in Appendix N to the FDOC, which has evolved into the AB 1318 Tracking System for this SIP revision. The offsetting emission reductions transferred to the AB 1318 Tracking System from the District's internal bank were created by permitted equipment that permanently ceased or reduced operations in District. The District examined each of these offsetting emission reductions and determined that they met the "integrity criteria" established in CAA § 173(c). Specifically, the District determined that the offsetting emission reductions were real, permanent, quantifiable, enforceable and surplus. The District then transferred those specific PM<sub>10</sub> and SO<sub>x</sub> offsetting emission reductions out of its internal bank and into the AB 1318 Tracking System. These offsetting emission reductions are no longer available for use in any other action.

The amounts of offsetting emission reductions the District transferred from its internal bank to the AB 1318 Tracking System are based on estimated actual PM<sub>10</sub> and SO<sub>x</sub> emissions reported to the District according to its Annual Emissions Reporting Program. For each source of offsetting emission reductions from a permanent shutdown of equipment, the District has inactivated that source's permit. For each offsetting emission reduction created by a source reducing emissions, the District has

revised the source's federally enforceable permit to ensure the reduction is permanent. The complete list of PM<sub>10</sub> and SO<sub>x</sub> offsetting emission reductions is provided in the AB 1318 Tracking System which is attached to EPA's Technical Support Document (TSD). Documentation for each of these offsetting emission reductions is included in the docket for this proposal.

### *C. Procedural History of Source Specific SIP Revision*

The District adopted the CPV Sentinel Energy Project AB 1318 Tracking System on July 9, 2010. The California Air Resources Board (CARB) submitted the CPV Sentinel Energy Project AB 1318 Tracking System to EPA as a source specific SIP revision on September 10, 2010. EPA issued a completeness letter on October 27, 2010, finding that the submittal had met the completeness criteria in 40 CFR Part 51 Appendix V.

## **II. Evaluation of Source Specific SIP Revision**

### *A. What is in the SIP revision?*

The package that the District, through CARB, submitted to EPA consists of text to be included as a revision to the District's portion of the California SIP, and the Sentinel Energy Project AB 1318 Tracking System created to implement this new SIP provision. The District's SIP text incorporates the Sentinel Energy Project AB 1318 Tracking System by reference. The AB 1318 Tracking System includes specific offsetting emission reductions that were identified from reductions of SO<sub>x</sub> and PM<sub>10</sub> occurring between 1999 and 2008 from permitted equipment that has either permanently ceased operations in the District or became subject to federally enforceable conditions that reduced actual emissions. The District has not issued any Rule 1309 ERCs for these specific emissions reductions and has inactivated the permits for the equipment that has been shut down. These SO<sub>x</sub> and PM<sub>10</sub> offsetting emission reductions were transferred out of the District's internal bank and into the AB 1318 Tracking System. These reductions have not been used by any other source and cannot be used for any other source in the future if they are used to construct the CPV Sentinel Energy Project. A copy of the AB 1318 Tracking System for CPV Sentinel is included as an attachment to the TSD for this action.

The text of the proposed source-specific SIP revision, in relevant part, is:

The Executive Officer of the South Coast Air Quality Management District shall transfer sulfur oxides and particulate

emission credits from the CPV Sentinel Energy Project AB 1318 Tracking System, attached hereto and incorporated by reference herein, to eligible electrical generating facilities pursuant to Health and Safety Code section 40440.14, as in effect January 1, 2010, (*i.e.* the CPV Sentinel Power Plant to be located in Desert Hot Springs, CA) in the full amounts needed to issue permits to construct and to meet requirements for sulfur oxides and particulate matter emissions. Notwithstanding District Rule 1303, this SIP revision provides a federally enforceable mechanism for transferring offsets from the AQMD's internal accounts to the CPV Sentinel Project.

The SIP revision is intended to provide a federally approved and enforceable mechanism for the District to transfer PM<sub>10</sub> and SO<sub>x</sub> offsetting emissions reductions from the District's internal bank to the Sentinel Energy Project and to track those emissions credits through the AB 1318 Tracking System.

### *B. What are the Federal Clean Air Act requirements?*

The South Coast Air Basin is an extreme non-attainment area for ozone and a serious non-attainment area for PM<sub>10</sub>. Sulfur oxide emissions are PM<sub>10</sub> precursors and are therefore also treated as a PM<sub>10</sub> non-attainment pollutant. As required by CAA § 110(a)(2)(C), SIPs are required to include provisions to comply with CAA Part D for non-attainment pollutants. Among the Part D requirements, § 173(a)(1)(A) requires offsetting emission reductions for new and modified major stationary sources. Section 173(c) requires the offsetting emission reductions to be real, quantifiable, surplus, permanent, and enforceable.

The District's NSR permitting program is contained in District Regulation XIII, which was approved into the South Coast portion of the California SIP on December 4, 1996, for purposes of complying with the CAA Part D. (61 FR 64291). District Rule 1303(b)(2) requires the District to deny a permit to construct a new source or modify an existing source unless it is exempt from offset requirements pursuant to Rule 1304, emissions increases are offset by ERCs approved pursuant to Rule 1309, or the source obtains allocations from the District's Priority Reserve accounts in accordance with the provisions of Rule 1309.1. For PM<sub>10</sub> and SO<sub>x</sub> emissions, Sentinel is not exempt pursuant to Rule 1304 and does not qualify for allocations from the Priority Reserve.<sup>1</sup>

<sup>1</sup> When sources are exempt from offsets pursuant to Rule 1304 or entitled to allocations pursuant to

However, the California legislature directed the District to provide offsetting emission reductions from the District's internal bank to the Sentinel Energy Project (providing it qualified) to offset its PM<sub>10</sub> and SO<sub>x</sub> emissions. This source-specific SIP revision approves the Sentinel Energy Project AB 1318 Tracking System to provide the federally enforceable mechanism allowing the District to transfer PM<sub>10</sub> and SO<sub>x</sub> offsetting emission reductions to meet the requirements of Rule 1303(b).

EPA has reviewed the documents provided for each offsetting emission reduction the District has transferred to the AB 1318 Tracking System. We are proposing to find that the PM<sub>10</sub> and SO<sub>x</sub> offsetting emission reductions transferred to the AB 1318 Tracking System meet the CAA Section 173 requirements that emission reductions used as offsets be real, quantifiable, surplus, permanent, and enforceable prior to use. The TSD for this action provides more detail regarding how the offsetting emission reductions transferred to the AB 1318 Tracking System meet these requirements.

#### C. SIP Relaxation

Under section 110(l) of the CAA, EPA may not approve any SIP revision that would interfere with attainment, reasonable further progress (RFP) or any other CAA requirement.

We believe this revision will not interfere with attainment or RFP because the emission credits in the AB 1318 Tracking System are not relied on for attainment or RFP in the District's most recent attainment demonstrations. We are also not aware of this revision interfering with any other CAA requirement. For example, this source-specific SIP revision provides a new but equivalent mechanism to provisions in Regulation XIII for satisfying the offset requirements of CAA § 173 because the offsetting emission reductions the District is transferring from its internal bank to the AB 1318 Tracking System meet all Federal requirements. In addition, the District supplied a copy of its air quality analysis for the CPV Sentinel Energy Project which shows that operation of the facility will not interfere with the ability of the District to reach attainment.<sup>2</sup>

Rule 1309.1, the District deducts sufficient emission credits from its internal bank of credits to offset any emissions that would be subject to Federal offset requirements. The District prepares annual reports to show that it has adequate emissions credits in its internal bank.

<sup>2</sup> *Air Quality Demonstration: SIP Revision for CPV Sentinel Energy Project*

#### D. Public Comment and Final Action

Because EPA believes the submittal fulfills all relevant requirements, we are proposing to fully approve it as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate this submittal into the federally enforceable SIP.

### III. Administrative Requirements

#### A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

#### B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b).

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies 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 small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

#### D. Unfunded Mandates Reform Act

Under sections 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### E. Executive Order 13132, Federalism

*Federalism* (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (*Federalism*) and 12875 (*Enhancing the Intergovernmental Partnership*). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a

regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will 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, because it 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

*F. Executive Order 13175, Coordination With Indian Tribal Governments*

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This proposed rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, 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. Thus, Executive Order 13175 does not apply to this rule.

*G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because it approves a State rule implementing a Federal standard.

*H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is

not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population*

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this rulemaking.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: December 30, 2010.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2011-647 Filed 1-12-11; 8:45 am]

**BILLING CODE 6560-50-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 20**

[PS Docket No. 10-255; FCC 10-200]

**Framework for Next Generation 911 Deployment**

**AGENCY:** Federal Communications Commission

**ACTION:** Notice of inquiry.

**SUMMARY:** The Notice of Inquiry (NOI) initiates a comprehensive proceeding to address how Next Generation 911 (NG911) can enable the public to obtain emergency assistance by means of advanced communications technologies beyond traditional voice-centric devices. The NOI seeks to gain a better understanding of how the gap between the capabilities of modern networks and devices and today's 911 system can be bridged and seeks comment on how to further the transition to IP-based communications capabilities for emergency communications and NG911.

**DATES:** Submit comments on or before February 28, 2011. Submit reply comments March 14, 2011.

**ADDRESSES:** Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (May 1, 1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.

- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445