

additions as specified in Regulation 3, Part A, Section VI.D.1.

Minor grammatical revisions made throughout the revisions, as identified above, are also being proposed for approval.

## VI. Statutory and Executive Order Reviews

Under the CAA, 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, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 Order 12866 (58 FR 51735, October 4, 1993);
  - 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 (Pub. L. 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 CAA; 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249,

November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 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).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by Reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 19, 2011.

**Carol Rushin,**

*Acting Regional Administrator, Region 8.*

[FR Doc. 2011-13272 Filed 5-26-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2011-0416; FRL-9312-4]

### Revisions to the California State Implementation Plan, South Coast Air Quality Management District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO<sub>x</sub>) and oxides of sulfur (SO<sub>x</sub>) emissions from facilities emitting 4 tons or more per year of NO<sub>x</sub> or SO<sub>x</sub> in the year 1990 or any subsequent year under the SCAQMD's Regional Clean Air Incentives Market (RECLAIM) program. We are approving

a local rule that regulates these emission sources 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 June 27, 2011.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2011-0416, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

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

3. *Mail or deliver:* Andrew Steckel (Air-4), 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 <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:* Generally, documents in the docket for this action are 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 at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), 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:** Lily Wong, EPA Region IX, (415) 947-4114, [wong.lily@epa.gov](mailto:wong.lily@epa.gov).

### 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?*

Table 1 lists the rule addressed by this proposal with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

**TABLE 1—SUBMITTED RULE**

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD .....	2002	Allocations for Oxides of Nitrogen (NO <sub>x</sub> ) and Oxides of Sulfur (SO <sub>x</sub> ).	11/05/10	04/05/11

On May 6, 2011, EPA determined that the submittal for SCAQMD Rule 2002 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?*

Table 2 lists the previous version of this rule approved into the SIP.

**TABLE 2—CURRENT SIP APPROVED VERSION OF RULE**

Rule No.	Rule title	Adopted	Submitted	Approved FR citation
2002 .....	Allocations for Oxides of Nitrogen (NO <sub>x</sub> ) and Oxides of Sulfur (SO <sub>x</sub> ).	01/07/2005	12/21/2005	08/29/2006, 71 FR 51120

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

NO<sub>x</sub> helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control NO<sub>x</sub> emissions.

PM contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. PM<sub>2.5</sub> can be emitted directly into the atmosphere as a solid or liquid particle (primary or direct PM<sub>2.5</sub>) or can be formed in the atmosphere as a result of various chemical reactions from precursor emissions of NO<sub>x</sub>, sulfur dioxide (SO<sub>2</sub>), volatile organic compounds and ammonia (secondary PM<sub>2.5</sub>). PM<sub>2.5</sub> in the South Coast Air Basin is overwhelmingly formed as a secondary pollutant. (South Coast 2007 Air Quality Management Plan, page ES-9). Therefore, the South Coast 2007 AQMP relies on reducing precursors to PM<sub>2.5</sub> and some directly-emitted PM<sub>2.5</sub> rather than fugitive dust (PM<sub>10</sub>).

The RECLAIM program was initially adopted by SCAQMD in October 1993. The program established for many of the largest NO<sub>x</sub> and SO<sub>x</sub> facilities in the South Coast Air Basin a regional NO<sub>x</sub> and a regional SO<sub>x</sub> emissions cap and trade program, with the regional emissions caps declining over time until

2003. The program was designed to provide incentives for sources to reduce emissions and advance pollution control technologies by giving sources added flexibility in meeting emission reduction requirements. A NO<sub>x</sub> or SO<sub>x</sub> RECLAIM Trading Credit (RTC) is a limited authorization to emit one pound of NO<sub>x</sub> or SO<sub>x</sub> during a specified one year period. A RECLAIM source's emissions may not exceed its RTC holding in any compliance year. A RECLAIM source may comply with this requirement by installing control equipment, modifying their activities, or purchasing RTCs from other facilities.

The primary purpose of the amendments to Rule 2002 was to achieve SO<sub>x</sub> emission reductions by lowering the SO<sub>x</sub> emissions cap in the SO<sub>x</sub> RECLAIM program. This is accomplished by the calculation procedures in the rule for lowering a source's SO<sub>x</sub> RTC holdings. EPA's technical support document (TSD) has more information about this rule.

Rule 2002 submitted to EPA also includes certain amendments to the rule that occurred in 2005 that were not previously approved by EPA. These amendments lower a source's NO<sub>x</sub> RTC holdings and result in NO<sub>x</sub> emission reductions. EPA's TSD has more information about these provisions.

**II. EPA's Evaluation and Action**

*A. How is EPA evaluating the rule?*

Generally, SIP rules must be enforceable (see section 110(a) of the

Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see sections 182(a)(2) and 182(f)), and must not relax existing requirements (see sections 110(l) and 193). The SCAQMD regulates an ozone nonattainment area (see 40 CFR part 81), so Rule 2002 must fulfill RACT.

Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

1. "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO<sub>x</sub> Supplement), 57 FR 55620, November 25, 1992.
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

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

We believe this rule is consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSD has more information on our evaluation.

### C. Public Comment and Final Action

Because EPA believes the submitted rule 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 rule into the federally enforceable SIP.

### III. 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, 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 Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
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- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
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- 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

disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: May 19, 2011.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2011-13239 Filed 5-26-11; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 49 CFR Part 23

[Docket No. OST-2011-0101]

RIN 2105-AE10

#### Disadvantaged Business Enterprise Program Improvements for Airport Concessions

**AGENCY:** Office of the Secretary (OST), DOT.

**ACTION:** Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** This notice of proposed rulemaking (NPRM) proposes conforming amendments to the Department of Transportation's Airport Concessions Disadvantaged Business Enterprise (ACDBE) regulation, consistent with recently issued amendments in the Department's regulation for the disadvantaged business enterprise (DBE) program in highway, transit, and airport financial assistance programs.

**DATES:** Comments on this proposed rule must be received by July 26, 2011.

**ADDRESSES:** You may submit comments (identified by the agency name and DOT Docket ID Number OST-2011-0101) by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.

- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

- *Fax:* 202-493-2251.

**Instructions:** You must include the agency name (Office of the Secretary, DOT) and Docket number (OST-2011-0101) for this notice at the beginning of your comments. You should submit two copies of your comments if you submit them by mail or courier. Note that all comments received will be posted without change to <http://www.regulations.gov> including any personal information provided and will be available to Internet users. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit <http://DocketsInfo.dot.gov>.

**Docket:** For Internet access to the docket to read background documents and comments received, go to <http://www.regulations.gov>. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Ave, S.E., Docket Operations, M-30, West Building Ground Floor, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, Room W94-302, 202-366-9310, [bob.ashby@dot.gov](mailto:bob.ashby@dot.gov) or Wilbur Barham, Director National Airport Civil Rights Policy and Compliance, U.S. Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Room 1030, 202-385-6210, [wilbur.barham@faa.gov](mailto:wilbur.barham@faa.gov).

**SUPPLEMENTARY INFORMATION:** On January 28, 2011, the Department published a final rule establishing several program improvements to the Department's DBE program rule (49 CFR part 26) for financial assistance programs (76 FR 5083). This NPRM proposes conforming amendments to the Department's companion rule for the ACDBE program (49 CFR part 23) for several of the Part 26 amendments. The rationales for the proposed conforming changes to Part 23 are very similar to