

funding. However, section 179 leaves it up to the Administrator to decide the order in which these sanctions apply. EPA issued an order of sanctions rule in 1994 (59 FR 39832, August 4, 1994, codified at 40 CFR 52.31) but did not specify the order of sanctions where a state fails to submit or submits a deficient SIP in response to a SIP call. However, the order of sanctions specified in that rule (40 CFR 52.31) should apply here for the same reasons discussed in the preamble to that rule.

Thus, if EPA issues a final SIP call and California fails to submit the required SIP revision, or submits a revision that EPA determines is incomplete or that EPA disapproves, EPA proposes that the 2-to-1 emission offset requirement will apply for all new sources subject to the nonattainment new source review program 18 months following such finding or disapproval unless the State corrects the deficiency before that date. EPA proposes that the highway funding restrictions sanction will also apply 24 months following such finding or disapproval unless the State corrects the deficiency before that date. EPA is also proposing that the provisions in 40 CFR 52.31 regarding staying the sanctions clock and deferring the imposition of sanctions would apply.

In addition, CAA section 110(c) obligates EPA to promulgate a FIP addressing the deficiency that is the basis for a finding of failure to submit or a disapproval within two years after the effective date of such finding or disapproval, unless EPA has approved a revised SIP correcting the deficiency before that date.

#### IV. Proposed Action and Request for Public Comment

EPA is proposing to find, pursuant to section 110(k)(5) of the CAA, that the California SIP is substantially inadequate to comply with the obligation to adopt and implement a plan providing for attainment of the one-hour ozone NAAQS in the South Coast. If EPA finalizes this proposal, California will be required to submit a SIP revision correcting the deficiency within 12 months of the effective date of EPA's final rule.

We will accept comments on this proposal for 30 days following publication of this proposed rule in the **Federal Register**. We will consider all submitted comments in our final rulemaking.

#### V. Statutory and Executive Order Reviews

Under the Clean Air Act, a finding of substantial inadequacy and subsequent

obligation for a State to revise its SIP arise out of section 110(a) and 110(k)(5). The finding and State obligation do not directly impose any new regulatory requirements. In addition, the State obligation is not legally enforceable by a court of law. EPA would review its intended action on any SIP submittal in response to the finding in light of applicable statutory and Executive Order requirements, in subsequent rulemaking acting on such SIP submittal. For those reasons, this proposed 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 Clean Air Act; 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 finding of SIP inadequacy would not 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 30, 2012.

**Jared Blumenfeld,**

*Regional Administrator, EPA Region IX.*

[FR Doc. 2012-22972 Filed 9-18-12; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2012-0611; FRL-9730-2]

### 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 lead emissions from large lead-acid battery recycling facilities. We are approving a local rule that regulates these emission sources under the Clean Air Act (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 October 19, 2012.

**ADDRESSES:** Submit comments, identified by docket number R09-OAR-2012-0611, by one of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
2. *Email:* [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 [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 [www.regulations.gov](http://www.regulations.gov) or email.

*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 email directly to EPA, your email 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 *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

*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:** Adrienne Borgia, EPA Region IX, (415) 972-3576, *borgia.adrienne@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 dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
SCAQMD .....	1420.1	Emissions Standard For Lead From Large Lead-Acid Battery Recycling Facilities.	11/5/10	9/27/11

On October 24, 2011, EPA determined that the submittal for SCAQMD Rule 1420.1 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 are no previous versions of Rules 1420.1 in the SIP.

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

Lead is classified as a hazardous air pollutant under the Clean Air Act (CAA) Section 112 (b). On November 12, 2008, The EPA published the final rule on the Lead National Ambient Air Quality Standards (NAAQS). The revisions to the primary and secondary Lead NAAQS were to provide increased protection for children and other at-risk populations against an array of health effects. Such health effects most notably include neurological effects in children, including neurocognitive and neurobehavioral effects. Section 110(a) of the CAA requires States to submit regulations that control lead emissions. SCAQMD Rule 1420.1 imposes these revised emission standards for large lead-acid battery recycling facilities. EPA’s technical support document (TSD) has more information about this rule.

**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) and must not relax existing

requirements (see sections 110(l) and 193). A SIP, outlining the strategy to demonstrate attainment with the lead NAAQS, must be submitted within 18 months of the final designation date. In addition, SIP rules must implement Reasonably Available Control Measures (RACM), including Reasonably Available Control Technology (RACT (see CAA sections 189(a)(1) and 189(b)(1)). The SCAQMD regulates a lead nonattainment (see 40 CFR part 81), so SCAQMD must implement RACM/RACT.

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

1. “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 published in the May 25, 1988 **Federal Register**.
2. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (the Little Bluebook).
3. “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
4. “Implementation of the 2008 Lead National Ambient Air Quality Standards Guide to Developing Reasonably Available Control Measures (RACM) for

Controlling Lead Emissions,” EPA 457/R-12-001, March 2012.

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

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

*C. EPA Recommendations To Further Improve The Rule*

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies the rule but are not currently the basis for rule disapproval.

*D. 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.*);
- 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 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, these rules do 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, Lead, Ozone, Reporting and recordkeeping requirements.

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

Dated: September 5, 2012.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2012-23154 Filed 9-18-12; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2012-0734; FRL-9727-4]

#### Withdrawal of Approval of Air Quality Implementation Plans; California; San Joaquin Valley; 1-Hour and 8-Hour Ozone Extreme Area Plan Elements

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to withdraw a March 8, 2010 final action approving state implementation plan (SIP) revisions submitted by the State of California under the Clean Air Act (CAA) to provide for attainment of the 1-hour ozone National Ambient Air Quality Standards (NAAQS) in the San Joaquin Valley extreme ozone nonattainment area. This proposed action is in response to a decision issued by the U.S. Court of Appeals for the Ninth Circuit (*Sierra Club v. EPA*, 671 F.3d 955 (9th Cir. 2012)) remanding EPA's approval of these SIP revisions. In addition, EPA is proposing to withdraw our approval of a portion of a March 1, 2012 final rule approving SIP revisions submitted by California to provide for attainment of the 1997 8-hour ozone NAAQS in the San Joaquin Valley. The portion of this final action for which EPA is proposing to withdraw its approval addressed requirements regarding emissions growth caused by growth in vehicle miles traveled under the CAA. This proposed action is in response to a decision issued by the U.S. Court of Appeals for the Ninth Circuit (*Association of Irrigated Residents*, 632 F.3d 584 (9th Cir. 2011), *as amended* Jan. 27, 2012), rejecting EPA's interpretation of the CAA, which had provided the basis for this portion of EPA's March 1, 2012 final rule.

**DATES:** Comments must be received on or before October 19, 2012.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2012-0734, by one of the following methods:

- *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
- *Email:* [wicher.frances@epa.gov](mailto:wicher.frances@epa.gov).
- *Mail or delivery:* Frances Wicher, (AIR-2), U.S. Environmental Protection

Agency Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

**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 [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) Web site 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 email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comments 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 proposed action is available electronically on the [www.regulations.gov](http://www.regulations.gov) Web site and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105. 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 at 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 below.

**FOR FURTHER INFORMATION CONTACT:** Frances Wicher, Air Planning Office (AIR-2), (415) 972-3957, [wicher.frances@epa.gov](mailto:wicher.frances@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we", "us" and "our" refer to EPA.

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