

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[CA 185-0047b; FRL-5888-9]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Northern Sierra Air Quality Management District**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) that concern a wide range of administrative and traditional source category rules.

The intended effect of proposing approval of these rules is to regulate emissions of volatile organic compounds (VOCs), oxides of nitrogen (NO_x) and other pollutants in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the final rules section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by October 16, 1997.

ADDRESSES: Written comments on this action should be addressed to: Andrew Steckel, Rulemaking Office [AIR-4], Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions 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.

Northern Sierra Air Quality Management District, 540 Searls Avenue, Nevada City, CA 95959. California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT:

Cynthia G. Allen, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1189.

SUPPLEMENTARY INFORMATION: This document concerns Northern Sierra Air Quality Management District Rule 101, Title; Rule 102, Definitions; Rule 202, Visible Emissions; Rule 203, Exceptions to Rule 202; Rule 204, Wet Plumes; Rule 206, Incinerator Burning; Rule 207, Particulate Matter; Rule 208, Orchard or Citrus Heaters; Rule 209, Fossil Fuel Steam Generator Facility; Rule 210, Specific Contaminants; Rule 212, Process Weight Table; Rule 213, Storage of Gasoline Products; Rule 221, Reduction of Animal Matter; Rule 222, Abrasive Blasting; Rule 225, Compliance; Rule 300, General Definitions; Rule 301, Compliance; Rule 313, Burn Day; Rule 314, Minimum Drying Times; Rule 315, Burning Management Requirements; and Rule 317, Mechanized Burners Requirements. For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

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

Dated: August 22, 1997.

John Wise,

Acting Regional Administrator.

[FR Doc. 97-24417 Filed 9-15-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[CA 167-0036b; FRL-5888-7]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State

Implementation Plan (SIP) which concern an emergency episode rule. The intended effect of proposing approval of this rule is to update the episode criteria and to eliminate redundant reporting requirements in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by October 16, 1997.

ADDRESSES: Written comments on this action should be addressed to: Cynthia G. Allen, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions and EPA's evaluation report of this rule is available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revision is also available for inspection at the following locations:

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

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT:

Cynthia G. Allen, Rulemaking Office (AIR-4) Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1189.

SUPPLEMENTARY INFORMATION: This document concerns South Coast Air Quality Management District Rule 701, Air Pollution Emergency Contingency Actions. This rule was submitted by the California Air Resources Board to EPA on January 31, 1996. For further information, please see the information

provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

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

Dated: August 22, 1997.

John Wise,

Acting Regional Administrator.

[FR Doc. 97-24416 Filed 9-15-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NM-24-1-7102; FRL-5892-7]

Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Proposed Approval of a Revision to the New Mexico State Implementation Plan—Enhanced Monitoring Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to section 110 of the Clean Air Act (the Act), as amended in 1990, EPA is proposing to approve revisions to the New Mexico State Implementation Plan (SIP) addressing revisions to Air Quality Control Regulation (AQCR) 702 concerning permits. The State's revision expands the types of testing and monitoring data, including stack and process monitoring, which can be used directly for compliance certifications and enforcement.

DATES: Comments on this proposed action must be received in writing on or before October 16, 1997.

ADDRESSES: Comments should be mailed to Jole C. Luehrs, Chief, Air Permits Section (6PD-R), EPA, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

EPA, Air Permits Section (6PD-R), 1445 Ross Avenue, Suite 700, Dallas, Texas, 75202-2377.

New Mexico Environmental Improvement Board, 1190 St. Francis Drive, Santa Fe, New Mexico 87502.

FOR FURTHER INFORMATION CONTACT: Mary Stanton, Air Permits Section (6PD-R), EPA, Dallas, Texas, 75202-2377, telephone (214) 665-8377.

SUPPLEMENTARY INFORMATION:

I. Background

The EPA has published a number of "reference test methods" and, in order

to assure uniformity in the application of emission standards, has required sources to establish compliance with emission standards by use of those reference test methods. In theory, a source would conduct testing on a periodic basis utilizing these methods and would rely on the comprehensive nature of this testing to assure compliance on a day to day basis.

In the interim, more accurate emission monitoring devices have been developed. In addition, EPA, the States, and the regulated community have gained a better understanding of the specific facility and pollution control device operating parameters that control emissions. Many sources currently determine compliance with permitted limits either through the use of continuous emission monitors or by monitoring key parameters of their production processes and pollution control devices.

Section 113(a) of the Act provides that the Agency may bring an enforcement action on the basis of any information available. However, in *United States versus Kaiser Steel Corporation*, the District Court ruled that, because of what it perceived to be limitations in EPA's regulations, only reference method stack testing could be used to establish violations of permit limits, notwithstanding irrefutable scientific evidence that otherwise demonstrated thousands of violations. In the 1990 amendments to the Act, Congress overrode the *United States versus Kaiser Steel Corporation* decision, providing that the duration of the violation could be established by any credible evidence (including evidence other than the applicable test method).

The EPA believes that existing SIPs (nationwide) are inadequate for States or EPA to fully implement the Act, because the SIPs may presently be interpreted to limit the types of testing or monitoring data that may be used for determining compliance and establishing violations. On June 9, 1994, EPA issued a call to the State of New Mexico to revise its SIP to clarify that any monitoring approved for the source (and included in a Federally enforceable operating permit) may form the basis of the compliance certification, and that any credible evidence may be used for purposes of enforcement in Federal court.

II. EPA Evaluation

On November 10, 1994, New Mexico made an official plan submission in response to EPA's SIP call. New Mexico submitted revisions to AQCR 702, which provides that data which has been collected under the enhanced monitoring and Operating Permit

programs can be used for compliance certifications and enforcement actions. Specifically, section R of the revisions to AQCR 702 authorizes this data to be used for compliance certifications, and section S authorizes this data to be considered for enforcement actions.

This revision will enhance the State's capability for determining compliance with, and for establishing violations of, the underlying emission limitations.

III. Proposed Action

The EPA reviewed these revisions to the New Mexico SIP and is proposing to approve sections R and S of AQCR 702 as submitted because they meet the requirements of section 110 of the Act. The EPA is requesting comments on all aspects of the requested SIP revision and EPA's proposed rulemaking action. The EPA will consider any timely submitted comments prior to EPA's taking final action on this proposed rule. Comments received by the date indicated above will be considered in the development of EPA's final rule.

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

IV. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** (FR) 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 Executive Order 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. See 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant 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.

The SIP approvals under section 110 and subchapter I, part D of the Act do