

Announcement 2023–16, 2023–20 I.R.B. 854 (May 15, 2023), provides that public hearings will be conducted in person, although the IRS will continue to provide a telephonic option for individuals who wish to attend or testify at a hearing by telephone. Any telephonic hearing will be made accessible to people with disabilities.

Drafting Information

The principal author of these regulations is Crystal Jackson-Kaloz of the Office of the Associate Chief Counsel (Procedure and Administration). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and IRS propose to amend 26 CFR part 301 as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 301.6311–2 is amended by:

- 1. Revising paragraph (d)(1).
- 2. Removing paragraph (e).
- 3. Redesignating paragraphs (f), (g), and (h) as paragraphs (e), (f), and (g).
- 4. Revising newly redesignated paragraph (e).
- 5. In new paragraph (f), removing the text “Internal Revenue Service” and adding the text “IRS” in its place.
- 6. Revising newly redesignated paragraph (g).

The revisions read as follows:

§ 301.6311–2 Payment by credit card and debit card.

* * * * *

(d) * * * (1) *In general.* Payments of taxes by credit card or debit card, and payments of reimbursement fees referred to in paragraph (e)(2) of this section, are subject to the applicable error resolution procedures of section 161 of the Truth in Lending Act (15 U.S.C. 1666), section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or any similar provisions of State or local law, for the purpose of resolving errors relating to the credit card or debit

card account, but not for the purpose of resolving any errors, disputes or adjustments relating to the underlying tax liability.

* * * * *

(e) *Authority to enter into contracts.*

(1) *In general.* The Commissioner may enter into contracts related to receiving payments of tax by credit card or debit card if such contracts are cost beneficial to the government. The determination of whether the contract is cost beneficial will be based on an analysis appropriate for the contract at issue and at a level of detail appropriate to the size of the government’s investment or interest.

(2) *Contracts under which fees are prohibited.* The Commissioner may enter into contracts that provide that the Internal Revenue Service (IRS) will not pay a fee, charge, or other monetary consideration under such contracts related to payments of tax by credit card or debit card. For payments of tax under such contracts, this section does not prohibit the imposition of fees or charges by issuers of credit cards or debit cards or by any other financial institutions or persons participating in the credit card or debit card transaction. The IRS may not receive any part of any such fees that may be charged.

(3) *Contracts under which fees are permitted and must be recouped.* The Commissioner may enter into contracts that provide that the IRS will pay a fee, charge, or other monetary consideration under such contracts related to payments of tax by credit card or debit card. If the IRS pays a fee under such contracts, it must recoup the full amount paid under such contracts as a reimbursement fee from the persons paying tax by credit card or debit card. The reimbursement fees will be limited to the amount of the fees that IRS pays under any such contract and will be paid at the time of, and in addition to, the tax payment. The reimbursement fee is not a tax imposed by the Code, and no portion of the reimbursement fee is eligible for refund or credit under section 6402 of the Code. The error resolution procedures described in paragraph (d)(1) of this section will apply to any errors concerning the reimbursement fee. In negotiating contracts under paragraph (e)(3) of this section, the Commissioner will seek to minimize the amount of the fees paid.

* * * * *

(g) *Applicability date.* The rules of this section apply to payments of taxes and reimbursement fees made on or

after [date of publication of final regulations in the **Federal Register**].

Douglas W. O'Donnell,
Deputy Commissioner.

[FR Doc. 2024–14002 Filed 7–1–24; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2024–0197; FRL–11981–01–R9]

Air Plan Revisions; California; Sacramento Metropolitan Air Quality Management District; Reasonably Available Control Technology District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve state implementation plan (SIP) revisions from the Sacramento Metropolitan Air Quality Management District (SMAQMD or “District”) to address Clean Air Act (CAA or “Act”) requirements related to the 2008 8-hour ozone national ambient air quality standards (NAAQS or “standards”). These revisions concern emissions of oxides of nitrogen (NOX) from boilers, gas turbines, and miscellaneous (misc) combustion units and reasonably available control technology (RACT) requirements for major sources of NOX in the portion of the Sacramento Metro, CA, nonattainment area that is subject to SMAQMD jurisdiction. We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before August 1, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2024–0197 at <https://www.regulations.gov>. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not

consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT:

Eugene Chen, EPA Region IX, 75 Hawthorne Street (AIR-3-3), San Francisco, CA 94105. By phone: (415) 947-4304 or by email at chen.eugene@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us,” and “our” refer to the EPA.

Table of Contents

- I. The State’s Submittal
 - A. What documents did the State submit?
 - B. Are there other versions of the submitted documents?
 - C. What is the purpose of the submitted documents?
- II. The EPA’s Evaluation and Proposed Action

A. How is the EPA evaluating the submitted documents?

B. Do the submitted documents meet the evaluation criteria?

- 1. Boilers
- 2. Gas Turbines
- 3. Miscellaneous Combustion Units

C. Public Comment and Proposed Action

III. Incorporation by Reference

IV. Statutory and Executive Order Reviews

I. The State’s Submittal**A. What documents did the State submit?**

Table 1 lists the documents addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED DOCUMENTS

Local agency	Document/rule No.	Document title	Adopted	Submitted
SMAQMD	Reasonably Available Control Technology (RACT) Permits for Major Stationary Sources of Nitrogen Oxides.	03/28/2024	04/11/2024

On March 28, 2024, SMAQMD adopted portions of several permits issued under the District’s SIP-approved New Source Review (NSR) permit program for submittal into the SIP. These permits contain requirements that regulate emissions of NO_x, and the

District adopted these permits for SIP submission to ensure that its major sources of NO_x are subject to federally enforceable RACT requirements. A list of the permits (“District Permits”) contained in this SIP revision is included in Table 2 below. On April 11,

2024, CARB submitted this SIP revision to the EPA for approval as a revision to the California SIP. The EPA has reviewed this submittal and finds that it fulfills the completeness criteria of appendix V.¹

TABLE 2—DISTRICT PERMITS INCLUDED IN APRIL 11, 2024 SUBMITTAL

Source name	Permit No.	Unit name/ID	Unit size (MMBtu/hr)	Unit type
Mitsubishi Chemical Carbon Fiber and Composites.	24611	Oxidation Oven 1	2	Misc Combustion Unit.
	25925	Oxidation Oven 2	2	Misc Combustion Unit.
	24613	Oxidation Oven 3	2	Misc Combustion Unit.
	24614	Oxidation Oven 4	2	Misc Combustion Unit.
	25397	Oxidation Oven—Line 31	3	Misc Combustion Unit.
	25398	Oxidation Oven—Line 31	3	Misc Combustion Unit.
	25399	Cleaver Brooks Boiler	6	Boiler.
UC Davis Medical Center	17549	Combined Cycle Turbine	260	Gas Turbine.
	20216	Boiler 1	32	Boiler.
	20217	Boiler 2	32	Boiler.
	20218	Boiler 3	32	Boiler.
	20219	Boiler 4	32	Boiler.
Sacramento Metropolitan Utility District (SMUD) Procter & Gamble Power Plant.	27410	Babcock & Wilcox Boiler	109	Boiler.
	27141	Gas Turbine 1A	583	Gas Turbine.
	27142	Gas Turbine 1B	583	Gas Turbine.
	27143	Gas Turbine 1C	500	Gas Turbine.
	27144	Boiler 1B	109	Boiler.
SMUD Cosumnes Power Plant	25801	Turbine 2	2,200	Gas Turbine.
	25800	Turbine 3	2,200	Gas Turbine.
SMUD Campbell Power Plant	27118	Gas Turbine	1,410	Gas Turbine.
SMUD Carson Power Plant	27151	Turbine 27151	600	Gas Turbine.
	27154	Cleaver Brooks Boiler	100	Boiler.
	27156	Turbine 27156	450	Gas Turbine.

¹ See Docket Item A-14, 40 CFR Appendix V to Part 51—Criteria for Determining the Completeness of Plan Submissions.

B. Are there other versions of the submitted documents?

We have not previously approved district permits into the SIP for any of the sources listed in Table 2. The District Permits were submitted to address our June 30, 2023 action that finalized a partial approval and partial disapproval of the District's "Demonstration of Reasonably Available Control Technology for the 2008 Ozone NAAQS" ("2017 RACT SIP"). The District's 2017 RACT SIP was submitted to demonstrate that its stationary sources are subject to RACT rules for the 2008 8-hour ozone NAAQS.² Our partial disapproval related solely to the RACT element for major sources of NO_x that relied upon three district rules: Rule 411 (NO_x from Boilers, Process Heaters and Steam Generators), Rule 413 (Stationary Gas Turbines), and Rule 419 (NO_x from Miscellaneous Combustion Units). Rules 411 and 413 have previously been approved into the SIP, but Rule 419 was locally adopted and submitted to the EPA as part of the 2017 RACT SIP development process and has not been approved into the SIP. As part of our June 30, 2023 final action, we identified deficiencies with the submitted version of Rule 419 but did not act to approve or disapprove that rule. As discussed in greater detail below, the District elected to submit source-specific permits, rather than submitting rule revisions, to address the deficiencies we identified in our June 30, 2023 final action.

C. What is the purpose of the submitted documents?

Emissions of NO_x contribute to the production of ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires states to submit plans that provide for implementation, maintenance, and enforcement of the NAAQS. In addition, CAA sections 182(b)(2) and (f) require that SIPs for ozone nonattainment areas classified as "Moderate" or higher implement RACT for any category of sources covered by a control techniques guidelines (CTG) document and for any major stationary source of volatile organic compounds (VOCs) or NO_x. The SMAQMD regulates the Sacramento County portion of the Sacramento Metro, CA, ozone nonattainment area that is classified as "Severe" nonattainment for the 2008 ozone NAAQS.³ Therefore, the SMAQMD must, at a minimum, ensure that all categories of sources covered by

a CTG document and all major stationary sources of VOCs or NO_x within the District implement RACT-level controls. In a Severe ozone nonattainment area, any stationary source that emits or has the potential to emit at least 25 tons per year (tpy) of VOCs or NO_x is considered a major stationary source.

The SMAQMD relies upon several district rules to implement RACT for major sources of NO_x, including Rule 411 (NO_x from Boilers, Process Heaters and Steam Generators), Rule 413 (Stationary Gas Turbines), and Rule 419 (NO_x from Miscellaneous Combustion Units). As we explained in our June 30, 2023 final action on the 2017 RACT SIP, Rule 413 contains a provision that explicitly exempts affected units from complying with emission limitations during periods of startup and shutdown and does not provide for an alternative emission limitation during such periods. Rules 411 and 419 contain monitoring provisions that preclude the use of specified data for determining compliance with emission limitations during periods of startup and shutdown. These provisions are inconsistent with the EPA's Startup, Shutdown, and Malfunction (SSM) Policy as established in the EPA's 2015 SSM SIP Action.⁴ The deficiencies with these three rules were the basis for our disapproval of the major source NO_x element of the 2017 RACT SIP.

In *Environ. Comm. Fl. Elec. Power v. EPA*, 94 F.4th 77 (D.C. Cir. 2024), the D.C. Circuit held that the EPA impermissibly issued a SIP call, under CAA section 110(k)(5), in its 2015 SSM SIP Action⁵ for certain SIP provisions applicable to emissions during SSM events, including certain automatic exemption type provisions that the EPA had previously approved.⁶ While the D.C. Circuit vacated certain SIP calls in EPA's 2015 SSM SIP Action, that vacatur was premised on the view that the Agency did not make a predicate determination that the specific provisions at issue were emissions limitations or that it was "necessary or appropriate" under CAA 110(a)(2)(A) that the SIP provisions must be emission limitations. EPA continues to interpret its longstanding interpretation that, pursuant to CAA section 302(k),

emission limitations must be continuous and apply at all times, consistent with the decision in *Environ. Comm. Fl. Elec. Power v. EPA*. The Court did not vacate EPA's longstanding guidance for developing alternative emission limitations (AELs), should a state or air jurisdiction choose to develop and submit AELs into their SIP as a means to ensuring they are meeting the applicable CAA requirement that emission limitations must be continuous.⁷ States and/or air jurisdictions are not precluded from submitting a SIP revision that establishes AELs, as SMAQMD did so here.

Following our June 30, 2023 final action disapproving the major source NO_x RACT element, SMAQMD examined the permits issued under the District's SIP-approved NSR permit program for each of the NO_x major sources that rely upon Rule 411, 413, or 419 for RACT. The District identified conditions in each district permit that established NO_x emission limits that apply at all times. SMAQMD also identified monitoring, recordkeeping, and reporting conditions from each district permit to determine compliance with the rule and permit requirements. These District Permits are intended to remedy the SSM deficiencies, in combination with Rule 411 and Rule 413 requirements, and are intended to implement RACT for major sources of NO_x in the District. Our technical support document (TSD) has more detailed information about these District Permits.

In addition, we note that the locally-adopted NSR permits that served as the basis of the submitted District Permits contain emission limits and other requirements unrelated to NO_x RACT that the District is not seeking to approve into the SIP. As a result, the District has redacted those portions of the submitted permits, such as conditions related to carbon monoxide (CO), particulate matter (PM), state toxics, and other requirements that are not necessary for implementing NO_x RACT.

II. The EPA's Evaluation and Proposed Action

A. How is the EPA evaluating the submitted documents?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)) and must not interfere with applicable requirements concerning attainment and

⁴ "State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction," 80 FR 33840 (June 12, 2015).

⁵ See 80 FR 33840.

⁶ See *Environ. Comm. Fl. Elec. Power v. EPA*, 94 F.4th 77 (D.C. Cir. 2024).

⁷ See 80 FR 33912–33914 and *State Implementation Plans: Policy Regarding Excess Emissions During Malfunction, Startup, and Shutdown* (1999 SSM Guidance).

² 88 FR 42248.

³ 40 CFR 81.305.

reasonable further progress or other CAA requirements (see CAA section 110(l)). Generally, SIP rules must require the implementation of RACT for each category of sources covered by a CTG, as well as each major source of NO_x or VOC in ozone nonattainment areas classified as Moderate or higher (see CAA section 182(b)(2)). The SMAQMD regulates a portion of an ozone nonattainment area classified as Severe for the 2008 ozone NAAQS and is therefore responsible for ensuring that the applicable sources implement RACT-level controls for that ozone standard. The District Permits were submitted to be incorporated into the SIP to implement RACT-level controls and to fulfill the requirements associated with the major source NO_x element for the 2008 ozone NAAQS.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation, and stringency requirements for the applicable criteria pollutants include the following:

1. "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).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. State Implementation Plans; Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction," 80 FR 33839, June 12, 2015.
5. "Guidance Memorandum: Withdrawal of the October 9, 2020, Memorandum Addressing Startup, Shutdown, and Malfunctions in State Implementation Plans and Implementation of the Prior Policy," September 30, 2021.

B. Do the submitted documents meet the evaluation criteria?

We have grouped our evaluation of the submitted documents into three categories corresponding to the three types of units that comprise the major NO_x sources listed in Table 2.

1. Boilers

The SMAQMD is relying upon requirements contained in the current SIP-approved version of Rule 411 and in

the submitted District Permits to implement RACT for the boilers listed in Table 2. In our June 30, 2023 final action on the 2017 RACT SIP, we evaluated the stringency of applicable Rule 411 NO_x limits, which vary from 9 parts per million (ppm) to 15 ppm, and do not apply during periods of startup and shutdown.⁸ We determined that the emission limits in SIP-approved Rule 411 achieve RACT-level stringency, but we disapproved based on the Agency's SSM policy. We have not identified any information since our June 30, 2023 final action to alter our evaluation that the stringency of the NO_x emission limits are RACT.

The District Permits contain source-specific pound per day (lb/day) NO_x limits for each boiler listed in Table 2. These lb/day mass emission limits are continuous and apply at all times. They were developed by converting the allowable short-term pound per hour (lb/hr) emission limit applicable during normal operations for each source to a 24-hr average basis. The allowable lb/hr emission limit for each source was established pursuant to the control technology determinations made via the NSR permitting process and is based upon a concentration limit that varies by district permit between 5 to 9 ppm.⁹ Submitting these lb/day limits into the SIP will ensure that mass emissions during startup and shutdown do not exceed the mass emissions allowed during periods of normal operation on a 24-hour average basis. As discussed above, we consider the Rule 411 NO_x limits to achieve RACT-level stringency, and these lb/hr District Permit limits achieve or exceed this same level of stringency on a mass basis, and they are applicable at all times. As a result, when combined with Rule 411 limits, these District permit limits will ensure that the affected units are subject to limits with RACT-level stringency at all times. In addition, we determined that the emission limits contained in these District Permits are consistent with the criteria recommended in the EPA's SSM Policy as appropriate considerations for developing emission limitations in the SIP provisions applicable during startup and shutdown. Additional information regarding our evaluation of District Permit limits, including their consistency with SSM policy criteria, is included in our TSD for this action. Based on the existing SIP-approved NO_x limits in Rule 411, combined with the

NO_x limits that apply at all times contained in the submitted District Permits, we propose to determine that the District has established requirements in the SIP that are consistent with the EPA's SSM policy and implement RACT for the boilers listed in Table 2.

2. Gas Turbines

For the gas turbines listed in Table 2, the SMAQMD is relying upon requirements contained in the current SIP-approved version of Rule 413 and in the submitted District Permits to implement RACT. In our June 30, 2023 final action on the 2017 RACT SIP, we evaluated the stringency of the 9 ppm NO_x limit established by the SIP-approved version of Rule 413.¹⁰ We determined that the emission limit in SIP-approved Rule 413 achieves RACT-level stringency but disapproved based on the Agency's SSM policy because the emission limits in the rule do not apply during periods of startup and shutdown. We have not identified any information since our June 30, 2023 final action to alter our evaluation that the stringency of the NO_x emission limits comprise RACT.

The District Permits contain source-specific lb/day NO_x limits for each gas turbine listed in Table 2. These lb/day mass emission limits are continuous and apply at all times. The source-specific lb/day NO_x limits for the gas turbines were developed by examining the maximum number of hours of each mode of operation is allowed in a single day, the maximum lb/hr emission rate for each mode of operation (either startup or normal operation), and summing the 24 hourly mass emission values corresponding to each hour's mode of operation to develop a total lb/day emission limit. The maximum lb/hr emission limit during normal operations for each source was established pursuant to the control technology determinations made via the NSR permitting process and is based on a concentration limit that varies by district permit between 2.5 to 5 ppm.¹¹ As a result, the lb/day limits in each source's district permit, which apply at all times, will constrain mass emissions of NO_x to a level consistent with maximum permitted frequency and duration of shutdown events and also to a level of normal operations that is more stringent than Rule 413 concentration

⁸ 88 FR 42248. See TSD for that action, which is also included in the docket for this rulemaking.

⁹ In no case is any source's short term lb/hr emission limit based on a concentration higher than 9 ppm, which is also the most stringent NO_x emission standard established in Rule 411.

¹⁰ 88 FR 42252. See also TSD for that action, which is available in the docket for this rulemaking.

¹¹ In all cases, each source's short term lb/hr emission limit during normal operations is based on a concentration limit that is more stringent than 9 ppm, which is the most stringent NO_x emission standard established in Rule 413.

limits. In other words, we consider the Rule 413 NO_x limits to achieve RACT-level stringency because these District Permit limits achieve or exceed the most stringent level of control in these limits on a mass basis and they are applicable at all times. Thus, when combined with Rule 413 emission limits, the District permit limits will ensure that the affected units are subject to RACT-level stringency at all times. We have determined that the lb/day emission limits contained in these District Permits are consistent with the criteria recommended in the EPA's SSM Policy as appropriate considerations for developing emission limitations in SIP provisions applicable during startup and shutdown. Further details regarding our evaluation of District Permit limits, including their consistency with SSM policy criteria, are included in our TSD for this action.

Based on the existing SIP-approved NO_x limits in Rule 413, combined with the NO_x limits that apply at all times contained in the submitted District Permits, we propose to determine that the District has established requirements in the SIP that are consistent with the EPA's SSM policy and implement RACT for the gas turbines listed in Table 2.

3. Miscellaneous Combustion Units

Unlike for boilers and gas turbines, the SMAQMD is not relying upon Rule 419 requirements to implement RACT for the miscellaneous combustion units (carbon fiber oxidation ovens) listed in Table 2. Instead, it is only relying upon the requirements contained in the submitted District Permits. As discussed in our June 30, 2023 final action on the 2017 RACT SIP, the ovens listed in Table 2 are subject to Rule 419, which

was submitted to the EPA for incorporation into the SIP on January 31, 2019. We have not yet proposed action on Rule 419, and no version of it has been previously approved into the SIP.

The District Permits establish NO_x concentration limits of 30 ppm for each oven. These limits are continuous and apply at all times. The EPA has not published a CTG document or Alternative Control Techniques (ACT) document that is relevant for the control of NO_x emissions for units such as the carbon fiber oxidation ovens. As a result, we have evaluated the District Permit limits through comparison with NO_x limits established in miscellaneous combustion unit rules from other California air districts. We have summarized these values in Table 3 below.

TABLE 3—COMPARISON OF MISCELLANEOUS COMBUSTION UNIT EMISSION LIMITS (GASEOUS FUEL ONLY)

Equipment category	Sacramento metro AQMD district permits	San Joaquin Valley unified (SJVU) air pollution control district (APCD) rule 4309	South coast AQMD rule 1147	Imperial county APCD rule 400.4	Ventura county APCD rule 74.34
NO _x emission limit in parts per million by volume (ppmv)					
Asphalt Manufacturing	40	40 .....	.....	40.
Incinerator/Crematory	60. ....	.....	.....
Metal Heat Treating/Metal Melting Furnace	60 .....	.....	60.
Oven, Dehydrator, Dryer, Heater, or Kiln	30	.....	30 or 60 ^a	30 ^c	80.
Other Miscellaneous combustion unit	40	30 .....	.....	30 or 60. ^a
All miscellaneous combustion units when liquid fuel-fired	40–110	40 or 60. ^a .....	.....	.....
Cooking Unit	40 or 60. ^b	.....

^a 60 ppm if process temperature ≥1,200 deg F.

^b 60 ppm if process temperature ≥500 deg F.

^c Imperial County APCD Rule 400.4 applies to wallboard kilns only.

As seen in Table 3 above, the 30 ppm limit established in the District Permits is equal to or exceeds the NO_x emission limit established for ovens in other examined ozone nonattainment areas. In particular, the limit established in the District Permits could be considered the most stringent limit among all of those evaluated, since it does not provide a separate limit when a unit is operating above specific process temperatures.

The District Permits also contain source-specific lb/day NO_x limits for each oven. These lb/day mass emission limits are continuous and apply at all times. They were developed by converting the allowable short-term lb/hr emission limit applicable during normal operations for each source to a 24-hr average basis. The allowable lb/hr emission limit for each source was established pursuant to the control technology determinations made via the

NSR permitting process and corresponds to the 30 ppm NO_x concentration limit. Submitting these lb/day limits into the SIP will provide an additional constraint to ensure that mass emissions during startup and shutdown do not exceed the mass emissions allowed during periods of normal operation on a 24-hour average basis. As a result, we propose to determine that the District has established requirements in the SIP that implement RACT for the miscellaneous combustion units listed in Table 2.

Finally, for each of the boilers, gas turbines, and miscellaneous combustion units listed in Table 2, we are proposing to determine that our approval of the District Permits for each of the sources would comply with CAA section 110(l), because the proposed SIP revision would strengthen the SIP by adding new requirements and would not interfere

with any applicable CAA requirements, including requirements for RFP and attainment of the NAAQS. CAA section 193 does not apply to this action because the District Permit conditions have not previously been approved into the SIP and were therefore not in effect before November 15, 1990.

C. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to approve the District Permits, as adopted on March 28, 2024, into the California SIP. Based on our discussion in Section II.B of this document, we propose to determine that the District Permits will comply with the EPA's SSM policy and other applicable CAA requirements and will, in conjunction with the SIP-approved NO_x limits already established in Rule 411 and 413,

implement RACT for each major NO_x source in the District.

In addition, as discussed in our June 30, 2023 final action, the absence of emission limits that apply at all times was the basis for our disapproval of the major source NO_x element of the 2017 RACT SIP. Since we are proposing to determine that the District Permits, in conjunction with the SIP-approved NO_x limits already established in Rule 411 and 413, implement RACT for each major NO_x source in the District, we are also proposing to approve the major source NO_x element of the District's 2017 RACT SIP.

We will accept comments from the public on this proposal until August 1, 2024. If we take final action to approve the District Permits as proposed, our final action will incorporate these District Permits into the federally enforceable SIP. In addition, it will permanently stop the sanctions and Federal implementation plan (FIP) clocks started by our June 30, 2023 final action, and it will address the EPA's obligation to promulgate a FIP arising from our February 3, 2017 finding of failure to submit.¹²

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the District Permits listed in Table 2, as adopted on March 28, 2024, which regulate NO_x emissions from boilers, gas turbines, and miscellaneous combustion units. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provision of the Act and applicable federal regulations. 42 U.S.C. 740(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to review state choices, and approve those choices if they meet the minimum criteria of the Act. Accordingly, this proposed action merely proposes to approve state law as

meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it proposes to approve a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation,

and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The State did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Dated: June 25, 2024.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2024-14336 Filed 7-1-24; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2024-0237; FRL-11999-01-R9]

Air Plan Revisions; California; Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under the Clean Air Act (CAA or “Act”), the Environmental Protection Agency (EPA) is proposing to approve a revision to the California State Implementation Plan (SIP). This revision addresses the CAA requirements for the motor vehicle inspection and maintenance (I/M) programs (also referred to as “Smog Check” programs) for the 2015 8-hour ozone National Ambient Air Quality Standards (“2015 ozone NAAQS”). We are taking comments on this proposal and plan to follow with a final action.

¹² 82 FR 9158. The sanctions clock triggered by this finding of failure to submit was permanently stopped by a finding of completeness made by the EPA on August 23, 2018 for the District's 2017 RACT SIP submittal.