

#### IV. 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, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air 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 13563 (76 FR 3821, January 21, 2011);
- 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); 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 Clean Air Act.

The state did not evaluate environmental justice considerations as part of its SIP submittal. There is no information in the record inconsistent with the stated goals of Executive Order 12898 (59 FR 7629, February 16, 1994) of achieving environmental justice for people of color, low-income populations, and indigenous peoples.

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).

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

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

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

Dated: January 16, 2023.

**Martha Guzman Aceves,**

*Regional Administrator, Region IX.*

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R09-OAR-2022-0926; FRL-10482-01-R9]

#### Clean Air Plans; 2015 8-Hour Ozone Nonattainment Area Requirements; Clean Fuels or Advanced Control Technology for Boilers; San Joaquin Valley and Los Angeles—South Coast Air Basin, California

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the California State Implementation Plan (SIP) concerning the provisions for clean fuels or advanced control technology for boilers for the 2015 ozone national ambient air quality standards ("2015 ozone NAAQS") in the San Joaquin Valley and Los Angeles—South Coast Air Basin, California ("South Coast") ozone nonattainment areas. The SIP revisions include the "Certification that the San Joaquin Valley Unified Air Pollution Control District's Current Rules Address the Clean Air Act's Clean Fuels for Boilers Requirements for the 2015 8-hour Ozone Standard" for San Joaquin Valley ("2021 San Joaquin Valley Certification") and the "Clean Fuels for Boilers Compliance Demonstration for the South Coast Air Basin" for South Coast ("2021 South Coast Certification"), both submitted on August 3, 2021. We are proposing to approve these revisions under the Clean Air Act (CAA or "the Act"), which establishes clean fuels or advanced

control technology for boilers requirements for "Extreme" ozone nonattainment areas.

**DATES:** Written comments must arrive on or before March 1, 2023.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2022-0926 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 disabilities 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:** Khoi Nguyen, Air Planning Office (ARD-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947-4120, or by email at [nguyen.khoi@epa.gov](mailto:nguyen.khoi@epa.gov).

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

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## I. Background

On October 26, 2015, the EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm).<sup>1</sup> In accordance with section 107(d) of the CAA, the EPA must designate an area "nonattainment" if it is violating the NAAQS or if it is contributing to a violation of the NAAQS in a nearby area.

The EPA designated 21 areas in California as nonattainment for the 2015 ozone NAAQS, effective August 3, 2018.<sup>2</sup> Amador County, Calaveras County, Butte County, Imperial County, Mariposa County, San Francisco Bay Area, San Luis Obispo (Eastern part), Sutter Buttes, Tuolumne County, and Tuscan Buttes nonattainment areas (NAAs) were classified as Marginal nonattainment. Kern County (Eastern Kern), Nevada County (Western part), Sacramento Metro, and San Diego County NAAs were classified as Moderate nonattainment. The EPA classified the Ventura County NAA as Serious nonattainment. The EPA classified the Los Angeles-San Bernardino Counties (West Mojave Desert) and Riverside County (Coachella Valley) NAAs as Severe-15 nonattainment. The EPA classified both the San Joaquin Valley and the Los Angeles-South Coast Air Basin ("South Coast") NAAs as Extreme nonattainment. The EPA designated the lands of the Pechanga Band of Luiseño Mission Indians of the Pechanga Reservation and the Morongo Band of Mission Indians as separate NAAs and classified them as Marginal and Serious nonattainment, respectively. The State of California does not have regulatory authority on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction.

Section 182(e)(3) of the CAA provides that SIPs for Extreme ozone nonattainment areas such as the San

Joaquin Valley and South Coast require each new, modified, and existing electric utility and industrial and commercial boiler that emits more than 25 tons per year (tpy) of NO<sub>x</sub> to either burn as its primary fuel natural gas, methanol, or ethanol (or a comparably low-polluting fuel), or use advanced control technology, such as catalytic control technologies or other comparably effective control methods. Section 182(e)(3) also requires submittal of a plan revision addressing this requirement to the EPA within three years of the effective date of nonattainment designation.

On August 3, 2021, the California Air Resources Board (CARB) submitted SIP revisions to the EPA for multiple nonattainment areas to fulfill requirements under section 173 of the CAA for new source review programs (NSR) and for section 182(e)(3) of the CAA requiring clean fuels for boilers for Extreme NAAs.<sup>3</sup> In this action, we are evaluating and proposing action on the portion of the submittal related to clean fuels for boilers for the San Joaquin Valley and South Coast Extreme NAAs ("2021 Clean Fuels Submittal").<sup>4</sup>

## II. Statutory and Regulatory Requirements

### A. Procedural Requirements for Adoption and Submittal of SIP Revisions

CAA sections 110(a)(1) and 110(l) and 40 CFR 51.102 require states to provide reasonable notice and an opportunity for a public hearing prior to adoption of SIP revisions. Section 110(k)(1)(B) requires the EPA to determine whether a SIP submittal is complete within 60 days of receipt. Any plan that the EPA does not affirmatively determine to be complete or incomplete will become complete six months after the day of submittal by operation of law. A finding of completeness does not approve the submittal as part of the SIP, nor does it indicate that the submittal is approvable. It does start a 12-month

<sup>3</sup> Letter dated August 3, 2021, from Richard W. Corey, Executive Officer, CARB, to Deborah Jordan, Acting Regional Administrator, EPA Region IX (submitted electronically August 3, 2021).

<sup>4</sup> CARB's submittal included NSR certifications for various nonattainment areas in California. The EPA proposed action on the NSR certifications in a separate rulemaking. See 87 FR 22163 (April 14, 2022).

clock for the EPA to act on the SIP submittal (see CAA section 110(k)(2)).

### B. Requirements for Clean Fuels or Advanced Control Technology for Boilers

As described in Section I of this document, CAA section 182(e)(3) provides that SIPs for Extreme nonattainment areas require each new, modified, and existing electric utility and industrial and commercial boiler that emits more than 25 tpy of NO<sub>x</sub> to either burn as its primary fuel natural gas, methanol, or ethanol (or a comparably low-polluting fuel), or use advanced control technology, such as catalytic control technologies or other comparably effective control methods.

The EPA provided additional guidance regarding the applicability of this requirement in a **Federal Register** action titled "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" ("General Preamble").<sup>5</sup> According to the General Preamble, a boiler should generally be considered as any combustion equipment used to produce steam and generally does not include a process heater that transfers heat from combustion gases to process streams.<sup>6</sup> In addition, boilers with rated heat inputs less than 15 million British Thermal Units (MMBtu) per hour that are oil- or gas-fired may generally be considered de minimis and exempt from these requirements because it is unlikely that they will exceed the 25 tpy NO<sub>x</sub> emission threshold.<sup>7</sup>

## III. Summary of the State's Submittal

### A. Adoption and Submittal of SIP Revisions

The 2021 Clean Fuels Submittal contains two certifications that existing programs of the South Coast Air Quality Management District (SCAQMD) and the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) meet the clean fuels for boilers requirements for the 2015 ozone NAAQS. Table 1 of this document lists the certifications addressed by this proposal action.

<sup>5</sup> 57 FR 13498 (April 16, 1992).

<sup>6</sup> 57 FR 13498, 13523 (April 16, 1992).

<sup>7</sup> Id. at 13524.

<sup>1</sup> 80 FR 65292 (October 26, 2015).

<sup>2</sup> 83 FR 25776 (June 4, 2018).

TABLE 1—CLEAN FUELS FOR BOILERS CERTIFICATIONS SUBMITTED AS REVISIONS TO THE CALIFORNIA SIP

District	Nonattainment area	Date adopted	Title
San Joaquin Valley Air Pollution Control District.	San Joaquin Valley .....	June 17, 2021 .....	Certification that the San Joaquin Valley Unified Air Pollution Control District's Current Rules Address the Clean Air Act's Clean Fuels for Boilers Requirements for the 2015 8-Hour Ozone Standard.
South Coast Air Quality Management District.	South Coast Air Basin ...	June 4, 2021 .....	Clean Fuels for Boilers Compliance Demonstration for the South Coast Air Basin. <sup>8</sup>

The CARB submittal includes a cover letter to the EPA dated August 3, 2021, a signed Executive Order S–21–014 dated August 3, 2021, demonstrating that CARB adopted the relevant certifications identified in Table 1, and Attachment A to the Executive Order listing the relevant district actions. The documentation of the public review process prior to submittal to the EPA by each relevant district, as well as information on the relevant certifications, are identified in sections III.B and III.C of this document.

*B. 2021 San Joaquin Valley Certification*

The 2021 Clean Fuels Submittal documents the public review process followed prior to its submittal to the EPA as a revision to the SIP for the 2021 San Joaquin Valley Certification. The 2021 San Joaquin Valley Certification includes a transmittal letter from the SJVUAPCD to CARB,<sup>9</sup> a copy of a notice

of public hearing on June 17, 2021, to consider the approval of the certification,<sup>10</sup> a memorandum from the SJVUAPCD Executive Director/Air Pollution Control Officer and Project Coordinator recommending that the Governing Board adopt the certification,<sup>11</sup> a signed resolution adopting the certification,<sup>12</sup> and a SIP Completeness Checklist indicating that no members of the public commented during the notice period or at the hearing.<sup>13</sup>

In the 2021 San Joaquin Valley Certification, the SJVUAPCD states that SJVUAPCD Rules 4305, 4306, 4320, and 4352 address NO<sub>x</sub> emissions limits for boilers and that these rules meet the requirements of the CAA. Specifically, the SJVUAPCD indicates that most of the boilers under SJVUAPCD Rules 4305 and 4306 are fired on natural gas and, as such, meet the requirements of CAA section 182(e)(3)(A) for those boilers

subject to those rules. The SJVUAPCD also indicates that SJVUAPCD Rule 4320 establishes more stringent NO<sub>x</sub> emissions limits for units in this source category through the use of advanced technology, while also providing advanced emissions reduction options, therefore satisfying the requirements of CAA section 182(e)(3)(A) and (B). Liquid fuel-fired boilers are also addressed by SJVUAPCD Rules 4305, 4306, and 4320, and the SJVUAPCD concludes that the applicable NO<sub>x</sub> emissions in the rules necessitate use of advanced technology, therefore meeting the requirements of CAA section 182(e)(3)(B). The SJVUAPCD concludes likewise for solid fuel-fired boilers addressed by SJVUAPCD Rule 4352. Table 2 of this document provides the list of the relevant rules and information on the SIP-approved version of the rules.

TABLE 2—SIP-APPROVED SJVUAPCD RULES SUPPORTING THE 2021 SAN JOAQUIN VALLEY CERTIFICATION

Rule No.	Rule title	Adoption date for SIP-approved rule	Citation for EPA approval into SIP
4305 .....	Boilers, Steam Generators, and Process Heaters—Phase 2	August 21, 2003 .....	69 FR 28061 (May 18, 2004).
4306 .....	Boilers, Steam Generators, and Process Heaters—Phase 3	October 16, 2008 .....	75 FR 1715 (January 13, 2010).
4320 .....	Advanced Emission Reduction Options for Boilers, Steam Generators, and Process Heaters Greater than 5.0 MMBtu/hr.	October 16, 2008 .....	76 FR 16696 (March 25, 2011).
4352 .....	Solid Fuel Boilers, Steam Generators, and Process Heaters	December 15, 2011 .....	77 FR 66548 (November 6, 2012).

*C. 2021 South Coast Certification*

The 2021 Clean Fuels Submittal documents the public review process

followed prior to its submittal to the EPA as a revision to the SIP for the 2021 South Coast Certification. The 2021 South Coast Certification includes a

transmittal letter from the SCAQMD to CARB,<sup>14</sup> copies of notices of the public hearing on June 4, 2021, to consider the

<sup>8</sup> The “Clean Fuels for Boilers Compliance Demonstration for the South Coast Air Basin” is part of the document titled “Final Certification of Nonattainment New Source Review and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard.” The latter document consists of two demonstrations: (1) Nonattainment NSR Compliance Demonstration for the South Coast Air Basin and the Coachella Valley and (2) Clean Fuels for Boilers Compliance Demonstration for the South Coast Air Basin. In this action, we are evaluating and proposing action on the “Clean Fuels for Boilers Compliance Demonstration for the South Coast Air Basin.” The EPA has proposed to approve the “Nonattainment NSR Compliance Demonstration for the South Coast Air Basin and

the Coachella Valley” in a separate rulemaking. 87 FR 22163 (April 14, 2022).

<sup>9</sup> Letter dated June 17, 2021, from Jonathan Klassen, Director Air Quality Science and Planning, SJVUAPCD, to Richard W. Corey, Executive Officer, CARB.

<sup>10</sup> Email dated May 18, 2021, from [ozone\\_plans@lists.valleyair.org](mailto:ozone_plans@lists.valleyair.org) to Stephanie Ng, SJVUAPCD, Subject: “Notice of Public Hearing to Adopt Proposed SJVAPCD Certification of Clean Fuels for Boilers Requirements for 2015 Ozone Standard.”

<sup>11</sup> Memorandum dated June 17, 2021, from Samir Sheikh, Executive Director/APCO and Jonathan Klassen, Project Coordinator, to the SJVUAPCD Governing Board, Subject: “Item Number 27: Adopt Certification to Address the Clean Air Act’s Clean

Fuels for Boilers Requirements for the 2015 8-Hour Ozone Standard.”

<sup>12</sup> SJVUAPCD Governing Board, Resolution 21–06–27, “In the Matter of: Adopting the Certification to Address the Clean Air Act’s Clean Fuels for Boilers Requirements for the 2015 8-Hour Ozone Standard,” June 17, 2021.

<sup>13</sup> SIP Completeness Checklist for “Certification that the San Joaquin Valley Unified Air Pollution Control District’s Current Rules Address the Clean Air Act’s Clean Fuels for Boilers Requirements for the 2015 8-hour Ozone Standard.”

<sup>14</sup> Letter dated June 11, 2021, from Wayne Nastri, Executive Officer, SCAQMD, to Richard W. Corey, Executive Officer, CARB.

approval of the certification,<sup>15</sup> a signed resolution adopting the certification,<sup>16</sup> and a meeting summary of the public hearing held on June 4, 2021.<sup>17</sup>

The 2021 South Coast Certification includes a discussion regarding compliance with the requirements of CAA section 182(e)(3) by reference to SCAQMD Rules 2002, 2004, 1146, and 1303. Information regarding these rules, including dates of adoption and EPA approval, is listed in Table 3 of this document.

With respect to sources subject to the SCAQMD’s Regulation XX (“Regional Clean Air Incentives Market” or “RECLAIM”), compliance with CAA section 182(e)(3) is provided through SCAQMD Rule 2004 (“Requirements”), which requires each new, modified, and existing electric utility and industrial and commercial boiler emitting more than 25 tpy of NO<sub>x</sub> to burn clean fuel or use advanced control technology. SCAQMD Rule 2002 establishes the methodology for calculating facility allocations and adjustments to RECLAIM Trading Credits holdings for NO<sub>x</sub>.

SCAQMD Rule 1146 regulates large boilers not covered in the RECLAIM program. Rule 1146 requires that Group I boilers, using natural gas equal to or greater than 75 MMBtu per hour, have a NO<sub>x</sub> limit of 5 ppm. Group II boilers, using natural gas equal to or greater than 20 MMBtu per hour but lower than 75 MMBtu per hour, are required to have a NO<sub>x</sub> limit of 9 ppm depending on compliance schedule. Group III boilers, using natural gas equal to or greater than 5 MMBtu per hour but lower than 20 MMBtu per hour, are required to meet a NO<sub>x</sub> limit of 9 ppm. Rule 1146 also allows for combustion of fuel that may not necessarily be natural gas, methanol, ethanol, or other comparably low polluting fuel. The emissions limits for these other fuels, including units fired on digester or landfill gas, are 15 ppm and 25 ppm, respectively. The SCAQMD indicates that according to the most recent Annual Emissions Reports, aside from the refinery boilers currently regulated under the RECLAIM program, there was only one unit emitting more than 25 tpy of NO<sub>x</sub> using other fuels:

the Los Angeles County Sanitation District Landfill in Puente Hills. This facility is currently subject to the 25 ppm NO<sub>x</sub> emissions limits in Rule 1146, and the boiler at this facility combusts recovered landfill gas as the primary fuel and is equipped with flue gas recirculation. The certification notes that a Best Available Retrofit Control Technology (BARCT) assessment was conducted that showed that the emissions limit of 25 ppm reflects BARCT for boilers using landfill gas in the South Coast Air Basin.<sup>18</sup> The certification also indicates that this emissions limit is consistent with Rule 1146.<sup>19</sup>

Lastly, the SCAQMD also notes in the certification that under SCAQMD Rule 1303, a new or modified boiler emitting at least 10 tpy of NO<sub>x</sub> or VOC is required to employ best available control technology (BACT), which, under the SCAQMD’s rule, must be at least as stringent as the lowest achievable emission rate (LAER) as defined in CAA section 171(3).

TABLE 3—SIP-APPROVED SCAQMD RULES SUPPORTING THE 2021 SOUTH COAST CERTIFICATION

Rule No.	Rule title	Adoption date for SIP-approved rule	Citation for EPA approval into SIP
2002 .....	Allocations for NO <sub>x</sub> and SO <sub>x</sub> .....	October 7, 2016 .....	82 FR 43176 (September 14, 2017).
2004 .....	Requirements for RECLAIM .....	April 6, 2007 .....	73 FR 38122 (July 3, 2008).
1146 .....	Emissions of NO <sub>x</sub> from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters.	November 1, 2013 .....	79 FR 57442 (September 25, 2014).
1303 .....	Requirements for NSR .....	May 10, 1996 .....	61 FR 64291 (December 4, 1996).

**IV. The EPA’s Evaluation of the State’s Submittal**

*A. Evaluation of Procedural Requirements*

Based on the documentation included in CARB’s submittal, the EPA finds that the submittal satisfies the procedural requirements of sections 110(a)(1) and 110(l) of the Act requiring states to provide reasonable notice and an opportunity for public hearing prior to

adoption of SIP revisions. CARB’s submittal became complete by operation of law on February 3, 2022, pursuant to section 110(k)(1)(B) of the Act.

*B. Evaluation of Requirements for Clean Fuels or Advanced Control Technology for Boilers*

1. 2021 San Joaquin Valley Certification  
 SJVUAPCD Rules 4305, 4306, and 4320 apply to any gaseous fuel- or liquid fuel-fired boiler, steam generator,

or process heater with a rated heat input greater than 5 MMBtu per hour. SJVUAPCD Rule 4305, as amended on August 21, 2003, was approved by the EPA in 2004, and SJVUAPCD Rules 4306 and 4320, as revised on October 16, 2008, were approved by the EPA in 2010 and 2011, respectively.<sup>20</sup> SJVUAPCD Rule 4305 limits emissions of NO<sub>x</sub> from boilers, steam generators, and process heaters. SJVUAPCD Rule 4306 applies to the same units listed

<sup>15</sup> Proof of publications from the Los Angeles Daily Journal (May 3, 2021); Orange County Reporter (May 3, 2021); Inland Valley Daily Bulletin/LA (May 3, 2021); the Press-Enterprise (May 3, 2021); San Bernardino County Sun (May 3, 2021).

<sup>16</sup> Resolution 21–25, “A Resolution of the Governing Board of the South Coast Air Quality Management District (South Coast AQMD) certifying the Nonattainment New Source Review (NSR) and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard for the South Coast Air Basin (Basin) and the Coachella Valley” and “A Resolution of the South Coast AQMD Governing Board directing staff to forward

the Certification of Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard to CARB for its approval and subsequent submission to U.S. EPA for inclusion in the State Implementation Plan (SIP).” June 4, 2021.

<sup>17</sup> South Coast Air Quality Management District, Governing Board Meeting Held on: June 4, 2021, Meeting Summary.

<sup>18</sup> See Final Staff Report for Proposed Rule 1150.3—Emissions of Oxides of Nitrogen from Combustion Equipment at Landfills, February 2021, included in the docket for this rulemaking action.

<sup>19</sup> Further, the certification also states that a lower NO<sub>x</sub> limit of 9 ppm was established in SCAQMD

Rule 1150.3 (Emissions of Oxides of Nitrogen from Combustion Equipment at Landfills) after a cost-effectiveness analysis, which will apply to this facility with a compliance date of January 1, 2031. CARB has submitted SCAQMD Rule 1150.3 for inclusion in the SIP, but it is not currently SIP-approved. The EPA will take action on SCAQMD Rule 1150.3 in a separate rulemaking action.

<sup>20</sup> 69 FR 28061 (May 18, 2004) (approval of Rule 4305); 75 FR 1715 (January 13, 2010) (approval of Rule 4306); 76 FR 16696 (March 25, 2011) (approval of Rule 4320). The EPA will be taking action on the latest versions of Rules 4306 and 4320, as amended December 17, 2020, in a separate rulemaking action.

under Rule 4305 but establishes requirements that are more stringent. The emissions limits in SJVUAPCD Rule 4306 (5 ppm to 30 ppm for gaseous fuels and 40 ppm for liquid fuels) cannot be achieved without the use of advanced control technologies.<sup>21</sup> All units subject to SJVUAPCD Rule 4306 were required to comply with the limits in the rule no later than December 1, 2008. SJVUAPCD Rule 4320 is a complementary rule to SJVUAPCD Rule 4306 and establishes more stringent NO<sub>x</sub> limits for units in this source category.

SJVUAPCD Rule 4352 was last approved by the EPA on November 6, 2012.<sup>22</sup> SJVUAPCD Rule 4352 applies to any boiler, steam generator, or process heater fired on solid fuel at a source that has the potential to emit more than 10 tpy of NO<sub>x</sub> or VOC. All units subject to SJVUAPCD Rule 4352 were required to comply with the rule's most stringent limits no later than January 1, 2013. In an EPA action on an earlier version of SJVUAPCD Rule 4352, we determined that all of the NO<sub>x</sub> emissions limits in SJVUAPCD Rule 4352 effectively require operation of selective noncatalytic reduction control technology, which, for the affected sources, is comparably effective to selective catalytic reduction, and comparable to the combustion of clean fuels at these types of boilers. Therefore, we concluded that SJVUAPCD Rule 4352 satisfied the requirements of section 182(e)(3) for solid fuel-fired boilers in the San Joaquin Valley.<sup>23</sup>

In addition, though not mentioned in the certification, new and modified boilers that will emit or have the potential to emit 25 tpy or more of NO<sub>x</sub> are subject to the SJVUAPCD's new source permitting rule, SJVUAPCD Rule 2201, titled "New and Modified Stationary Source Review." This rule requires new and modified sources to install and operate LAER technology. The EPA last approved SJVUAPCD Rule 2201 in 2014.<sup>24</sup>

Finally, in a previous action to approve SIP revisions submitted by CARB to meet CAA requirements for the 2008 8-hour ozone NAAQS in the San Joaquin Valley ozone nonattainment area, the EPA reviewed the SJVUAPCD rules, and concluded that the rules satisfy the requirements for clean fuel or advanced control technology for boilers in CAA section 182(e)(3).<sup>25</sup> Based on our analysis, we find that the emissions limitations in the SJVUAPCD's rules continue to meet the clean fuel or advanced control technology for boilers requirement in CAA section 182(e)(3), and thus, we propose to approve the 2021 San Joaquin Valley Certification portion of CARB's 2021 Clean Fuels Submittal.

## 2. 2021 South Coast Certification

Currently, within the South Coast, boilers that are subject to the requirements of CAA section 182(e)(3) fall into two broad categories: (1) boilers that are subject to the SCAQMD's RECLAIM regulation, and (2) boilers that are not subject to RECLAIM. Boilers that are subject to RECLAIM must comply with SCAQMD Rule 2004, paragraph (h), that sets forth requirements that essentially mirror those set forth in CAA section 182(e)(3). Thus, we agree with the SCAQMD that SCAQMD Rule 2004(h) satisfies the SIP requirement in CAA section 182(e)(3) with respect to boilers included in the RECLAIM program. We most recently approved SCAQMD Rule 2004 into the SIP on July 3, 2008.<sup>26</sup>

As to boilers that are not subject to RECLAIM, for the following reasons, we agree with the SCAQMD that the requirements are met through implementation of SCAQMD Rule 1146 for existing boilers and through implementation of SCAQMD Regulation XIII ("New Source Review"), specifically, SCAQMD Rule 1303, for new and modified boilers. We approved SCAQMD Rules 1146 and 1303 into the SIP on September 25, 2014, and December 4, 1996, respectively.<sup>27</sup>

First, we have reviewed SCAQMD Rule 1146 and find that it applies to boilers of equal to or greater than 5 MMBtu per hour heat rate input capacity used in all industrial, institutional, and commercial operations with the exception of RECLAIM facilities.<sup>28</sup> That is, it

regulates large boilers in the South Coast not participating in the RECLAIM program. SCAQMD Rule 1146 requires compliance with specified numeric limits that are based on the type of unit, and it allows for combustion of fuel that may not necessarily be natural gas, methanol, ethanol, or other comparably low polluting fuel. The emissions limits for these other fuels, including digester or landfill gas, are 15 ppm by volume and 25 ppm by volume, respectively. According to the SCAQMD's analysis, the only unit firing these fuels that also must comply with the requirements of CAA section 182(e)(3) is the Los Angeles County Sanitation District Landfill in Puente Hills, which combusts recovered landfill gas. Because the Los Angeles County Sanitation District Landfill must achieve the limits for landfill gas-fired units as required in SCAQMD Rule 1146, we find that the relevant requirements in CAA section 182(e)(3) are met.<sup>29</sup>

Second, we have reviewed SCAQMD Rule 1303 and find that it provides for denial of a permit to construct for any new or modified source that results in an emissions increase of any nonattainment pollutants unless BACT is employed for the new or modified source.<sup>30</sup> The SCAQMD defines BACT in essentially the same way as the CAA section 171(3) defines LAER.<sup>31</sup> SCAQMD Rule 1303 thus ensures that new or modified boilers in the South Coast that are not subject to RECLAIM comply with the requirements in CAA section 182(e)(3).

In the EPA's previous action on the 2008 8-hour ozone NAAQS, the EPA reviewed the SCAQMD rules, and concluded that the rules satisfy the requirements for clean fuel or advanced control technology for boilers in CAA section 182(e)(3).<sup>32</sup> Based on our analysis, we find that the emissions limitations in the SCAQMD's rules continue to meet the clean fuel or advanced control technology for boilers requirement in CAA section 182(e)(3), and thus, we propose to approve the

boilers used in petroleum refineries. However, the types of boilers that are categorically exempted by SCAQMD Rule 1146 are in fact included in the RECLAIM program in the South Coast and thus are subject to SCAQMD Rule 2004(h), which provides for compliance with CAA section 182(e)(3).

<sup>29</sup> We also acknowledge that though the boiler at the landfill boiler already meets the relevant CAA requirements, the SCAQMD is further establishing more stringent limits for this facility in SCAQMD Rule 1150.3.

<sup>30</sup> SCAQMD Rule 1303(a).

<sup>31</sup> SCAQMD Rule 1302 ("Definitions"), paragraph (f) ("Best Available Control Technology").

<sup>32</sup> 84 FR 52005 (October 1, 2019).

<sup>21</sup> "Alternative Control Techniques Document—NO<sub>x</sub> Emissions from Industrial/Commercial/Institutional Boilers," EPA, March 1994. For additional information, see 76 FR 57846, 57864–57865 (September 16, 2011) and 77 FR 12652, 12670 (March 1, 2012).

<sup>22</sup> 77 FR 66548 (November 6, 2012).

<sup>23</sup> 74 FR 65042 (December 9, 2009) (proposed limited approval and limited disapproval of Rule 4352) and 75 FR 60623 (October 1, 2010) (final limited approval and limited disapproval of Rule 4352).

<sup>24</sup> 79 FR 55637 (September 17, 2014). The EPA also recently proposed a limited approval and limited disapproval of an amended version of Rule 2201. 87 FR 45730 (July 29, 2022). The portion of the amended rule that we proposed to disapprove does not affect the clean fuels for boilers certification.

<sup>25</sup> 84 FR 11198 (March 25, 2019).

<sup>26</sup> 73 FR 38122.

<sup>27</sup> 79 FR 57442; 61 FR 64291.

<sup>28</sup> We note that the applicability section of SCAQMD Rule 1146 lists certain categories of sources that are not subject to its requirements in addition to RECLAIM facilities, such as boilers used by electric utilities to generate electricity and large

2021 South Coast Certification portion of CARB's 2021 Clean Fuels Submittal.

## V. Proposed Action

For the reasons discussed in Section IV of this document, under CAA section 110(k)(3), the EPA is proposing to approve as a revision to the California SIP the 2021 Clean Fuels Submittal, which contains the 2021 San Joaquin Valley Certification and the 2021 South Coast Certification. Specifically, the elements we are proposing to approve are:

- Provisions in the San Joaquin Valley for clean fuels or advanced control technology for boilers as meeting the requirements of CAA section 182(e)(3) and 40 CFR 51.1302 based on the 2021 San Joaquin Valley Certification; and
- Provisions in the South Coast for clean fuels or advanced control technology for boilers as meeting the requirements of CAA section 182(e)(3) and 40 CFR 51.1302 based on the 2021 South Coast Certification.

## VI. 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, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air 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 13563 (76 FR 3821, January 21, 2011);
- 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); 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 Clean Air Act.

The State did not evaluate environmental justice considerations as part of its SIP submittal. There is no information in the record inconsistent with the stated goals of Executive Order 12898 (59 FR 7629, February 16, 1994) of achieving environmental justice for people of color, low-income populations, and indigenous peoples.

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).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: January 19, 2023.

**Martha Guzman Aceves,**

*Regional Administrator, Region IX.*

[FR Doc. 2023-01504 Filed 1-27-23; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA-R05-OAR-2022-0581; FRL-10168-01-R5]**

### **Air Plan Approval; Wisconsin; VOC RACT for Miscellaneous Industrial Adhesives and Miscellaneous Metal and Plastic Parts Coatings**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP)

revisions related to the volatile organic compound (VOC) reasonably available control technology (RACT), submitted by the Wisconsin Department of Natural Resources ("Wisconsin" or "WDNR") on June 28, 2022. The proposed SIP revisions consist of several additions, corrections, and clarifications within the Wisconsin Administrative Code (WAC) NR 400 series and update the VOC RACT requirements for the Miscellaneous Industrial Adhesives and Miscellaneous Metal and Plastic Parts Coatings Control Techniques Guidelines (CTG) source categories. Also, EPA is proposing to approve Wisconsin's August 10, 2022, request to remove three previously approved Administrative Orders from the SIP. The request to remove these Administrative Orders includes a 110(l) demonstration highlighting that the revisions to Wisconsin's rules do not interfere with any applicable requirement concerning attainment or any other applicable requirement of the Clean Air Act (CAA) because this SIP revision is a direct replacement for the previously approved orders. These SIP revisions apply to nonattainment areas in Wisconsin classified as moderate or above under the 2008 or later ozone National Ambient Air Quality Standards ("NAAQS" or "standard"). These revisions are consistent with the CTG documents issued by EPA in 2008 and are approvable because they serve as SIP strengthening measures.

**DATES:** Comments must be received on or before March 1, 2023.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2022-0581 at <https://www.regulations.gov>, or via email to [arra.sarah@epa.gov](mailto:arra.sarah@epa.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). For either manner of submission, 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. 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