

requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the Act. EPA has evaluated amended Rules 2020 and 2201 and concluded that they would not interfere with attainment and RFP for any of the NAAQS, and would not interfere with any other applicable requirement of the Act. First, amended Rule 2201 does not relax the SIP in any aspect; rather, the amended rule strengthens the SIP by applying NSR requirements to new or modified major sources of PM<sub>2.5</sub>. Second, while amended Rule 2020 contains a new exemption for wind machines, this exemption would not lead to an increase in emissions because, as explained above, wind machines would not be subject to any particular controls under the NSR rule even if no such exemption were in effect because no control device would be considered cost-effective. Lastly, as noted above, neither the EPA-approved San Joaquin Valley PM<sub>10</sub> maintenance plan nor the EPA-approved PM<sub>2.5</sub> attainment plan relies on emissions reductions from this particular episodic source of emissions. Thus, we find the SIP revisions acceptable under CAA section 110(l).

EPA's technical support document (TSD) for this rulemaking has more information about these rules, including our evaluation and recommendation to approve them into the SIP.

#### C. Public Comment and Final Action

Because EPA believes the submitted rules fulfill all relevant requirements, we are proposing to fully approve them as revisions to the SIP pursuant to section 110(k)(3) of the Act. Specifically, we are proposing to approve SJVUAPCD Rule 2020 ("Exemptions"), as amended by the District on August 18, 2011 and submitted by CARB on September 28, 2011; and SJVUAPCD Rule 2201 ("New and Modified Stationary Source Review Rule"), as amended by the District on April 21, 2011 and submitted by CARB on May 19, 2011, as revisions to the California SIP. In so doing, we conclude that the District has remedied deficiencies that EPA had identified in previous versions of the rules and that other changes made by the District to the rules meet the applicable NSR requirements of the Act and our regulations.

We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rule(s) into the federally enforceable SIP.

#### 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, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

costs on tribal governments or preempt tribal law.

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

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

Dated: November 22, 2011.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2011-31183 Filed 12-5-11; 8:45 am]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[EPA-R09-OAR-2011-0900; FRL-9499-2]

#### Revisions to the California State Implementation Plan, Feather River Air Quality Management District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a limited approval and limited disapproval of revisions to the Feather River Air Quality Management District (FRAQMD) portion of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO<sub>x</sub>) emissions from internal combustion engines. We are proposing action on a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by January 5, 2012.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2011-0900, by one of the following methods:

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

2. *Email:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that

you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or email. <http://www.regulations.gov> is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

**Docket:** Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street,

San Francisco, California. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:**

Idalia Perez, EPA Region IX, (415) 972–3248, [perez.idalia@epa.gov](mailto:perez.idalia@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

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**I. The State’s Submittal**

*A. What rule did the State submit?*

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

**TABLE 1—SUBMITTED RULE**

Local agency	Rule No.	Rule title	Adopted	Submitted
FRAQMD .....	2.33	Internal Combustion Engines .....	06/01/09	01/10/10

On February 4, 2010, EPA determined that the submittal for FRAQMD Rule 2.33 met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

*B. Are there other versions of this rule?*

There are no previous versions of Rule 2.33.

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

NO<sub>x</sub> helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control NO<sub>x</sub> emissions. Rule 3.22 regulates emissions of NO<sub>x</sub>, volatile organic compounds (VOCs) and carbon monoxide (CO) from internal combustion engines with a rated brake horse power of 50 or greater. EPA’s technical support document (TSD) has more information about this rule.

**II. EPA’s Evaluation and Action**

*A. How is EPA evaluating the rule?*

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each NO<sub>x</sub> or VOC major source in ozone nonattainment areas classified as moderate or above (see sections 182(b)(2) and 182(f)), and must not relax existing requirements in

violation of CAA sections 110(l) and 193. Nonattainment areas must also implement Reasonably Available Control Measures (RACT), including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of RACT, as expeditiously as practicable for nonattainment areas (see CAA section 172(c)(1)). Although the FRAQMD regulates an ozone nonattainment area classified as severe for the 8-hour ozone NAAQS (40 CFR 81.305), Rule 3.22 does not need to fulfill RACT for NO<sub>x</sub> because there are no major sources that are subject to this rule in the ozone nonattainment portion of the FRAQMD. Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

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

Stationary Reciprocating Internal Combustion Engines,” EPA, July 1993.

5. “Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Stationary Spark-Ignited Internal Combustion Engines,” California Air Resources Board, November 2001.

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

Rule 3.22 improves the SIP by establishing more stringent emission limits and by clarifying monitoring, recording and recordkeeping provisions. The rule is largely consistent with the relevant policy and guidance regarding enforceability, RACT and SIP relaxations. Rule provisions which do not meet the evaluation criteria are summarized below and discussed further in the TSD.

*C. What are the rule deficiencies?*

The following provision conflicts with section 110 and part D of the Act and prevent full approval of the SIP revision. Section G.1.g allows for alternate testing without including sufficient QA/QC requirements to demonstrate compliance. This undermines enforceability of the rule which contradicts CAA requirements for enforceability.

*D. EPA Recommendations To Further Improve the Rule*

The TSD describes additional rule revisions that we recommend for the

next time the local agency modifies the rule.

#### *E. Proposed Action and Public Comment*

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is proposing a limited approval of the submitted rule to improve the SIP. If finalized, this action would incorporate the submitted rule into the SIP, including those provisions identified as deficient. This approval is limited because EPA is simultaneously proposing a limited disapproval of the rule under section 110(k)(3). Neither sanctions nor a Federal Implementation Plan (FIP) would be imposed should EPA finalize this limited disapproval. Sanctions would not be imposed under CAA 179(b) because the submittal of FRAQMD Rule 2.33 is discretionary (*i.e.*, not required to be included in the SIP), and EPA would not promulgate a FIP in this instance under CAA 110(c)(1) because the disapproval does not reveal a deficiency in the SIP for the area that such a FIP must correct. Specifically, the FRAQMD SIP does not rely on emissions reductions from Rule 2.33, and the rule is not subject to CAA section 182 RACT requirements for ozone because the rule does not apply to any major stationary source of NO<sub>x</sub> or VOC or any source covered by a CTG document. Accordingly, the failure of the FRAQMD to adopt revisions to Rule 2.33 would not adversely affect the SIP's compliance with the CAA's mandated requirements, such as the requirements for section 182 ozone RACT, reasonable further progress, and attainment demonstrations.

Note that the submitted rule has been adopted by the FRAQMD, and EPA's final limited disapproval would not prevent the local agency from enforcing it. The limited disapproval also would not prevent any portion of the rule from being incorporated by reference into the federally enforceable SIP as discussed in a July 9, 1992 EPA memo found at: <http://www.epa.gov/nsr/ttnnsr01/gen/pdf/memo-s.pdf>.

We will accept comments from the public on the proposed limited approval and limited disapproval for the next 30 days.

### **III. Statutory and Executive Order Reviews**

#### *A. Executive Order 12866, Regulatory Planning and Review*

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

#### *B. Paperwork Reduction Act*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b).

#### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals or disapprovals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve or disapprove requirements that the State is already imposing. Therefore, because the proposed Federal SIP limited approval/limited disapproval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

#### *D. Unfunded Mandates Reform Act*

Under sections 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the limited approval/limited disapproval action

proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve and disapprove pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### *E. Executive Order 13132, Federalism*

*Federalism* (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (*Federalism*) and 12875 (*Enhancing the Intergovernmental Partnership*). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely proposes to approve or disapprove a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

*F. Executive Order 13175, Coordination With Indian Tribal Governments*

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This proposed rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this rule.

EPA specifically solicits additional comment on this proposed rule from tribal officials.

*G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because it proposes to approve a State rule implementing a Federal standard.

*H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today’s action does not require the public to

perform activities conducive to the use of VCS.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population*

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this rulemaking.

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

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

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

Dated: November 18, 2011.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2011–31252 Filed 12–5–11; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

**[EPA–HQ–SFUND–1998–0007; FRL–9499–5]**

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Notice of Intent for Deletion of the State Marine of Port Arthur Superfund Site**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 6 is issuing a Notice of Intent to Delete the State Marine of Port Arthur (SMPA) Superfund Site located in Port Arthur, Texas, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and

Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Texas, through the Texas Commission on Environmental Quality, have determined that all appropriate response actions at these identified parcels under CERCLA, other than operations, maintenance, and Five-Year Reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** Comments must be received by January 5, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1998–0007, by one of the following methods:

- **http://www.regulations.gov:** Follow internet on-line instructions for submitting comments.
- **Email:** Rafael Casanova, [casanova.rafael@epa.gov](mailto:casanova.rafael@epa.gov).
- **Fax:** (214) 665–6660.
- **Mail:** Rafael A. Casanova; U.S. Environmental Protection Agency, Region 6; Superfund Division (6SF–RA); 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202–2733.
- **Hand delivery:** U.S. Environmental Protection Agency, Region 6; 1445 Ross Avenue, Suite 700; Dallas, Texas 75202–2733; **Contact:** Rafael A. Casanova (214) 665–7437. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA–HQ–SFUND–1998–0007. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your