

Meeting Date: 3/28/2024
Report Type: CONSENT CALENDAR
Report ID: 2024-0328-8.



Title: Revision to the State Implementation Plan to Incorporate Reasonably Available Control Technology for Major Sources of Nitrogen Oxides

Recommendation: Determine that the adoption of revisions to the State Implementation Plan (SIP) to satisfy Reasonably Available Control Technology (RACT) for Major Sources of nitrogen oxides (NOx) is exempt from the California Environmental Quality Act (CEQA); 2) adopt a resolution approving the SIP revision, and 3) direct Staff to forward the SIP revision and all necessary supporting documents to the California Air Resources Board (CARB) for submittal to the U.S. Environmental Protection Agency (EPA).

Rationale for Recommendation: EPA has determined that three District rules do not fully satisfy Clean Air Act (CAA) requirements for RACT at major stationary sources of NOx. To avoid EPA promulgation of a Federal Implementation Plan (FIP), the District must submit, and EPA must approve, revisions to the SIP to correct the deficiencies by September 30, 2024. The proposed SIP revision will correct the RACT deficiencies and, upon approval by EPA, avoid the imposition of a FIP and further actions.

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Presentation: No

ATTACHMENTS:

Resolution
Exhibit A: SIP Revision
Attachment A: Evidence of Public Notice

Approvals/Acknowledgements

Executive Director or Designee: Alberto Ayala, Report Approved 3/21/2024

District Counsel or Designee: Kathrine Pittard, Approved as to Form 3/13/2024

Discussion / Justification: The District is part of the Sacramento Federal Ozone Nonattainment Area (SFNA), which is designated as a “severe” nonattainment area for the 1997 and 2008 federal 8-hour ozone standards, and a “serious” nonattainment area of the 2015 8-hour ozone standard. Section 182 of the CAA mandates that areas classified as “moderate” or worse implement RACT for all major stationary sources of volatile organic compounds (VOC) and NOx. RACT must be incorporated in the SIP.

The planning requirements for the 2008 ozone standard required the District to demonstrate RACT for certain source categories and all major stationary sources of VOC and NOx. In February 2017, EPA issued a finding that several nonattainment areas across the country, including the District, had failed to submit their RACT demonstrations, known as “RACT SIPs.” Subsequently, the Board adopted a RACT SIP in March 2017.

EPA's 2017 finding required them to approve RACT submissions by February 2019 or promulgate FIPs. EPA never took action to approve the District's RACT SIP and also did not promulgate a FIP. The agency's inaction was challenged in court and a consent decree now requires it to approve the RACT SIP by September 30, 2024, or promulgate a FIP.

In June 2023, EPA partially approved and partially disapproved the District's RACT SIP. The partial disapproval was for RACT at major stationary sources of NOx. In EPA's evaluation, they noted that three District rules that limit NOx emissions include temporary exemptions from NOx emissions limits during periods of startup and shutdown; therefore, the rules don't conform to current EPA guidance for RACT rules.

The local permits to operate for NOx emission units at major stationary sources of NOx include daily mass emission limits that apply to all operation, including emissions during startup and shutdown periods. Staff is proposing to submit those permit conditions for SIP approval.

In a separate action, EPA also requires that all records should be on file and not just upon request. To address this requirement, staff is proposing to include mandatory reporting conditions with the SIP submittal. The reporting conditions are identical to those already required by the sources' federal Title V operating permits.

Summary of Plan / Rule / Amendment: Staff is proposing to submit the local permits to operate for inclusion in the SIP. If approved by EPA, daily mass emission limits for NOx, related conditions necessary for enforcement, and mandatory reporting requirements will become federally enforceable. If approved by EPA, these permit conditions will become federally enforceable. All unrelated permit conditions will be redacted and will not be included in the SIP.

Staff's proposal will correct the RACT deficiencies and, upon approval by EPA, satisfy the RACT requirements.

Financial Considerations: There are six major stationary sources of NOx included in this proposed SIP revision. The sources are already required to comply with the permit conditions under their local and Title V permits. The sources will not incur additional compliance costs.

Emissions Impact: No sources will be required to make any changes to equipment or operation. There will be no impact on emissions.

Economic Impact: The adoption of this SIP revision will not impact regional economy.

Public Outreach/Comments:

Staff conducted meetings with representatives of each of the affected sources to make them aware of the proposed SIP revision. The necessity of the SIP submittal and the details of the permit conditions to be included were discussed. The affected sources made no requests to change staff's proposal.

The noticing for this hearing included:

- A notice posted on the District website, with links to the Statement of Reasons and redacted permits to operate
- Email notices to:
 - The California Air Resources Board and EPA
 - All persons who have requested notices for plans, rulemaking, and general interest

Consistent with public notice requirements for SIP revisions, the notice stated that a public hearing has been tentatively scheduled and will be cancelled if no request for hearing to be held is received by the District by 10:00 a.m. on March 27, 2024. The notice also stated that an announcement of a cancellation will be made on March 27, 2024, at 3:00 p.m. by posting a notice of a cancellation on the District's web site and on the billboard at the entrance to the District office, and by sending an email to all those who received the public notice.

Environmental Review: Staff finds that the proposed action to incorporate the Permits to Operate into the SIP is exempt from the California Environmental Quality Act as an action by a regulatory agency for the protection of the environment (Class 8 Categorical Exemption, Section 15308, State CEQA Guidelines) and because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (Section 15061(b)(3), State CEQA Guidelines).