

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

Draft Staff Report

Proposed Amended Regulation IX - Standards of Performance for New Stationary Sources

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I. EXECUTIVE SUMMARY

U.S. EPA periodically promulgates new or amends existing Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants (NESHAP). New Source Performance Standards (NSPS) govern the operations of all new, modified, or reconstructed sources of air pollution identified in the Code of Federal Regulations (CFR), Title 40, Chapter I, Subchapter C, Part 60 (40 CFR Part 60). NESHAP govern the operations of new and existing sources identified in the CFR, Title 40, Chapter I, Subchapter C, Part 61 (40 CFR Part 61) that emit substances designated as hazardous air pollutants pursuant to §112 of the Clean Air Act (CAA) Amendments.

To directly implement NSPS and NESHAP requirements at the local level as authorized by U.S. EPA pursuant to §301 and §§ 110, 111(c)(1), and 112(d)(1) of the CAA, SCAQMD's Board initially adopted various NSPS by reference as Regulation IX and various NESHAP as Regulation X on December 3, 1976. The adoption of NSPS and NESHAP by reference into Regulations IX and X, respectively, provides stationary sources with a single source of information for determining appropriate federal and local requirements for their specific operations. The NSPS and NESHAP standards are in effect and enforceable by SCAQMD regardless of whether SCAQMD incorporates them into Regulations IX and X. The Board has since periodically amended Regulations IX and X to incorporate new or amended standards as necessary. Regulation IX and Regulation X were last amended April 3, 2015. Since then, the U.S. EPA has adopted various NSPS standards, and so Regulation IX is proposed to be amended. However, Regulation X is not proposed to be amended this time as there were no delegable NESHAP actions adopted by the U.S. EPA between January 1, 2015 and June 15, 2016.

In 1997, U.S. EPA delegated and/or re-delegated its authority to SCAQMD for specific sections of 40 CFR Parts 60 and 61. In 2006, 2007, 2009, 2010, 2011, and 2012, SCAQMD requested and received U.S. EPA delegation and re-delegation of authority for specific sections of 40 CFR Part 60 and/or Part 61 following Regulation IX and/or X amendments. SCAQMD will seek U.S. EPA delegation and re-delegation of such authority for specific sections of Part 60 and/or Part 61 that were not previously requested.

Pursuant to the 1990 Amendments to the federal CAA, U.S. EPA has established maximum achievable control technology (MACT) standards for new and existing major sources of hazardous air pollutants. The MACT standards are published in CFR, Title 40, Chapter I, Subchapter C, Part 63 (40 CFR Part 63). U.S. EPA delegated the authority for the implementation and enforcement of 40 CFR Part 63 to SCAQMD on February 27, 1997. However, SCAQMD has not established a separate regulation to incorporate the MACT standards by reference. Instead, the MACT standards are directly implemented through SCAQMD's Regulation XXX – Title V Permits, in accordance with U.S. EPA's federal Title V program

requirements in CFR, Title 40, Chapter 1, Subchapter C, Part 70 – State Operating Permit Programs Categories (40 CFR Part 70).

II. BACKGROUND

On December 3, 1976, SCAQMD’s Board initially adopted various NSPS by reference as Regulation IX and various NESHAP as Regulation X. The adoption of NSPS and NESHAP by reference into Regulations IX and X, respectively, provides stationary sources with a single source of information for determining appropriate federal and local requirements for their specific operations. Since sources of air pollution are required to comply with the most stringent federal, state, and local standards, criteria, and requirements set forth in Regulations IX and X and other applicable SCAQMD rules, the NSPS and NESHAP standards are in effect and enforceable by SCAQMD regardless of whether SCAQMD incorporates them into Regulations IX and X. The Governing Board has since periodically amended Regulations IX and X to incorporate new or amended standards as necessary. Regulation IX and Regulation X were last amended April 3, 2015.

In 1997, U.S. EPA delegated and/or re-delegated its authority to SCAQMD for specific sections of 40 CFR Parts 60 and 61, as listed in the April 23, 1997 Federal Register, Volume 62, No. 78, 19679 – 19682. In 2006, 2007, 2009, 2010, 2011, and 2012, SCAQMD subsequently requested and received U.S. EPA delegation and/or re-delegation of authority for specific sections of 40 CFR Part 60 and/or Part 61 following Regulation IX and/or X amendments. SCAQMD will seek U.S. EPA delegation and re-delegation of such authority for specific sections of Part 60 and/or Part 61 that were not previously requested.

III. LEGAL AUTHORITY

Pursuant to §301 and §§110, and 111(c)(1) of the CAA, U.S. EPA is authorized to delegate authority to implement and enforce standards and related compliance periods for new, modified, or reconstructed sources of air pollution set forth in 40 CFR Part 60, to local air districts.

Adoption of new and amended NSPS into SCAQMD Regulation IX, by reference, formally recognizes SCAQMD’s authority to assist in the implementation and enforcement of these federal regulations at the local level.

The SCAQMD also has its authority to adopt, amend, or repeal rules and regulations for criteria pollutants from Health and Safety Code §§39002, 40000, 40001, 40440, 40441, 40702, and 40725 through 40728.

IV. PROPOSED AMENDMENTS

The updates included in this proposal reflect federal actions primarily between January 1, 2015 and June 15, 2016. One new NSPS for GHGs (in particular, methane emission limitations) and VOC emissions was promulgated in 2016 by

U.S. EPA for various oil and natural gas sources, which include: (1) GHG and VOC requirements for current unregulated sources (e.g., oil well completions, pneumatic pumps, well sites and compressor stations); (2) current regulated sources for VOC, but not for GHGs (e.g., gas well completions and equipment leaks at natural gas processing plants); and (3) GHG and VOC requirements for current regulated subset of equipment (e.g., pneumatic controllers, and centrifugal and reciprocal compressors, except for those at well sites.)

In 2015, a new NSPS for PM emissions for new hydronic heaters and forced-air furnaces, and a new NSPS for GHGs manifested as carbon dioxide CO₂ from new, modified, and reconstructed fossil fuel-fired electric utility steam generating units (EGUs) and stationary combustion turbines were also promulgated by U.S. EPA. The CO₂ standards are for new, modified, and reconstructed sources, and are not included in the controversial “Clean Power Plan” for existing sources which has been stayed by U.S. Supreme Court (40 CFR Part 60 Subpart UUUU (111d, existing plants)). Although not being adopted by reference per SCAQMD Rule 1714 – Prevention of Significant Deterioration for Greenhouse Gases, the new NSPS for GHGs from EGUs and stationary combustion turbines have been incorporated into SCAQMD’s permit conditions that are under review by the U.S. EPA under the Title V Program to power plants in the SCAB.

In addition, five delegable NSPS actions were amended by U.S. EPA during the time period between January 1, 2015 and June 15, 2016. They are: (1) Updated emission limits, eliminated broad exemption, and strengthened test methods for new residential wood heaters; (2) Revised procedures for daily average PM compliance calculation for utility generating units using continuous emission monitoring systems (CEMS); (3) Added temperature parameter to start up and shut down requirements, and provide scaling alternative for sources with wet scrubber, tray tower, or dry scrubber at Portland cement plants; (4) Revised NSPS for process heaters and flares at petroleum refineries; and (5) Revised provisions of low pressure gas well and storage vessels to lower the potential to emit (PTE) of individual storage vessels from crude oil & natural gas production. The U.S. EPA updated provisions for new residential wood heaters will not trigger amendments to SCAQMD Rule 445 – Wood Burning Devices. The rule provisions currently include performance and emissions standards adopted by U.S. EPA on or after February 28, 1988.

In addition, U.S. EPA also included minor revisions and clarifications to various subparts of 40 CFR Part 60. Since U.S. EPA does not delegate emission guidelines to the SCAQMD, the subparts related to emission guidelines are not listed for inclusion in the proposed amendments.

Table 1 lists the NSPS currently proposed for incorporation by reference into SCAQMD Regulation IX.

Table 1. NSPS Proposed for Incorporation into Regulation IX

40 CFR Part 60	Title	U.S. EPA Action (date)	Reference	New Promulgation, Amendment, and Affected Provision
Subpart Da	NSPS for Electric Utility Steam Generating Units	Final Rule (April 6, 2016)	81 FR 20171, Vol. 81, No. 66	Daily average PM compliance calculation for utility generating units using continuous emission monitoring systems (CEMS)
Subpart F	NSPS for Portland Cement Plants	Final Amendment, (July 27, 2015)	80 FR 44771, Vol. 80, No. 143	Temperature parameter for startup and shut down requirements, and scaling alternative for sources with wet scrubber, tray tower, or dry scrubber at Portland cement plants
Subparts J and Ja	NSPS for Petroleum Refineries	Final Rule (December 1, 2015)	80 FR 75177, Vol. 80, No. 230	Revised NSPS for process heaters and flares at petroleum refineries
Subpart AAA	NSPS for New Residential Wood Heaters	Final Rule (March 16, 2015)	80 FR 13671, Vol. 80, No. 50	Updated emission limits, eliminated broad exemption, and strengthened test methods for new residential wood heaters
Subpart OOOO	NSPS for Crude Oil and Natural Gas Production	Final Rule (August 12, 2015)	80 FR 48262, Vol. 80, No. 155	Lowered potential to emit (PTE) of individual storage vessels from crude oil & natural gas production
Subpart OOOOa	NSPS for Crude Oil and Natural Gas Facilities for which Construction, Modification, or Reconstruction Commenced After September 18, 2015	Final Rule (June 3, 2016)	81 FR 35823, Vol. 81, No. 107	New NSPS for GHGs (methane emission limitations) and VOC emissions for various oil and natural gas sources: (1) GHGs and VOC for current unregulated sources stations; (2) current regulated sources for VOC, but not for GHGs; and (3) GHGs and VOC current regulated subset of equipment

Table 1. NSPS Proposed for Incorporation into Regulation IX (cont.)

40 CFR Part 60	Title	U.S. EPA Action (date)	Reference	New Promulgation, Amendment, and Affected Provision
Subpart QQQQ	NSPS for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces	Final Rule (March 16, 2015)	80 FR 13671, Vol. 80, No. 50	New PM standards for new residential hydronic heaters and forced-air furnaces
Subpart TTTT	NSPS for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units	Final Rule (October 23, 2015)	80 FR 64509, Vol. 80, No. 205	New NSPS for GHGs (CO₂) from fossil fuel-fired electric utility steam generating units (EGUs) and stationary combustion turbines

V. SOCIOECONOMIC ASSESSMENT

The proposed NSPS amendments of Regulation IX does not impose new requirements beyond existing and enforceable federal regulations and thus do not significantly affect air quality or emissions limitations beyond U.S. EPA's analysis. As such, there will be no socioeconomic impacts beyond what was identified for the federal NSPS standards and requirements.

VI. CEQA ANALYSIS

The SCAQMD has reviewed the proposed amendments to Regulation IX pursuant to CEQA Guidelines §15002 (k) – General Concepts, the three-step process for deciding which document to prepare for a project subject to CEQA and CEQA Guidelines §15061 – Review for Exemption, procedures for determining if a project is exempt from CEQA. Since the SCAQMD is proposing to incorporate federal NSPS requirements which are already applicable to the affected sources by reference into Regulation IX, it can be seen with certainty that the proposed project has no potential to adversely impact air quality or any other environmental topic area. As such, the proposed project is exempt from CEQA pursuant to CEQA Guidelines §15061(b)(3). A Notice of Exemption has been prepared pursuant to CEQA Guidelines §15062 - Notice of Exemption. If the project is approved, the Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside and San Bernardino counties.

VII. FINDINGS UNDER THE HEALTH AND SAFETY CODE

Health and Safety Code Section 40727 requires the SCAQMD to adopt written findings of necessity, authority, clarity, consistency, non-duplication and reference.

Necessity

The SCAQMD Governing Board has determined that a need exists to amend Regulation IX to provide a mechanism for local enforcement and provide information to affected facilities of these federal standards.

Authority

The SCAQMD Governing Board obtains its authority to adopt, amend, or repeal rules and regulations from §§ 39002, . 40000, 40001, 40440, 40441, 40702, and 40725 through 40728 of the Health and Safety Code.

Clarity

The SCAQMD Governing Board has determined that the proposed amendments to Regulation IX are written or displayed so that their meanings can be easily understood by the persons directly affected by them.

Consistency

The SCAQMD Governing Board has determined that the proposed amendments to Regulation IX are in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.

Non-Duplication

The SCAQMD finds that the proposed amendments to Regulation IX represent an adoption by reference of federal NSPS requirements, and thus are necessary and proper to execute the duties imposed on the SCAQMD by allowing local enforcement of these federal requirements, and that the proposed amendments to Regulation IX fall within the criteria and requirements in Health and Safety Code §40727.2(g), such that a comparative analysis is not required.

Reference

The SCAQMD Governing Board, in adopting amendments to Regulation IX, references the following statutes which the SCAQMD hereby implements, interprets, or makes specific: Title 42 U.S.C. Section 7411 (performance standards for new stationary sources), Health and Safety Code §§ 40001(a) (air quality standards), 40001 (b) (air pollution episodes), 40440 (a) (rules to carry out plan), 40702 (adopt regulations to execute duties), and 42301 (permit system).

As the proposed amendments reference existing 40 CFR Part 60 standards, an analysis of alternatives, comparative analysis or incremental cost analysis is not necessary.

VIII. CONCLUSION AND RECOMMENDATION

Proposed amendments to Regulation IX adopt by reference existing 40 CFR Part 60 standards. Such actions in the past have provided stationary facilities with a single source of information for determining which federal, as well as local, requirements apply to their specific operations. The proposed amendments will continue this practice. The proposed amendments will not be submitted into the SIP, rather staff will request delegation for the new and re-delegation for the amended federal standards, if necessary.