

# **Staff Report: Historical Regulation III and Regulation IX SIP Submittal from District Formation**

## **Rules 3.0 Visible Emissions**

### **Rule 3.1 Exceptions to Rule 3.0**

### **Rule 3.2 Particulate Matter Concentration**

### **Rule 3.3 Dust and Fumes**

### **Rule 3.4 Separation of Emissions**

### **Rule 3.5 Combination of Emissions**

### **Rule 3.6 Abrasive Blasting**

### **Rule 3.7 Reduction of Animal Matter**

### **Rule 3.10 Sulfur Oxides**

### **Rule 3.13 Circumvention**

## **Rule 9.5 Air Pollution Equipment – Scheduled Maintenance**

### **Rule 9.6 Equipment Breakdown**

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Feather River AQMD

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# Table of Contents

## Contents

1.0	Executive Summary .....	2
2.0	Background .....	3
3.0	Legal Mandate: .....	4
4.0	Proposed Rule Requirements .....	4
5.0	Socioeconomic Impact: .....	6
6.0	Emission Impacts of Proposed Rule .....	7
7.0	Estimated Cost Impact .....	7
8.0	Environmental Review and Compliance:.....	7
9.0	Required Findings: .....	7
10.0	Rule Analysis: .....	8

## 1.0 Executive Summary

Feather River Air Quality Management District (District) is a bi-county agency that administers local, state, and federal air quality management programs for Yuba and Sutter counties. The District was formed in 1991 when the Sutter County Air Pollution Control District merged with the Yuba County Air Pollution Control District.

In the year of the District's formation, Rules and Regulations were adopted by the District's Board of Directors that were almost identical to the Sutter and Yuba district's Rules and Regulations. The District does not appear to have submitted a request through the California Air Resources Board (CARB) to the United States Environmental Protection Agency (US EPA) that the FRAQMD Rules and Regulations replace the Yuba and Sutter County Rules and Regulations in the California State Implementation Plan (SIP).

The Yuba County Air Pollution Control District and Sutter County Air Pollution Control District no longer exist, and the Districts cannot enforce the rules of those entities. However, since the rules were never withdrawn from the SIP, they are still listed on any federal operating permit obtained in accordance with Title V of the Federal Clean Air Act (FCAA). The rules of the previous County air districts are only enforceable by the US EPA as long as they exist only in the SIP.

Upon consultation with US EPA, CARB, and legal counsel, the District staff have prepared a submittal to remove specific rules from the SIP that were adopted by the previous County air districts, and replace the rules with District adopted and enforceable rules.

There are no proposed changes to the District rules.

The District Board of Directors must adopt a regulation authorizing submittal to the SIP. Once approved by the Board of Directors, the listed rules will be submitted to CARB and US EPA as a revision to the SIP. The applicable Yuba County Air Pollution Control District and Sutter County Air Pollution Control District rules will be removed from the SIP.

## 2.0 Background

Feather River Air Quality Management District (District) is a bi-county agency that administers local, state, and federal air quality management programs for Yuba and Sutter counties. The District was formed in 1991 when the Sutter County Air Pollution Control District merged with the Yuba County Air Pollution Control District.

In 1991, some of the Rules and Regulations for the District were adopted by the Board of Directors at a public hearing on August 12<sup>th</sup>, including Regulation III, containing the District's prohibitory rules, and Regulation IX, containing the District's enforcement procedures. The District Rules and Regulations were almost identical to the Sutter and Yuba district's Rules and Regulations. These rules were initially scheduled for a June Board Meeting in 1991 but that was postponed to August 12<sup>th</sup> to allow additional time for review, however the 6/91 hearing date is still listed on the rules.

After the Rules and Regulations were adopted, the District does not appear to have submitted a request through the California Air Resources Board (CARB) to the United States Environmental Protection Agency (US EPA) that the FRAQMD Rules and Regulations replace the Yuba and Sutter County Rules and Regulations in the California State Implementation Plan (SIP).

The Yuba County and Sutter County air districts had previously submitted rules and regulations to US EPA for inclusion in the SIP. A copy of the county air district's rules and regulations are included as Attachments F and G. These rules are enforceable by the US EPA as they are included in the SIP, but they have not been enforceable by any local or state agency since the county air districts merged and became a separate entity.

The US EPA promulgates the National Ambient Air Quality Standards, or NAAQS, for criteria air pollutants such as ground level ozone and fine particulate matter (PM<sub>2.5</sub>). Ozone at ground level is a harmful air pollutant composed of three oxygen atoms<sup>1</sup>. Ozone can cause health problems such as difficulty breathing, sore and scratchy throat, airway inflammation, it can make lungs more susceptible to infection, and increase frequency of asthma attacks<sup>2</sup>. Particulate matter or PM consists of a mixture of solid particles and liquid droplets found in the air. PM<sub>2.5</sub> are fine inhalable particles with diameters that are generally 2.5 micrometers and smaller. PM can be directly emitted such as dust from a construction site or smoke from a wildfire, and have been linked to premature death in people with heart or lung disease, nonfatal heart attacks, aggravated asthma, decreased lung function, coughing, and irritation of the airways.<sup>3</sup>

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<sup>1</sup> <https://www.epa.gov/ground-level-ozone-pollution/ground-level-ozone-basics> accessed October 18, 2021

<sup>2</sup> <https://www.epa.gov/ground-level-ozone-pollution/health-effects-ozone-pollution> accessed October 18, 2021

<sup>3</sup> <https://www.epa.gov/pm-pollution/health-and-environmental-effects-particulate-matter-pm> accessed October 18, 2021

### 3.0 Legal Mandate:

A SIP is a collection of regulations and documents used by a state, territory, or local air district to implement, maintain, and enforce the NAAQS, and to fulfill other requirements of the Clean Air Act (FCAA).<sup>4</sup>

The contents of a typical SIP fall into three categories:

1. State-adopted control measures which consist of either state statutes and regulations or source-specific requirements (such as orders and consent decrees);
2. State-submitted “non-regulatory” components (emission inventories, monitoring network documents, attainment demonstrations);
3. Additional requirements promulgated by US EPA to satisfy a mandatory requirement in Section 110 or Part D of the FCAA.

Portions of the District have been designated nonattainment for the 1-hour Ozone NAAQS, the 1997 8-hour Ozone NAAQS, the 2006 24-hour PM<sub>2.5</sub> NAAQS, the 2008 8-hour Ozone NAAQS, and the 2015 8-hour Ozone NAAQS. The District is required to submit rules and regulations that control emissions into the SIP.

### 4.0 Proposed Rule Requirements

There are no proposed amendments to the rules. The resolution would authorize District staff to submit previously adopted rules to the SIP. The rules would be submitted to the SIP as they were adopted in 1991 except section D of Rule 3.1.

Rule 3.1 Exceptions to Rule 3.0 as adopted by the District Board in 1991 has an additional exception compared to the versions submitted to the SIP by the County air districts. Section D of Rule 3.1 added an exception for emissions from Tee Pee burners or from forestry/agricultural residue burners used to produce energy. The exception to Rule 3.0 Visible Emissions in section D applies during start up or shut down of Tee Pee burners, or from the malfunction of emission control equipment, if the equipment meets conditions 1 through 3.

Tee Pee burners are considered burn barrels or incinerators in Regulation II Open Burning and are banned by the rules in that Regulation. Rule II.E.6 defines an incinerator as “Any device constructed of nonflammable materials, including containers commonly known as burn barrels, for the purpose of burning therein trash, debris, and other flammable materials for volume reduction or destruction.” Rule II.F.1.1 provides an overall general ban in that “Except as provided in these Rules and Regulations, no person or land manager shall conduct, allow, or use open fires for the purpose of disposal of any waster or other material.” There is no provision that allows Tee Pees for agricultural burning; therefore it is not allowed. For non-agricultural burning,

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<sup>4</sup> <https://www.epa.gov/sips/basic-information-air-quality-sips> accessed October 18, 2021

incinerators are banned explicitly in Rule II.L.2.a and open burning at a solid waste disposal site is prohibited in Section II.K.4.

The District is proposing to omit Section D of Rule 3.1 from the SIP submittal rather than amend Rule 3.1 at this time.

Rule 9.5 Air Pollution Equipment – Scheduled Maintenance was adopted by both the Sutter County air district and Yuba County air district in 1980 and approved into the SIP in 1982. The Rules 9.5 for Yuba and Sutter counties are requested to be removed without replacement.

Upon adoption by the Board of Directors, the Resolution would authorize District staff to submit the following rules, adopted by the Board on August 12, 1991, to the CARB, and subsequently the US EPA, as a revision to the SIP:

- Regulation III Rule 3.0 – Visible Emissions
- Regulation III Rule 3.1 (excluding Section D) – Exceptions to Rule 3.0
- Regulation III Rule 3.2 – Particulate Matter Concentration
- Regulation III Rule 3.3 – Dust and Fumes
- Regulation III Rule 3.4 – Separation of Emissions
- Regulation III Rule 3.5 – Combination of Emissions
- Regulation III Rule 3.6 – Abrasive Blasting
- Regulation III Rule 3.7 – Reduction of Animal Matter
- Regulation III Rule 3.10 – Sulfur Oxides
- Regulation III Rule 3.13 – Circumvention
- Regulation IX Rule 9.6 – Equipment Breakdown

The rules have “adopted 6/91” which conflicts with the August 12, 1991 adoption date. Staff reviewed historical Board Meeting agendas and minutes, it appears that the rules were initially scheduled for the June 1991 Board Meeting and were public noticed for the June meeting. At the June Board Meeting the Board continued the item to August 1991 to allow CARB additional time to review the rules. The rules were adopted in August 1991 but it appears that the adoption date was not changed from 6/91 to August 12, 1991.

This Resolution would also request removal of the following Yuba County and Sutter County air district rules from the SIP:

Sutter County Air Pollution Control District rules, effective 12/16/1980:

- Regulation III Rule 3.0 – Visible Emissions
- Regulation III Rule 3.1 – Exceptions to Rule 3.0
- Regulation III Rule 3.2 – Particulate Matter Concentration
- Regulation III Rule 3.3 – Dust and Fumes
- Regulation III Rule 3.4 – Separation of Emissions

Regulation III Rule 3.5 – Combination of Emissions  
Regulation III Rule 3.6 – Sand Blasting  
Regulation III Rule 3.7 – Reduction of Animal Matter  
Regulation III Rule 3.10 – Sulfur Oxides  
Regulation III Rule 3.13 – Circumvention  
Regulation IX Rule 9.5 – Air Pollution Equipment – Scheduled Maintenance  
Regulation IX Rule 9.6 – Equipment Breakdown

Yuba County Air Pollution Control District rules, effective 7/24/1980:

Regulation III Rule 3.0 – Visible Emissions  
Regulation III Rule 3.1 – Exceptions to Rule 3.0  
Regulation III Rule 3.2 – Particulate Matter Concentration  
Regulation III Rule 3.3 – Dust and Fumes  
Regulation III Rule 3.4 – Separation of Emissions  
Regulation III Rule 3.5 – Combination of Emissions  
Regulation III Rule 3.6 – Sand Blasting  
Regulation III Rule 3.7 – Reduction of Animal Matter  
Regulation III Rule 3.10 – Sulfur Oxides  
Regulation III Rule 3.13 – Circumvention  
Regulation IX Rule 9.5 – Air Pollution Equipment – Scheduled Maintenance  
Regulation IX Rule 9.6 – Equipment Breakdown

## 5.0 Socioeconomic Impact:

California Health and Safety Code §40728.5 requires, in part, that:

“Whenever a District intends to propose the adoption, amendment or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, that agency shall, to the extent that data are available, perform an assessment of the socioeconomic impacts of the adoption, amendment, or repeal of the rule or regulation.”

However, districts with a population of less than 500,000 persons are exempt from the provisions of CH&S §4072.5(a). The District’s population is estimated to be approximately 167,000<sup>5</sup>, which is below the 500,000 person threshold. Therefore, a socioeconomic analysis for this rulemaking is not required.

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<sup>5</sup> <https://www.census.gov/data/tables/time-series/demo/popest/2010s-counties-total.html>

## 6.0 Emission Impacts of Proposed Rule

There are no emission impacts from this action as there are no proposed amendments to the rules.

## 7.0 Estimated Cost Impact

The HSC §40703 requires the District, in the process of the adoption of any rule or regulation, to consider and make public its findings related to cost effectiveness of the Rule.

There is no expected cost impact of the proposed amendments. There are no emission reductions from this action.

## 8.0 Environmental Review and Compliance:

The submittal of these rules is categorically exempt from the California Environmental Quality Act (CEQA) under Sections 15307 and 15308 of the State CEQA guidelines, and no exceptions to these exemptions apply as this action is taken by a regulatory agency for the protection of a natural resource. California Public Resources Code (Section 21159) requires an environmental analysis of the reasonably foreseeable methods of compliance. The District has concluded that no reasonably foreseeable adverse environmental impacts will be caused by the replacement of rules in the SIP.

## 9.0 Required Findings:

California Health and Safety Code (HSC) §40727(a) required that prior to adoption or amending a rule or regulation, an air district's Board must make findings of necessity, authority, clarity, consistency, nonduplication, and reference. The findings must be based on the following:

1. Information presented in the District's written analysis, prepared pursuant to HSC §40727.2;
2. Information contained in the rulemaking records pursuant to HSC §40728; and
3. Relevant information presented at the Board's hearing for the Rule.

This action does not adopt or amend a rule or regulation. This action directs staff to submit previously adopted rules into the SIP to replace rules from two entities that no longer exist.



## 10.0 Rule Analysis:

This action would send the following existing rules, adopted August 12, 1991, to the SIP and replace the same rules from the Yuba and Sutter County Air Pollution Control Districts:

Regulation III Rule 3.0 – Visible Emissions  
Regulation III Rule 3.1 – Exceptions to Rule 3.0  
Regulation III Rule 3.2 – Particulate Matter Concentration  
Regulation III Rule 3.3 – Dust and Fumes  
Regulation III Rule 3.4 – Separation of Emissions  
Regulation III Rule 3.5 – Combination of Emissions  
Regulation III Rule 3.6 – Abrasive Blasting  
Regulation III Rule 3.7 – Reduction of Animal Matter  
Regulation III Rule 3.10 – Sulfur Oxides  
Regulation III Rule 3.13 – Circumvention  
Regulation IX Rule 9.6 – Equipment Breakdown

These rules are essentially identical to the corresponding Yuba and Sutter county rules, except for Rule 3.1 as discussed in section 4 above. The name of Rule 3.6 was changed from Sand Blasting to Abrasive Blasting.

Attachment A contains the FRAQMD rules to be submitted to the SIP upon approval of Resolution 2022-13.

Attachment B contains the Resolution authorizing staff to submit the listed rules to the SIP as replacements except 9.5 which will be removed without replacement.

Attachment C is the minutes from the August 1991 FRAQMD public hearing adopting Regulation III.

Attachment D is a summary from August 1991 of the changes between the FRAQMD Regulations and the Yuba and Sutter County Air Pollution Control District's Regulations.

Attachment E are the Sutter County Air Pollution Control District's Rules and Regulations that will be removed from the SIP by this action.

Attachment F are the Yuba County Air Pollution Control District's Rules and Regulations that will be removed from the SIP by this action.