6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2014-0863; FRL-9921-51-Region 9]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern criteria air pollutants including oxides of nitrogen (NOx) and particulate matter (PM) emissions from boilers, steam generators, and process heaters. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule is effective on [**Insert date 60 days after the date of publication in the Federal Register**] without further notice, unless EPA receives adverse comments by [**Insert date 30 days after the date of publication in the Federal Register**]. If

we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2014-0863, by one of the following methods:

1. *Federal eRulemaking Portal*: www.regulations.gov. Follow the on-line instructions.
2. *E-mail*: 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 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 www.regulations.gov or e-mail. 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 e-mail directly to EPA, your e-mail 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901. While all documents in the docket are listed at 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: Nicole Law, EPA Region IX, (415) 947-4126, *law.nicole@epa.gov*.

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

Table of Contents

I. The State's Submittal.

A. What rules did the State submit?

B. Are there other versions of these rules?

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

II. EPA's Evaluation and Action.

A. How is EPA evaluating the rules?

B. Do the rules meet the evaluation criteria?

C. EPA recommendations to further improve the rules.

D. Public comment and final action.

III. Statutory and Executive Order Reviews.

I. The State's Submittal.

A. What rules did the State submit?

Table 1 lists the rules addressed by this rule with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

Table 1 - Submitted Rules

Local Agency	Rule #	Rule Title	Amended	Submitted
SJVUAPCD	4307	Boilers, Steam Generators, and Process Heaters – 2.0 MMBtu/hr to 5.0 MMBtu/hr	05/19/11	07/25/14
SJVUAPCD	4308	Boilers, Steam Generators, and Process Heaters – 0.075 MMBtu/hr to less than 2.0 MMBtu/hr	11/14/13	05/13/14

On September 11, 2014 and July 18, 2014, EPA determined that the submittals for SJVUAPCD 4307 and SJVUAPCD 4308 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 these rules?

We approved an earlier version of Rule 4307 into the SIP on January 13, 2010 (75 FR 1715) and Rule 4308 on December 30, 2010 (76 FR 5276).

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

NOx helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. PM contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control NOx and PM emissions. Rule 4307 contains emissions limitations for NOx and PM. It has also been revised to require tree nut pasteurizers to be fired using Public Utility Commission (PUC) quality natural gas and also adds recordkeeping requirements for those units. Rule 4308 has emissions

limitations for NOx and has been revised to lower the emission limit for certain types of instantaneous water heaters and removes outdated language. EPA's technical support documents (TSDs) have more information about these rules.

II. EPA's Evaluation and Action.

A. How is EPA evaluating the rules?

40 CFR Part 81 describes SJVUAPCD as regulating an extreme nonattainment area for the 8-hour 1997 and 2008 Ozone National Ambient Air Quality Standards (NAAQS) and a non-attainment area for the 24-hr 1997 and 2006 PM2.5 NAAQS. Our evaluation of these rules focuses on NOx because it is a precursor to ozone and PM. SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the

Implementation of Title I of the Clean Air Act Amendments of 1990," (57 FR 13498, April 16, 1992 and 57 FR 18070, April 28, 1992).

2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations" ("the Bluebook," U.S. EPA, May 25, 1988; revised January 11, 1990).

3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies" ("the Little Bluebook", EPA Region 9, August 21, 2001).

4. "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule" ("the NOx Supplement," 57 FR 55620, November 25, 1992).

5. "Alternative Control Techniques Document- NOx Emissions from Industrial/Commercial/Institutional (ICI) Boilers" (EPA-453/R-94-022-*1994/03*, March 1994).

6. "Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters," (CARB, July 18, 1991).

Generally, SIP rules must require Reasonably Available Control Technology (RACT) for each NO_x major source in ozone nonattainment areas classified as moderate or above (see sections

182(b)(2) and 182(f)). As noted earlier, SJVUAPCD regulates an ozone nonattainment area classified as extreme for the 1997 and 2008 8-hour standard, so Rules 4307 and 4308 must implement RACT.

Generally, SIP rules must implement Reasonably Available Control Measures (RACM), including RACT, in PM2.5 nonattainment areas. As noted earlier, SJVUAPCD regulates a PM2.5 nonattainment area, so SJVUAPCD must implement RACM/RACT.

B. *Do the rules meet the evaluation criteria?*

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, RACM, and SIP relaxations. The TSDs have more information on our evaluation.

C. *EPA recommendations to further improve the rules.*

The TSDs describe additional rule revisions that we recommend for the next time the local agency modifies the rules but are not currently the basis for rule disapproval.

D. Public comment and final action.

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to

this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by [**Insert date 30 days after date of publication in the Federal Register**], we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on [**Insert date 60 days after date of publication in the Federal Register**]. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. 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 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 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 (Public Law 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 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.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a

report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be

challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: December 29, 2014.

Jared Blumenfeld,
Regional Administrator,
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52 APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS.

1. The authority citation for Part 52 continues to read as follows:

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

Subpart F – California

2. Section 52.220 is amended by adding paragraphs (c)(441)(i)(D)(*3*)and(c)(447)(i)(B) to read as follows:

§52.220 Identification of plan.

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(c) * * *

(441) * * *

(i) * * *

(D) * * *

(*3*) Rule 4308, "Boilers, Steam Generators, and Process Heaters – 0.075 MMBtu/hr to less than 2.0 MMBtu/hr," amended on November 14, 2013.

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(447) * * *

(i) * * *

(B) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 4307, "Boilers, Steam Generators, and Process Heaters – 2.0 MMBtu/hr to 5.0 MMBtu/hr," amended on May 19, 2011.

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[FR Doc. 2015-02854 Filed 02/11/2015 at 8:45 am; Publication Date: 02/12/2015]