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6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2014-0615; FRL-9916-95-Region 9]

Revisions to the California State Implementation Plan, Placer County 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 a revision to the Placer County Air Pollution Control District (PCAPCD) portion of the California State Implementation Plan (SIP). This revision concerns oxides of nitrogen (NO<sub>x</sub>) emissions from natural gas-fired water heaters, small boilers, and process heaters. We are approving a local rule that regulates these emission sources under the Clean Air Act (CAA or the Act).

**DATES:** This rule is effective on [Insert date 60 days from the date of publication in the Federal Register] without further notice, unless EPA receives adverse comments by [Insert date 30 days from 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-2014-0615, by one of the following methods:

1. Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
2. E-mail: [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 [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or e-mail.

[www.regulations.gov](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 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](http://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](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:** Nicole Law, EPA Region IX, (415) 947-4126, law.nicole@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 we are approving with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board.

Table 1 - Submitted Rules

Local Agency	Rule #	Rule Title	Amended	Submitted
PCAPCD	247	Natural Gas-Fired Water Heaters, Small Boilers and Process Heaters	02/13/14	05/13/14

On July 18, 2014, EPA determined that the submittal for

PCAPCD Rule 247 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 247 in the SIP, although the PCAPCD adopted an earlier version of this rule on October 10, 2013. CARB did not submit that version to us.

C. What is the purpose of the submitted rule?

NOx 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 NOx emissions. PCAPCD Rule 247 establishes NOx limits for water heaters, boilers, and process heaters. 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 CAA section 110(a)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(1)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193). CAA section 172(c)(1) requires nonattainment areas to implement all reasonably available control measures (RACM), including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT), as expeditiously as practicable.<sup>1</sup> In ozone nonattainment areas classified as moderate or above, the SIP must require RACT for

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<sup>1</sup> EPA generally takes action on a RACM demonstration as part of our action on the State's attainment demonstration for the relevant NAAQS, based on an evaluation of the control measures submitted as a whole and their overall potential to advance the applicable attainment date in the area.

each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of volatile organic compounds (VOCs) or nitrogen oxides (NO<sub>x</sub>) (see CAA sections 182(b)(2) and (f)). The PCAPCD regulates an ozone nonattainment area classified as severe for the 1-hour, 1997 8-hour and 2008 8-hour ozone NAAQS (see 40 CFR Part 81.305), so RACT applies to this area. PCAPCD Rule 247 does not, however, regulate a group of sources covered by a CTG document, or any source that emits above the major source threshold of 25 tons per year for NO<sub>x</sub> in this area (see section 182(d) and (f)(1)). Therefore, the section 182 NO<sub>x</sub> RACT requirement does not apply to PCAPCD Rule 247.

In PM2.5 nonattainment areas classified as moderate or above, the SIP must include provisions to assure the implementation of RACM for the control of PM2.5 no later than 4 years after designation of the area to moderate (see CAA section 189(a)(1)). Portions of PCAPCD are classified moderate nonattainment for the 2006 PM2.5 NAAQS (see 40 CFR Part 81.305), so the RACM requirement in CAA section 189(a)(1) also applies to this area.

Guidance and policy documents that we use to evaluate enforceability, RACM and RACT requirements consistently 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); 57 FR 18070 (April 28, 1992).
  2. "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.
  3. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).
  4. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
  5. "Alternative Control Techniques Document- NOx Emissions from Industrial/Commercial/Institutional (ICI) Boilers" EPA, 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.
- B. Does the rule meet the evaluation criteria?
- We believe this rule is consistent with the relevant policy and guidance regarding enforceability, RACT and SIP revisions.

The TSD has more information on our evaluation.

C. 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.

D. Public comment and final action.

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rule because we believe it satisfies all applicable 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 rule. If we receive adverse comments by [Insert date 30 days from 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 from date of publication in the Federal Register]. This will incorporate the rule 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 IBR, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements.

Dated: September 5, 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 paragraph (c) (441) (i) (B) (2) to read as follows:

**§52.220 Identification of plan.**

\* \* \* \*

(c) \* \* \*

(441) \* \* \*

(i) \* \* \*

(B) \* \* \*

(2) Rule 247, "Natural Gas-Fired Water Heaters, Small Boilers and Process Heaters," amended February 13, 2014.

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[FR Doc. 2014-23876 Filed 10/06/2014 at 8:45 am; Publication Date: 10/07/2014]