



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

EPA-R09-OAR-2015-0246; FRL-9931-19-Region 9

Revisions to the California State Implementation Plan, Butte County Air Quality Management District, Feather River Air Quality Management District, and San Luis Obispo County Air Pollution Control District; Correcting Amendment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** On June 11, 2015, the Environmental Protection Agency (EPA) published a final rule in the **Federal Register** approving a revision to the Butte County Air Quality Management District (BCAQMD) portion of the California State Implementation Plan (SIP). In that rulemaking, the EPA indicated that final approval of the revision would supersede certain older rules in the California SIP but failed to include regulatory text to that effect. This document adds appropriate regulatory text to correct that omission, clarifying the specific regulations that were superseded and that are no longer part of the applicable California SIP, and adds a line of text identifying the affected air quality district that was missing in the original action.

**DATES:** This action is effective on [Insert date of publication in

the Federal Register].

**FOR FURTHER INFORMATION CONTACT:** Kevin Gong, EPA Region IX, (415) 972-3073, [gong.kevin@epa.gov](mailto:gong.kevin@epa.gov).

**SUPPLEMENTARY INFORMATION:**

This action corrects inadvertent errors in a rulemaking related to BCAQMD's SIP-approved definitions. On June 11, 2015 (80 FR 33195), the EPA published a direct final rulemaking action approving revisions to various sections of the California State Implementation Plan (SIP). This action contained regulatory text amendments to 40 CFR Part 52, Subpart F. The amendments, which incorporated material by reference into section 52.220, Identification of plan, paragraph (c)(457), omitted regulatory language that addressed the replacement of Butte County Air Pollution Control District (BCAPCD) Rule 101 - "Title" and parts of BCAPCD Rule 102 - "Definitions" with BCAQMD Rule 101 - "Definitions" as described in Footnote 1 of 80 FR 33195. This action adds regulatory text to clarify the rules or portions of rules that were superseded in the Butte County AQMD portion of the California SIP by our June 11, 2015 direct final action.

The EPA has determined that this action falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation where public notice

and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action is unnecessary because this action correcting inadvertent regulatory text errors included in the EPA's June 11, 2015 final rule is consistent with the substantive revision to the California SIP as described in the preamble of said action concerning definitions for the BCAQMD portion of the California SIP. In addition, the EPA can identify no particular reason why the public would be interested in having the opportunity to comment on the correction prior to this action being finalized, since this correction action does not change the EPA's analysis or overall action related to the approval of BCAQMD's revisions to their definitions into the California SIP.

The EPA also finds that there is good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date of less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behaviour and prepare before the final rule takes effect. This rule, however, does not create any new regulatory requirements such that affected parties

would need time to prepare before the rule takes effect. Rather, this action merely corrects inadvertent errors for the regulatory text of the EPA's prior rulemaking for the California SIP. For these reasons, the EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

#### **Need for Correction**

As published, the final regulations omitted amendatory language that addressed the replacement of BCAQMD Rule 101.

#### **Statutory and Executive Order Reviews .**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (P.L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory

Flexibility Act (5 U.S.C. 601 et seq.)

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 52:**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 14, 2015. Jared Blumenfeld,  
Regional Administrator,  
Region IX.

Accordingly, 40 CFR part 52 is corrected by making the following correcting amendments:

**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:

- a. Revising paragraph (c) (168) (i) (A) (7); and
- b. Revising paragraph (c) (457) (i) (C).

The revised text reads as follows:

**§52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(168) \* \* \*

(i) \* \* \*

(A) \* \* \*

(7) Previously approved on February 3, 1987 in paragraph (c) (168) (i) (A) (1) of this section and now deleted with replacement in paragraph (c) (457) (i) (C) (1): Rule 101 "Title" and Rule 102 "Definitions", except for the following definitions from existing SIP BCAPCD Rule 102: "approved ignition devices," "open out-door fire", "permissive burn day," "range improvement burning," "submerged fill pipe," and "vapor recovery system."

\* \* \* \* \*

(457) \* \* \*

(i) \* \* \*

(C) Butte County Air Quality Management District.

(1) Rule 101, "Definitions," amended on April 24, 2014.

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