



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR- 2016-0409; FRL-9955-67-Region 9]

Approval of California Air Plan Revisions, Great Basin Unified Air Pollution Control

District and the Town of Mammoth Lakes

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 Great Basin Unified Air Pollution Control District (GBUAPCD) and the Town of Mammoth Lakes portion of the California State Implementation Plan (SIP). These revisions concern emissions of particulate matter (PM) from wood burning devices and road dust in the Town of Mammoth Lakes. 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 the 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 your comments, identified by Docket ID No. EPA-R09-OAR-2016-0409 at <http://www.regulations.gov>, or via email to Andrew Steckel, Rulemaking Office Chief at Steckel.Andrew@epa.gov. For comments submitted at Regulations.gov, follow the online

instructions for submitting comments. Once submitted, comments cannot be removed or edited from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, (415) 947-4125, vineyard.christine@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

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I. The State's Submittal

- A. *What rules did the State submit?*

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

TABLE 1 - SUBMITTED RULES

Local Agency	Rule #	Rule Title	Revised	Submitted
GBUAPCD	431	Particulate Matter (except paragraphs M and N)	05/05/14	11/06/14
Town of Mammoth Lakes	8.30	Particulate Emissions Regulations (except paragraphs 8.30.110 and 8.30.120)	06/04/14	11/06/14

On December 11, 2014, the EPA determined that the submittal for GBUAPCD Rule 431 and Town of Mammoth Lakes Municipal Code Chapter 8.30 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 earlier versions of Rule 431 and Municipal Code Chapter 8.30 into the SIP on October 31, 2007 (72 FR 61526) and June 24, 1996 (61 FR 32341), respectively. The

GBUAPCD and Town of Mammoth Lakes adopted revisions to the SIP-approved rules on May 5, 2014 and May 7, 2014 respectively, and CARB submitted them to us on November 6, 2014.

C. What is the purpose of the submitted rules?

PM, including PM equal to or less than 10 microns in diameter (PM₁₀), 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 PM emissions. GBUAPCD Rule 431 (except paragraphs M and N) and Town of Mammoth Lakes Municipal Code Chapter 8.30 (except paragraphs 8.30.110 and 8.30.120) were revised to be consistent with each other, and to enable the GBUAPCD to be able to enforce air quality regulations governing residential wood combustion and road dust in the Town of Mammoth Lakes.¹ The EPA's technical support document (TSD) has more information about these rules.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rules?

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(1)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

¹ Rule 431 may apply to communities other than the Town of Mammoth Lakes within the Great Basin Unified Air Quality Control District if a community is designated a High Wood Smoke Area according to the procedures set forth in the Rule.

On October 5, 2015 (80 FR 60049), the EPA redesignated the Mammoth Lakes Planning Area to attainment of the 24-hour PM₁₀ National Ambient Air Quality Standard, pursuant to CAA section 107(d)(3)(D), and determined that the area met the requirements of CAA section 107(d)(3)(E). Accordingly, the Mammoth Lakes Planning Area is not subject to the nonattainment area requirement to implement either Reasonably Available Control Measures (RACM) or Best Available Control Measures (BACM) for PM₁₀ and PM₁₀ precursors in CAA section 189(b) and (e). Therefore, we are not evaluating GBUAPCD Rule 431 and Mammoth Lakes Municipal Code Chapter 8.30 for compliance with current RACM or BACM requirements with respect to PM₁₀. Should a GBUAPCD nonattainment area take credit for Rule 431 in the future as part of meeting its CAA Part D requirements, then we will evaluate the rule for current RACM or BACM, as applicable, at that time.

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. “PM₁₀ Guideline Document,” (EPA 452/R-93-008, April 1993).

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

We believe these rules are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. The District is not including for SIP approval Rule 431 paragraphs M and N regarding fees and penalties, and similar provisions in Municipal Code Chapter 8.30, paragraphs 8.30.110 and 8.30.120. These paragraphs could lead to confusion with respect to similar federal requirements. The TSD has more information on our evaluation.

C. *The EPA's recommendations to further improve the rules*

The TSD describes additional rule revisions that we recommend for the next time the local agencies modify the rules.

D. *Public comment and final action*

As authorized in section 110(k)(3) of the Act, the EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements.² 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**

² Upon the effective date of this final action, GBUAPCD Rule 431 (except paragraphs M and N) and Town of Mammoth Lakes Municipal Code Chapter 8.30 (except paragraphs 8.30.110 and 8.30.120) would supersede existing GBUAPD 431 and Town of Mammoth Lakes 8.30, approved at 72 FR 61526 on October 31, 2007 and 61 FR 32341 on June 24, 1996, respectively in the applicable SIP.

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 the 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, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the GBUAPCD Rule 431 (except paragraphs M and N) and Town of Mammoth Lakes Chapter 8.30 (except paragraphs 8.30.110 and 8.30.120), described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section of this preamble for more information).

IV. 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, the 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 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. The 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 after date of publication 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 the 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, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: November 14, 2016.

Alexis Strauss,
Acting 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)(228)(i)(A)(I)(iii), (c)(350)(i)(A)(3), and (c)(457)(i)(I) to read as follows:

§52.220 Identification of plan – in part.

*	*	*	*	*
(c)	*	*	*	
(228)	*	*	*	
(i)	*	*	*	
(A)	*	*	*	
(I)	*	*	*	

(iii) Previously approved on October 2, 1991 in paragraph (c)(228)(i)(A)(I)(ii) of this section and now deleted with replacement in paragraph (c)(457)(i)(I)(2) of this section, Town of Mammoth Lakes Municipal Code Chapter 8.30 dated October 2, 1991.

* * * * *

(350) * * *

(i) * * *

(A) * * *

(3) Previously approved on October 31, 2007 in paragraph (c)(350)(i)(A)(I) of this section and now deleted with replacement in paragraph (c)(457)(i)(I)(2) of this section, Rule 431, adopted on December 7, 1990 and revised on December 4, 2006.

* * * * *

(457) * * *

(i) * * *

(I) Great Basin Unified Air Pollution Control District.

(I) Rule 431, Particulate Emissions (except paragraphs M and N), revised May 5, 2014.

(2) Town of Mammoth Lakes Municipal Code Chapter 8.30, Particulate Emissions Regulations (except paragraphs 8.30.110 and 8.30.120), as adopted in Ordinance Number 14-06, June 4, 2014.

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Editorial note: This document was received for publication by the Office of the Federal Register on June 20, 2017.

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