



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2016-0262; FRL-9948-10-Region 9]

**Approval of California Air Plan Revisions, Placer County Air Pollution Control District
and Ventura 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 revisions to the Placer County Air Pollution Control District (PCAPCD) and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO_x) and carbon monoxide (CO) emissions from stationary gas turbines, 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 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-2016-0262 at <http://www.regulations.gov>, or via email to Andrew Steckel, Rules 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 edited or removed 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: Kevin Gong, EPA Region IX, (415) 972 3073, Gong.Kevin@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 air agencies and submitted by the California Air Resources Board.

TABLE 1 - SUBMITTED RULES

Local Agency	Rule #	Rule Title	Date of Local Action	Submitted
PCAPCD	250	Stationary Gas Turbines	Amended 10/8/2015	03/11/2016
VCAPCD	74.15.1	Boilers, Steam Generators, and Process Heaters	Revised 6/23/2015	11/13/2015

On January 19, 2016, the EPA determined that the submittal for VCAPCD Rule 74.15.1 met the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. On April 19, 2016, the EPA determined that the submittal for PCAPCD Rule 250 met the completeness criteria.

B. Are there other versions of these rules?

We approved an earlier version of PCAPCD Rule 250 into the SIP on August 23, 1995, in 60 FR 43713, and an earlier version of VCAPCD Rule 74.15.1 into the SIP on May 19, 2014, in 79 FR 28612.

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

NO_x helps produce ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control NO_x emissions. PCAPCD Rule 250 and VCAPCD Rule 74.15.1 both limit the emissions of NO_x from their respective source categories. The revisions to PCAPCD Rule 250 include the removal of exemptions for emissions resulting from startup and shutdown operations, and simplification of the emission limits for stationary gas turbines. VCAPCD Rule 74.15.1 updates the testing regime and clarifies several exemptions for boilers, steam generators, and process heaters.

The EPA's technical support documents (TSDs) have 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(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

SIP provisions cannot include exemptions from emission limitations for emissions during

startup, shutdown, and malfunction (SSM) events. Thus, in order to be permissible in a SIP, emission limitations must apply continuously, *i.e.*, they cannot include periods during which emissions are legally or functionally exempt from regulation (see CAA sections 110(a)(2) and 302(k)). EPA recently clarified this requirement for periods of startup, shutdown, and malfunction. See *Restatement and Update of EPA's SSM Policy Applicable to SIPs*, 80 FR 33839 (June 12, 2015).

Generally, SIP rules must require reasonably available control technology (RACT) for each major source of NO_x in ozone nonattainment areas classified as moderate or above (see CAA sections 182(b)(2) and 182(f)). PCAPCD regulates an ozone nonattainment area classified as Severe for the 1994 1-hour ozone National Ambient Air Quality Standard (NAAQS), and for the 1997 and 2008 8-hour ozone NAAQS (40 CFR 81.305). VCAPCD also regulates an ozone nonattainment area classified as Severe for the 1994 1-hour ozone NAAQS and for the 1997 and 2008 8-hour ozone NAAQS (40 CFR 81.305). Therefore, PCAPCD Rule 250 and VCAPCD Rule 74.15.1 must both implement RACT as the Districts regulate ozone nonattainment areas classified as Severe.

Guidance and policy documents that we used 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 Stationary Gas Turbines,” (EPA-453/R-93-007), Emissions Standards Division, EPA OAQPS, January 1993.
 6. “Control Techniques for Nitrogen Oxides Emissions from Stationary Sources – Second Edition,” (EPA-450/1-78-001), January 1978.
 7. “Alternative Control Techniques Document – NOx Emissions from Process Heaters (Revised),” (EPA-453/R93-034), September 1993.
 8. “Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters,” California Air Resources Board RACT/BARCT guidance, July 18, 1991.
 9. “Restatement and Update of EPA’s SSM Policy Applicable to SIPs,” 80 FR 33839, June 12, 2015.

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

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, SIP relaxations, and requirements for emissions that occur during SSM

events. 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, the EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements.¹ 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 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 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

¹ Upon the effective date of this final action, submitted PCAPCD Rule 250 would supersede existing PCAPCD Rule 250, approved at 60 FR 43713 in the applicable SIP. Submitted VCAPCD Rule 74.15.1 would supersede existing VCAPCD Rule 74.15.1, approved at 79 FR 28612.

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 PCAPCD and VCAPCD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available electronically through www.regulations.gov and in hard copy at U.S. Environmental Protection Agency Region IX (Air-4), 75 Hawthorne Street, San Francisco, CA, 94105-3901.

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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: June 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)(202)(i)(E)(3), (c)(429)(i)(A)(6), (c)(472)(i)(B), and (c)(474) to read as follows:

§52.220 Identification of plan.

	*	*	*	*	*
(c)	*	*	*		
(202)	*	*	*		
(i)	*	*	*		
(E)	*	*	*		

(3) Previously approved on August 23, 1995, in paragraph (c)(202)(i)(E)(1) of this section, and now deleted with replacement in (c)(474)(i)(A)(1), Rule 250, “Stationary Gas Turbines,” adopted on October 17, 1994.

	*	*	*	*	*
(429)	*	*	*		
(i)	*	*	*		
(A)	*	*	*		

(6) Previously approved on May 19, 2014, in paragraph (c)(429)(i)(A)(3) of this section and now deleted with replacement in (c)(472)(i)(B)(1), Rule 74.15.1, “Boilers, Steam Generators, and Process Heaters,” amended on September 11, 2012.

	*	*	*	*	*
(472)	*	*	*		

(i) * * *

(B) Ventura County Air Pollution Control District.

(I) Rule 74.15.1, “Boilers, Steam Generators, and Process Heaters,” revised June 23, 2015.

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(474) New and amended regulations were submitted on March 11, 2016, by the Governor’s designee.

(i) Incorporation by reference.

(A) Placer County Air Pollution Control District.

(I) Rule 250, “Stationary Gas Turbines,” amended on October 8, 2015.

[FR Doc. 2016-17912 Filed: 7/29/2016 8:45 am; Publication Date: 8/1/2016]