



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2016-0240; FRL-9956-65-Region 9]

Approval and Limited Approval and Limited Disapproval of Air Quality Implementation Plans; California; Northern Sonoma County Air Pollution Control District; Stationary Source Permits; Correcting Amendment

AGENCY: Environmental Protection Agency

ACTION: Final rule, correcting amendment.

SUMMARY: On October 6, 2016, the Environmental Protection Agency (EPA) published a final rule in the **Federal Register** approving certain revisions to the Northern Sonoma County Air Pollution Control District (NSCAPCD, or the District) portion of the California State Implementation Plan (SIP), and disapproving others. The EPA indicated in this final action that these revisions would supersede certain older rules in the California SIP but inadvertently included erroneous references in the regulatory text. This document corrects the regulatory text to clarify the replacement of these superseded regulations.

DATES: This action is effective on [Insert date of publication in the **Federal Register**].

FOR FURTHER INFORMATION CONTACT: Laura Yannayon, EPA Region IX, (415) 972-3534, Yannayon.Laura@epa.gov.

SUPPLEMENTARY INFORMATION: This action corrects inadvertent errors in a rulemaking related to NSCAPCD's rules governing the issuance of permits for stationary sources. On

October 6, 2015 (81 FR 69390), the EPA published a rulemaking action finalizing approval of three rules, and a limited approval and limited disapproval of two rules as revisions to the California SIP. This action contained regulatory text amendments to 40 CFR part 52, subpart F. The amendments incorporated material by reference into section 52.220, Identification of plan, paragraphs (c)(461) and (c)(480), and eleven other amendments which indicated the deletion, with or without replacement, of obsolete regulatory language. Those amendments deleting obsolete language with replacement in paragraph (c)(480) erroneously state that they are being replaced by various regulations in paragraph (c)(481). Specifically, the amendments at paragraphs (c)(124)(ix)(D), (c)(156)(vi)(B), (c)(162)(i)(B), (c)(164)(i)(B)(5), and (c)(385)(i)(B)(2) include incorrect references to (481), when they should be referring to (480). This action adds regulatory text to correct these references.

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 October 6, 2016 final rule is consistent with the substantive revision to the California SIP as described in the preamble of said action concerning regulations governing the issuance of permits in NSCAPCD. 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 NSCAPCD’s revisions to their rules in 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 find 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 behavior and prepare before the final rule takes effect. This rule does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. 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 incorrectly referenced 40 CFR 52.220 (c)(481) in 5 instances, when they should have referenced 40 CFR 52.220 (c)(480).

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 (Pub. 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 APA 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, Carbon monoxide, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds, Reporting and recordkeeping requirements.

December 1, 2016.
Dated:

Alexis Strauss,
Acting 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 revising paragraphs (c)(124)(ix)(D), (c)(156)(vi)(B), (c)(162)(i)(B), (c)(164)(i)(B)(5), and (c)(385)(i)(B)(2) to read as follows:

§52.220 Identification of plan-in part.

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(c) * * *

(124) * * *

(ix) * * *

(D) Previously approved on July 31, 1985 in paragraph (c)(124)(ix)(B) of this section and now deleted without replacement, Rule 130 (introductory text, b.1, n1, p5, and s2), and now deleted with replacement in paragraphs (c)(480)(i)(A)(3) and (4), Rules 220(c) and 230.

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(156) * * *

(vi) * * *

(B) Previously approved on July 31, 1985 in paragraph (c)(156)(vi)(A) of this section and now deleted without replacement, Rule 130 (b2, m1, p3, p3a, and s7), and now deleted with replacement in Paragraph (c)(480)(i)(A)(3) of this section, Chapter II, 220(B).

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(162) * * *

(i) * * *

(B) Previously approved on July 31, 1985 in paragraph (c)(162)(i)(A) of this section and now deleted with replacement in Paragraph (c)(480)(i)(A)(3) of this section, Chapter II, 220(A).

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(164) * * *

(i) * * *

(B) * * *

(5) Previously approved on April 17, 1987 in paragraph (c)(164)(i)(B)(1) of this section and now deleted without replacement, Rule 130 (d1 and s5), and now deleted with replacement in paragraph (c)(480)(i)(A)(2) of this section, rule 200(a).

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(385) * * *

(i) * * *

(B) * * *

(2) Previously approved on May 6, 2011 in paragraph (c)(385)(i)(B)(1) of this section and now deleted with replacement in paragraph (c)(480)(i)(A)(1) of this section, Rule 130, “Definitions,” amended December 14, 2010.

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