



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2017-0034; FRL-9965-26-Region 9]

### Approval of California Air Plan Revisions, San Joaquin Valley Unified Air Pollution

### Control District

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a revision to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD or “the District”) portion of the California State Implementation Plan (SIP). This revised rule concerns emissions of oxides of nitrogen, carbon monoxide, oxides of sulfur, and particulate matter of 10 microns or less from boilers, steam generators 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 will be effective on [**Insert date 30 days after the date of publication in the Federal Register**].

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2017-0034. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available

through <http://www.regulations.gov>, or please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Nancy Levin, EPA Region IX, (415) 972-3848, [levin.nancy@epa.gov](mailto:levin.nancy@epa.gov).

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

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#### **I. Proposed Action**

On March 21, 2017 (82 FR 14496), the EPA proposed to approve the following rule into the California SIP.

Local Agency	Rule #	Rule Title	Amended	Submitted
SJVUAPCD	4307	Boilers, Steam Generators, and Process Heaters – 2.0 MMBtu/hr to 5.0 MMBtu/hr	4/21/16	8/22/16

We proposed to approve this rule because we determined that it complied with the relevant CAA requirements. Our proposed action contains more information on the rule and our

evaluation.

## **II. Public Comments and EPA Responses**

The EPA's proposed action provided a 30-day public comment period. During this period, we received one comment.

*Comment:* The commenter asked how the rule revisions would affect San Joaquin Valley residents, who would benefit from the revisions, and whether the project's impact on human health and the environment outweigh the costs of implementing the revisions.

*Response:* This comment does not provide any new information or basis for either supporting or opposing EPA's proposal. It merely poses three questions that were previously addressed by EPA's proposal and supporting docket materials. Nonetheless, out of courtesy to the commenter, we summarize our previous analysis, as follows. Prior to the rule revision, the rule exempted tree-nut pasteurizers fired exclusively on natural gas. The revisions expand the exemption to tree-nut pasteurizers fired by liquefied petroleum gas (LPG). The District anticipates a handful of new LPG-fired tree-nut pasteurizers will benefit from the rule revisions, but predicts that the difference in emissions from LPG instead of natural gas will be negligible. The District states that "[T]he proposed amendment would not result in new or more stringent regulatory controls and would not affect air quality or emission limitations...[and that] no costs are associated with this proposed rule amendment."<sup>1</sup>

## **III. EPA Action**

No comments were submitted that change our assessment of the rule as described in our

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<sup>1</sup> San Joaquin Valley Unified Air Pollution Control District, Final Draft Staff Report: Rule 4307 (Boilers, Steam Generators, and Process Heaters – 2.0 MMBtu/hr to 5.0 MMBtu/hr), April 21, 2016.

proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving this rule into the California SIP.

#### **IV. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the SJVUAPCD rule 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](http://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).

#### **V. 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. 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, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 21, 2017.

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)(447)(i)(B)(2) and (c)(488)(i)(B) to read as follows:

§52.220 Identification of plan-in part.

	*	*	*	*	*
(c)	*	*	*		
(447)	*	*	*		
(i)	*	*	*		
(B)	*	*	*		

(2) Previously approved on February 12, 2015 in paragraph (c)(447)(i)(B)(1) of this section and now deleted with replacement in (c)(488)(i)(C)(1), Rule 4307, “Boilers, Steam Generators, and Process Heaters—2.0 MMBtu/hr to 5.0 MMBtu/hr,” amended on May 19, 2011.

	*	*	*	*	*
(488)	*	*	*		
(i)	*	*	*		

(B) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 4307, “Boilers, Steam Generators, and Process Heaters – 2.0 MMBtu/hr to 5.0

MMBtu/hr,” amended on April 21, 2016.

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