

application of those requirements would be inconsistent with the Act; and

- Does not provide 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 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. 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 Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 3, 2009. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: November 6, 2008.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

■ 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)(354)(i)(A)(4) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(354) \* \* \*

(i) \* \* \*

(A) \* \* \*

(4) Rule 1146.2, "Emissions of Oxides of Nitrogen From Large Water Heaters and Small Boilers and Process Heaters," adopted on January 8, 1998 and amended on May 5, 2006.

\* \* \* \* \*

[FR Doc. E8-28725 Filed 12-4-08; 8:45 am]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R09-OAR-2007-0290, FRL-8745-6]

#### Revisions to the California State Implementation Plan, Great Basin Unified Air Pollution Control District and Kern County Air Pollution Control District

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Great Basin Unified Air Pollution Control District (GBUAPCD) and Kern County Air Pollution Control District (KCAPCD) portions of the California State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are approving local rules that address permitting.

**DATES:** This rule is effective on February 3, 2009 without further notice, unless EPA receives adverse comments by January 5, 2009. 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 comments, identified by docket number EPA-R09-OAR-2007-0290, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions.

- **E-mail:** [R9airpermits@epa.gov](mailto:R9airpermits@epa.gov).
- **Mail or deliver:** Gerardo Rios (AIR-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

**Instructions:** All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an anonymous access system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

**Docket:** The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below.

**FOR FURTHER INFORMATION CONTACT:** Laura Yannayon, Permits Office (AIR-3), U.S. Environmental Protection Agency, Region IX, (415) 972-3534, [yannayon.laura@epa.gov](mailto:yannayon.laura@epa.gov).

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

#### Table of Contents

- I. The State's Submittal
  - A. What rules did the State submit?
  - B. Are there other versions of these rules?
  - C. What are the purposes of the rule revisions?
- II. EPA's Evaluation and Action
  - A. How is EPA evaluating the rules?
  - B. Do the rules meet the evaluation criteria?

C. EPA Recommendations To Further Improve the Rules  
 D. Public Comment and Final Action  
 III. Statutory and Executive Order Reviews

**I. The State's Submittal**

*A. What rules did the State submit?*

Table 1 lists the rules we are approving with the dates that they were

revised or amended by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

| Local agency  | Rule No. | Rule title           | Revised or amended     | Submitted |
|---------------|----------|----------------------|------------------------|-----------|
| GBUAPCD ..... | 201      | Exemptions .....     | 01/23/06 Revised ..... | 06/16/06  |
| KCAPCD .....  | 205      | Permit Renewal ..... | 05/02/96 Amended ..... | 07/23/96  |

On July 21, 2006, the submittal of GBUAPCD Rule 201 was determined to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. On October 30, 1996, the submittal of KCAPCD Rule 205 was determined to meet the completeness criteria.

*B. Are there other versions of these rules?*

We approved the September 5, 1974 version of GBUAPCD Rule 201 into the SIP on December 8, 1976 (41 FR 53661). We did not act on versions of GBUAPCD Rule 201 revised on February 15, 1989 and May 8, 1996 and submitted to us by CARB on October 25, 1991 and March 3, 1997, respectively.

We approved the April 18, 1972 version of KCAPCD Rule 205 into the SIP on September 22, 1972 (37 FR 19812). We did not act on a version of KCAPCD Rule 205 revised on June 1, 1987 and submitted to us by CARB on June 22, 1987.

While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals.

*C. What are the purposes of the rule revisions?*

The purposes of revisions of GBUAPCD Rule 201 relative to the SIP rule are as follows:

- GBUAPCD Rule 201: A blanket provision is added stating that the equipment listed in this rule shall not be exempt from permitting requirements if the equipment emits any pollutants in excess of the quantities stated in GBUAPCD Rule 209–A.B.2.
- GBUAPCD Rule 201.D.3: The exemption from permitting for internal combustion engines is modified to no longer exempt diesel engines larger than 50 brake horsepower that are also subject to the State air toxic control measure.
- GBUAPCD Rule 201.P: An exemption from permitting for open burn/open detonation operations on military bases, provided the operations

comply with the requirements of GBUAPCD Rules 217 and 432, is added.

The purposes of revisions to KCAPCD Rule 205 relative to the SIP rule are as follows:

- KCAPCD Rule 205.I: The requirement for an application for a Permit to Operate (PTO) to expire in two years is added. The requirement for the PTO to be renewed each year by payment of a renewal fee is added. A PTO for non-operating equipment may be renewed if the equipment is intact and operable. A PTO for removed equipment may be renewed if the equipment is returned intact within one year.
- KCAPCD Rule 205.II: The allowance to renew an Authority to Construct (ATC) for one two-year period is added, providing onsite construction has begun or the applicant has entered into binding agreements or contractual obligations that may realize substantial economic loss if cancelled.
- KCAPCD Rule 205.II.A: The allowance to renew an ATC for one two-year period if construction is delayed due to an economic downturn, is added.

The TSD has more information about these rules.

**II. EPA's Evaluation and Action**

*A. How is EPA evaluating the rules?*

These rules describe administrative provisions that support emission controls found in local agency requirements. In combination with the other requirements, these rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). The EPA guidance and policy documents that we used to define specific enforceability and relaxation requirements is as follows:

- *Review of New Sources and Modifications*, U.S. EPA, 40 CFR part 51, subpart I.
- *Guidance Document for Correcting Common VOC & Other Rule Deficiencies*, EPA Region 9, (August 21, 2001). (The Little Bluebook)

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

GBUAPCD Rule 201 and KCAPCD Rule 205 are consistent with relevant policy and guidance regarding enforceability and SIP relaxations. The TSD has more information on our evaluation.

*C. EPA Recommendations To Further Improve the Rules*

The TSDs describe additional revisions to GBUAPCD Rule 201 and KCAPCD Rule 205 that do not affect EPA's current action but are recommended 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 CAA, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. 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 January 5, 2009, 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 February 3, 2009. This will incorporate these rules into the federally enforceable SIP.

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

**III. 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, 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 Order 12866 (58 FR 51735, October 4, 1993);
  - 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 (Pub. L. 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 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 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. 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 February 3, 2009. 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, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 24, 2008.

**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—[AMENDED]**

■ 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)(239)(i)(C)(5) and (345)(i)(D) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

- (c) \* \* \*
- (239) \* \* \*
- (i) \* \* \*
- (C) \* \* \*

(5) Rule 205, (a part of regulation II), "Permit Renewal," adopted on April 18, 1972 and amended on May 2, 1996.

(i) Resolution of May 2, 1996.

\* \* \* \* \*

(345) \* \* \*

(i) \* \* \*

(D) Great Basin Unified Air Pollution Control District

(I) Rule 201, "Exemptions," adopted on September 5, 1974 and revised on January 23, 2006.

\* \* \* \* \*

[FR Doc. E8-28732 Filed 12-4-08; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF THE INTERIOR**

**Bureau of Reclamation**

**43 CFR Part 419**

**RIN 1006-AA48**

**Truckee River Operating Agreement**

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Reclamation is publishing this rule to comply with the requirements of the Truckee-Carson-Pyramid Lake Water Rights Settlement Act. The Settlement Act requires that the operating agreement negotiated with the States of California and Nevada for the operation of Truckee River Reservoirs (the five Federal reservoirs in the Truckee River basin) be promulgated as a Federal Regulation.

**DATES:** This rule is effective January 5, 2009. The Truckee River Operating Agreement provides that it cannot be implemented until the last of the conditions set forth in Sections 12.A.4(a) through 12.A.4(g) is satisfied. The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of January 5, 2009.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Parr, Bureau of Reclamation, 705 N. Plaza St., Carson City, NV 89701; telephone (775) 882-3436; or for a copy of TROA, visit the TROA Web site at <http://www.usbr.gov/mp/troa/>.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 205(a) of the Truckee-Carson-Pyramid Lake Water Rights Settlement Act, title II of Public Law 101-618, November 16, 1990 (Settlement Act), directs the Secretary (Secretary) of the Department of the Interior (Interior) to negotiate an operating agreement that must:

- Satisfy all applicable dam safety and flood control requirements;
- Provide for the enhancement of spawning flows available in the Lower