

(C)(28)(d), (C)(28)(e), (C)(29), (C)(30), (C)(31), (C)(32), (C)(33), (C)(34), (C)(35), (C)(36), (C)(37), (C)(38), (C)(39), (C)(40), (C)(41), (C)(42), (C)(43), (C)(44), (C)(45), (C)(46), (C)(47), (C)(48), (C)(48)(a), (C)(48)(b), (C)(49), (C)(50), (C)(51), (C)(52), (C)(53), (C)(54), (C)(55), (C)(56), (C)(57), (C)(58), (C)(59), (C)(60), (C)(61), (C)(62), (C)(63), (C)(64), (C)(64)(a), (C)(64)(a)(i), (C)(64)(a)(ii), (C)(64)(a)(iii), (C)(64)(b), (C)(64)(b)(i), (C)(64)(b)(ii), (C)(64)(b)(iii), (C)(65), (C)(66).

#### 3745-21-06 Classification of Regions:

Entire rule as revised including removal of paragraphs (A) and (B).

#### 3745-21-08 Control of carbon monoxide from stationary sources:

Paragraphs (A), (B), (C), (D), and (E).  
3745-21-09 Control of emissions of volatile organic compounds from stationary sources and perchloroethylene from dry cleaning facilities:

Title, Paragraphs (B)(3)(a), (B)(3)(f), (B)(3)(h), (B)(3)(j), (B)(3)(l), (B)(4)(a), (B)(4)(b), (C)(4), (H)(1)(a), (H)(1)(b), (H)(3), (O)(5)(b), (O)(6)(a), (O)(6)(b), the portion of paragraph (U)(1) which states, "If a miscellaneous metal parts or products coating is subject to two or more limits as listed in (U)(1)(a) through (U)(1)(i) above, the limit which is least restrictive shall apply", the portion of paragraph (U)(2)(e) which states, "Daily usage limitations included in (U)(2)(e)(i) through (U)(2)(e)(iii) above shall not apply to coatings employed by the metal parts or products coating line on parts or products which are not metal", (U)(2)(h), (AA)(1)(b), (AA)(1)(c), (FF)(1), (II)(2), (II)(3), (II)(4), (NN)(1), (NN)(2), (NN)(3), (NN)(4), (NN)(5), (OO), (OO)(1), (OO)(2), (OO)(3), (OO)(4), (PP)(2), (UU)(3), (AAA), (DDD), and Appendix A. EPA approved more recent versions of paragraphs (O)(6)(b) and (VV)(1)(e) on March 30, 2007, at 72 FR 15045, and so no rulemaking on the versions of these paragraphs submitted in 2003 is necessary.

#### 3745-21-10 Compliance test methods and procedures:

Title, Paragraphs (J), (J)(1), (J)(2), (J)(4), Appendix A, and Appendix B.

We are taking no action on revisions to 3745-21-04 (C)(3)(a) because the paragraph was subsequently revised in a March 23, 2009, submittal. EPA has approved this revision in separate rulemake published July 28, 2009, at 74 FR 37171.

### V. Statutory and Executive Order Reviews

Under the CAA, 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 CAA. 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 CAA; 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.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Ozone,

Reporting and recordkeeping requirements.

Dated: January 13, 2010.

**Walter W. Kovalick Jr.,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 2010-1223 Filed 1-21-10; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2009-0960; FRL-9105-8]

### Revisions to the California State Implementation Plan

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVAPCD) portion of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO<sub>x</sub>) from residential water heaters. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by February 22, 2010.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2009-0960, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.
2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*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](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.

**FOR FURTHER INFORMATION CONTACT:** Idalia Perez, EPA Region IX, (415) 972-3248, [perez.idalia@epa.gov](mailto:perez.idalia@epa.gov).

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

**Table of Contents**

- I. The State’s Submittal
  - A. What rule did the State submit?
  - B. Are there other versions of this rule?
  - C. What is the purpose of the submitted rule revision?

- II. EPA’s Evaluation and Action
  - A. How is EPA evaluating the rule?
  - B. Does the rule meet the evaluation criteria?
  - C. EPA Recommendations to Further Improve the rule
  - D. Public Comment and Final Action
- III. Statutory and Executive Order Reviews

**I. The State’s Submittal**

*A. What rule did the State submit?*

Table 1 lists the rule addressed by this proposal with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

**TABLE 1—SUBMITTED RULE**

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVAPCD .....	4902	Residential Water Heaters .....	03/19/09	04/29/09

On 07/20/09, EPA determined that the submittal for SJVAPCD Rule 4902 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 this rule?*

We approved an earlier version of Rule 4902 into the SIP on February 17, 2004 (69 FR 7370).

*C. What is the purpose of the submitted rule revision?*

NO<sub>x</sub> emissions help produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control NO<sub>x</sub> emissions. Rule 4902 limits NO<sub>x</sub> emissions from residential water heaters and was amended to extend the applicability of the rule and strengthen the emission limits for NO<sub>x</sub>. EPA’s technical support document (TSD) has more information about this rule.

**II. EPA’s Evaluation and Action**

*A. How is EPA evaluating the rule?*

Generally, SIP rules for NO<sub>x</sub> emissions must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each major source in ozone nonattainment areas classified as moderate or above (see sections 182(b)(2) and 182(f)), and must not relax existing requirements (see sections 110(l) and 193). Although the SJVAPCD regulates a serious (8-hour) and extreme (1-hour) ozone nonattainment area, submitted Rule 4902 is not subject to RACT because it

is applies only to sources that are not major sources of NO<sub>x</sub>.

Guidance and policy documents that we use to evaluate enforceability requirements consistently include the following:

- 1. “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (the Bluebook).
- 2. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (the Little Bluebook).

*B. Does the rule meet the evaluation criteria?*

We believe this rule is consistent with the relevant requirements, policy and guidance regarding enforceability and SIP relaxations. The TSD has more information on our evaluation.

*C. EPA recommendations to further improve this rule. We do not have further recommendations to improve this rule.*

*D. Public comment and final action.*

Because EPA believes the submitted rule fulfills all relevant requirements, we are proposing to fully approve it under section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate this rule into the federally enforceable SIP.

**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 proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law.

For that reason, this proposed 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 proposed 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.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: December 29, 2009.

**Jane Diamond,**

*Acting Deputy Regional Administrator, Region IX.*

[FR Doc. 2010-1184 Filed 1-21-10; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 15

[WT Docket Nos. 08-166, 08-167, and ET Docket No. 10-24; FCC 10-16]

#### Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band; Public Interest Spectrum Coalition, Petition for Rulemaking Regarding Low Power Auxiliary Stations, Including Wireless Microphones, and the Digital Television Transition

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this Further Notice of Proposed Rulemaking (FNPRM) the Commission seeks to refine and update its rules governing the use of wireless microphones, seeking comment on a range of issues concerning the operation of these devices in the core TV bands.

**DATES:** Interested parties may file comments on or before February 22, 2010, and reply comments on or before March 15, 2010.

**ADDRESSES:** You may submit comments, identified by WT Docket No. 08-166, 08-167 and ET Docket No. 10-24, by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **Federal Communications Commission's Web site:** <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

- **Mail:** Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- **People with Disabilities:** Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, *etc.*) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Paul D'Ari, Wireless Telecommunications Bureau, (202) 418-1550, e-mail [Paul.Dari@fcc.gov](mailto:Paul.Dari@fcc.gov), or Hugh L. Van Tuyl, Office of Engineering and Technology, (202) 418-7506, e-mail [Hugh.VanTuyl@fcc.gov](mailto:Hugh.VanTuyl@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's rules noted in the Report and Order and Further Notice of Proposed Rulemaking in WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, and FCC 10-16, adopted January 14, 2010, and released on January 15, 2010. This summary should be read with its companion document, the Report and Order summary published elsewhere in this issue of the **Federal Register**. The full text of the Report and Order and FNPRM is available for public inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY-A257, Washington, DC 20554. It also may be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street SW., Room CY-B402, Washington, DC 20554; the contractor's Web site, <http://www.bcpweb.com>; or by calling (800) 378-3160, facsimile (202) 488-5563, or e-mail [FCC@BCPIWEB.com](mailto:FCC@BCPIWEB.com). Copies of the public notice also may be obtained via the Commission's Electronic

Comment Filing System (ECFS) by entering the docket numbers, WT Docket No. 08-166, WT Docket No. 08-167, and ET Docket No. 10-24. Additionally, the complete item is available on the Federal Communications Commission's Web site at <http://www.fcc.gov>.

### Synopsis of the Further Notice of Proposed Rulemaking Section of the Report and Order and Further Notice of Proposed Rulemaking

#### I. Introduction

1. In this Further Notice of Proposed Rulemaking (FNPRM), the Commission addresses the use of wireless low power auxiliary stations, including wireless microphones that operate on the TV bands by entities that are not eligible for a part 74 low power auxiliary station license. In light of the important functions that these types of devices provide to the public, the Commission propose that the Commission should revise its rules to permit the use of wireless microphones and other low power audio devices in the core TV bands on an unlicensed basis under part 15 of the rules by entities that are not currently eligible for licensing under part 74, Subpart H of the rules. The Commission also proposes to adopt technical rules for such operation under part 15. In addition, the Commission seeks comment on whether to provide for some expansion of the eligibility under part 74, Subpart H of the rules to create additional categories of licensed use of wireless microphones or other low power auxiliary stations. The Commission also seeks comment on the adoption in its rules marketing and labeling requirements, including possible requirements pertaining to part 74 low power auxiliary stations that could help ensure that ineligible entities do not obtain such devices. Consistent with the Commission's broader efforts to manage spectrum as effectively and efficiently as possible, the Commission also seek comment on possible long-term reform, based in part on technological innovation such as digital technology, that would enable wireless microphones to operate more efficiently and with improved immunity to harmful interference, thereby increasing the availability of spectrum for wireless microphone and other uses. Finally, the Commission seeks comment on whether there are any changes it could make to other rule parts, including part 90, that would address the needs of wireless microphone users.

2. As discussed in the Report and Order, there are several reasons why this is an appropriate time for the