

practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this proposed rulemaking. In reviewing SIP submissions, EPA's role is to approve or disapprove state choices, based on the criteria of the Clean Air Act. Accordingly, this action merely disapproves certain State requirements for inclusion into the SIP under section 110 and subchapter I, part D of the Clean Air Act and will not in-and-of itself create any new requirements. Accordingly, it 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.

#### K. Congressional Review Act

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 rule 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). This rule will be effective June 9, 2010.

#### L. Petitions for Judicial Review

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 July 9, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 18, 2010.

**Jared Blumenfeld**,

*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 52.242 is amended by adding paragraph (a)(1)(iii) to read as follows:

#### § 52.242 Disapproved rules and regulations.

(a) \* \* \*

(1) \* \* \*

(iii) Rule 1175, "Control of Emissions from the Manufacturing of Polymeric Cellular (Foam) Products," submitted on March 7, 2008 and adopted on September 7, 2007.

\* \* \* \* \*

[FR Doc. 2010-10921 Filed 5-7-10; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R09-OAR-2010-0286; FRL-9138-6]

#### Revisions to the California State Implementation Plan, Yolo-Solano Air Quality Management District

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Yolo-Solano Air Quality Management District (YSAQMD) portion of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO<sub>x</sub>) emissions from natural gas-fired water heaters, small boilers and nitric acid production facilities. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on July 9, 2010 without further notice, unless EPA

receives adverse comments by June 9, 2010. 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-2010-0286], 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 [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or e-mail.

[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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* The index to the docket for this action is available electronically at [www.regulations.gov](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.

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**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 adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
YSAQMD .....	2.37	Natural Gas-Fired Water Heaters and Small Boilers .....	04/08/09	09/15/09
YSAQMD .....	2.42	Nitric Acid Production .....	05/13/09	09/15/09

On January 21, 2010, EPA determined that the submittals for YSAQMD 2.37 and 2.42 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 these rules?*

We approved an earlier version of Rule 2.37 into the SIP on October 28, 1994 (64 FR 57991). There are no previous versions of Rules 2.42 in the SIP.

*C. What is the purpose of the submitted rules?*

NO<sub>x</sub> helps 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 2.37 limits NO<sub>x</sub> emissions from water heaters and boilers smaller than 1.0 MMBtu/hour. Rule 2.37 was amended to expand the applicability of the rule beyond residential water heaters and strengthen the emission limits for NO<sub>x</sub>. Rule 2.42 limits NO<sub>x</sub> emissions from weak nitric acid production facilities. EPA’s technical support documents (TSD) have more information about these rules.

**II. EPA’s Evaluation and Action**

*A. How is EPA evaluating the rules?*

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see sections 182(a)(2) and 182(f)), and must not relax existing requirements (see sections 110(l) and 193). The YSAQMD regulates an ozone nonattainment area (see 40 CFR part 81), so Rule 2.42 must fulfill RACT. Even though YSAQMD regulates an ozone nonattainment area, submitted Rule 2.37 is not subject to RACT

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

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

1. “State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,” (the NO<sub>x</sub> Supplement), 57 FR 55620, November 25, 1992.
2. “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (the Bluebook).
3. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (the Little Bluebook).
4. “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; 57 FR 18070, April 28, 1992.

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

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSDs have more information on our evaluation.

*C. EPA Recommendations To Further Improve the Rules*

The TSD for Rule 2.42 describes additional rule revisions that we recommend for the next time the local agency modifies the rule.

*D. Public Comment and Final Action*

As authorized in section 110(k)(3) of the Act, 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 June 9, 2010, 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 July 9, 2010. 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 these rules and if that provision may be severed from the remainder of the rules, EPA may adopt as final those provisions of the rules 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, these rules do 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 July 9, 2010. 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 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: April 1, 2010.

**Jared Blumenfeld**,  
*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 paragraph (c)(377) (i)(B) to read as follows:

**§ 52.220 Identification of plan.**

- \* \* \* \* \*
- (c) \* \* \*
- (377) \* \* \*
- (i) \* \* \*

(B) Yolo Solano Air Quality Management District.

(1) Rule 2.37, “Natural Gas-Fired Water Heaters and Small Boilers,” revised on April 8, 2009.

(2) Rule 2.42, “Nitric Acid Production,” adopted on May 13, 2009.

\* \* \* \* \*

[FR Doc. 2010-10943 Filed 5-7-10; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 82**

[EPA-HQ-OAR-2009-0566; FRL-9147-8]

RIN-2060-AP59

**Protection of Stratospheric Ozone: Allocation of Essential Use Allowances for Calendar Year 2010**

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

**ACTION:** Final rule.

**SUMMARY:** With this action, EPA is allocating essential use allowances for import and production of Class I ozone-depleting substances (ODSs) for calendar year 2010. Essential use allowances enable a person to obtain controlled Class I ODSs through an exemption to the regulatory ban on the production and import of these chemicals, which became effective as of January 1, 1996. EPA allocates essential use allowances for production or import of a specific quantity of Class I substances solely for the designated essential purpose. The allocation in this action is 30.0 metric tons (MT) of chlorofluorocarbons (CFCs) for use in metered dose inhalers (MDIs) for 2010.

**DATES:** This final rule is effective May 10, 2010.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2009-0566. 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 (CBI) 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 either electronically through <http://www.regulations.gov> or in hard copy at the Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Jeremy Arling, by regular mail: U.S.