

**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).

*L. Petitions for Review of This Action*

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 October 7, 2011. 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**

Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, and Volatile organic compounds.

Dated: July 25, 2011.

**Keith Takata,**

*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.*

■ 2. Section 52.220 is amended by paragraph (c)(386)(ii)(A)(4) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

- (c) \* \* \*
- (386) \* \* \*
- (ii) \* \* \*
- (A) \* \* \*

(4) 2007 Transport SIP at pages 21–22 (Attachment A) (“Evaluation of interference with Prevention of Significant Deterioration Measures of any other State”).

\* \* \* \* \*

■ 3. Section 52.283 is amended by adding paragraph (a)(3) to read as follows:

**§ 52.283 Interstate Transport.**

(a) \* \* \* (3) The requirements of section 110(a)(2)(D)(i)(II) regarding interference with any other state’s measures required under title I, part C

of the Clean Air Act to prevent significant deterioration of air quality, except that these requirements are not fully met in the Air Pollution Control Districts (APCDs) or Air Quality Management Districts (AQMDs) listed in this paragraph.

- (j) Amador County APCD
- (ii) Butte County AQMD
- (iii) Calaveras County APCD
- (iv) Feather River AQMD
- (v) Northern Sierra AQMD
- (vi) Mariposa County APCD
- (vii) Tuolumne County APCD
- (viii) North Coast Unified AQMD
- (ix) All other areas in California that are subject to the Federal PSD program as provided in 40 CFR 52.270.

\* \* \* \* \*

[FR Doc. 2011–19898 Filed 8–5–11; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R09–OAR–2011–0211; FRL–9448–5]

**Limited Federal Implementation Plan; Prevention of Significant Deterioration; California; North Coast Unified Air Quality Management District**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing a limited Federal Implementation Plan (FIP) for the North Coast Unified Air Quality Management District (NCUAQMD) portion of the California State Implementation Plan (SIP). We proposed this action simultaneously with our proposed limited approval and limited disapproval of a SIP revision submitted by California to address the “transport SIP” provisions of Clean Air Act (CAA) section 110(a)(2)(D)(i) for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS or standards) and the 1997 fine particulate matter (PM<sub>2.5</sub>) NAAQS (2007 Transport SIP) (76 FR 31263, May 31, 2011). This limited FIP establishes Federal Prevention of Significant Deterioration (PSD) permitting requirements for nitrogen oxides (NO<sub>x</sub>) emission sources only in the NCUAQMD.

**DATES:** *Effective Date:* This rule is effective on September 7, 2011.

**ADDRESSES:** EPA has established docket number EPA–R09–OAR–2011–0211 for this action. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at

EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be publicly available in either location (e.g., Confidential Business Information). 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:** Rory Mays, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 972–3227, [mays.rory@epa.gov](mailto:mays.rory@epa.gov).

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

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- I. Proposed Action
- II. Public Comments
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**I. Proposed Action**

On May 31, 2011 (76 FR 31263), EPA proposed a limited approval and limited disapproval of California’s 2007 Transport SIP with respect to the requirement in CAA section 110(a)(2)(D)(i)(II) that each SIP contain adequate measures prohibiting emissions of air pollutants in amounts which will interfere with other States’ measures required under title I, part C of the CAA to prevent significant deterioration of air quality. We refer to this requirement as “element (3)” of section 110(a)(2)(D)(i). Simultaneously, EPA proposed a limited FIP for the NCUAQMD to address certain requirements of “element (3)” of section 110(a)(2)(D)(i) that California’s 2007 Transport SIP failed to satisfy. EPA proposed this limited FIP because of a statutory duty that we were obligated under the terms of a Consent Decree to meet by July 10, 2011, unless we approved a SIP meeting the applicable requirements by that date.<sup>1</sup> This Consent Decree deadline has been extended by stipulation to July 29, 2011.<sup>2</sup>

Specifically, for the NCUAQMD, we proposed to disapprove California’s

<sup>1</sup> See *WildEarth Guardians v. U.S. EPA* (Case No. 4:09–CV–02453–CW), Consent Decree dated November 10, 2009, as amended by *Notice of Stipulated Extensions to Consent Decree Deadlines*, dated April 28, 2011, and *Notice of Stipulated Extension to Consent Decree Deadline*, dated July 7, 2011.

<sup>2</sup> See *ibid.*

2007 Transport SIP with respect to element (3) of CAA section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS because the NCUAQMD's SIP-approved PSD permit program does not explicitly identify NO<sub>x</sub> as an ozone precursor. Although California recently submitted a PSD SIP revision to EPA for the NCUAQMD to address this requirement,<sup>3</sup> we noted in our proposed rule that we would not be able to act on this SIP revision in time to meet our July 10, 2011 consent decree deadline. We proposed, therefore, to promulgate a limited PSD FIP for the NCUAQMD based on the provisions of 40 CFR 52.21 regulating NO<sub>x</sub> as an ozone precursor. We noted that EPA would retain authority to implement the applicable requirements of 40 CFR 52.21 for NO<sub>x</sub> emission sources in NCUAQMD (unless and until EPA delegates such authority to the District), while the District would retain authority to continue implementing any existing SIP-approved PSD requirements. We also noted that this limited FIP would apply only until EPA approves a PSD SIP revision for the NCUAQMD addressing this requirement.

## II. Public Comments

EPA's proposed action provided a 30-day public comment period. During this period, we received no comments on this element of our proposed action.

## III. EPA Action

Under CAA section 110(c)(1) and for the reasons discussed in our May 31, 2011 proposed rule, we are finalizing the limited PSD FIP for the NCUAQMD as proposed. The CAA authority for EPA to promulgate a FIP is found in CAA section 110(c)(1), which provides—

The Administrator shall promulgate a Federal implementation plan at any time within 2 years after the Administrator—(B) disapproves a State implementation plan submission in whole or in part \* \* \* unless the State corrects the deficiency, and [EPA] approves the plan or plan revision, before the Administrator promulgates such [FIP].

In a separate action published in today's Federal Register, EPA finalized the limited approval and limited disapproval of California's 2007 Transport SIP, including the disapproval with respect to the NCUAQMD because of the identified deficiency in its SIP-approved PSD program. Accordingly, under CAA

sections 110(c)(1) and for the reasons set forth in our May 31, 2011 proposed rule, we are finalizing a limited PSD FIP for the NCUAQMD. This action incorporates the provisions of EPA's Federal PSD program at 40 CFR 52.21, as they apply to new or modified major sources of NO<sub>x</sub> as precursors to ozone, into the NCUAQMD portion of the California SIP.

EPA currently implements a partial PSD FIP for certain types of projects located in the NCUAQMD. See 40 CFR 52.270(b)(2). The limited PSD FIP promulgated today adds new and modified major sources of NO<sub>x</sub> emissions to the list of projects that are already subject to the Federal PSD Program as provided in 40 CFR 52.270(b)(2). Thus, EPA will implement the applicable requirements of 40 CFR 52.21 for major NO<sub>x</sub> emission sources in North Coast, unless and until EPA delegates such authority to the District pursuant to 40 CFR 52.21(u). The District, however, retains authority to continue implementing any existing SIP-approved PSD requirements.

This limited PSD FIP will apply only until EPA approves a PSD SIP revision for NCUAQMD meeting the PSD requirements applicable to NO<sub>x</sub> emissions as precursors to ozone, at which time EPA will rescind this limited FIP.

## IV. Statutory and Executive Order Reviews

### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This final action is not a "significant regulatory action" under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Order 12866 and 13563 (76 FR 3821, January 21, 2011).

### B. Paperwork Reduction Act

This final action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b).

### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities

include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this action on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards (see 13 CFR 121.201); (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

In the case of North Coast, EPA has not yet proposed to approve the SIP revision necessary to make NO<sub>x</sub> a precursor to ozone in the context of PSD permitting. For this area, EPA is establishing a narrow FIP to fill the gap with respect to the PSD requirement to address NO<sub>x</sub> as a precursor to ozone. To EPA's knowledge, in the past ten years there has been no more than one small entity in this area subject to PSD permitting requirements for NO<sub>x</sub> emissions, and this is not a substantial number of entities. EPA does not anticipate that there will be additional sources that would require such a permit in the future, and EPA is not required to analyze theoretical future impacts. It would be speculative to estimate potential impacts on sources based solely on theoretical future sources.

After considering the economic impacts of this rule on small entities, I certify that this final action will not have a significant economic impact on a substantial number of small entities. Although this rule establishes Federal permitting requirements that may apply to a small number of sources, EPA believes that in such an event, there will not be a significant economic impact on the potentially affected sources and that any such impacts would not affect a substantial number of sources, regardless of size.

### D. Unfunded Mandates Reform Act

This final action contains no federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, 2 U.S.C. 1531–1538) for state, local or tribal governments or the private sector. The action imposes no enforceable duty on any state, local or tribal governments or the private sector. This action merely prescribes EPA's action in an area for which EPA has disapproved the 2007 Transport SIP in part and not yet approved a corrective SIP revision.

<sup>3</sup> By letter dated February 28, 2011, California submitted a revised NSD/PSD rule (Rule 110, New Source Review (NSR) and Prevention of Significant Deterioration (PSD)) for approval into the NCUAQMD portion of the California SIP. The NCUAQMD adopted this amended rule on December 9, 2010.

Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This final action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action merely prescribes EPA's action in an area for which EPA has disapproved the 2007 Transport SIP in part and not yet approved a corrective SIP revision.

#### E. Executive Order 13132: Federalism

This final action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action merely prescribes EPA's action in an area for which EPA has disapproved the 2007 Transport SIP in part and not yet approved a corrective SIP revision. Thus, Executive Order 13132 does not apply to this action.

#### F. Executive Order 13175: Coordination With Indian Tribal Governments

This final action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action does not impose a FIP in any tribal area. Thus, Executive Order 13175 does not apply to this action.

#### G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the EO has the potential to influence the regulation. This final action is not subject to EO 13045 because it merely prescribes EPA's action in an area for which EPA has disapproved the 2007 Transport SIP in part and not yet approved a corrective SIP revision.

#### H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

#### I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law

104-113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

#### J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent 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 has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This rule merely prescribes EPA's action in an area for which EPA has disapproved the 2007 Transport SIP in part and not yet approved a corrective SIP revision.

#### K. Congressional Review Act

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. 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 final action is not a "major rule" as defined by 5 U.S.C. section 804(2). This rule will be effective on September 7, 2011.

#### L. Determination Under Section 307(d)

Pursuant to section 307(d)(1)(B) of the CAA, this action is subject to the provisions of section 307(d). Section 307(d)(1)(B) provides that the provisions of section 307(d) apply to "the promulgation or revision of an implementation plan by the Administrator under section 110(c) of this Act."

#### M. 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 October 7, 2011. 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

Air pollution control, Environmental protection, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone.

Dated: July 29, 2011.

**Lisa P. Jackson,**  
Administrator.

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 52.270 is amended by adding paragraph (b)(2)(iv) to read as follows:

#### § 52.270 Significant deterioration of air quality.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iv) Those projects which are major stationary sources or major

modifications for nitrogen oxides as precursors to ozone under § 52.21.

\* \* \* \* \*

[FR Doc. 2011-19897 Filed 8-5-11; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA-2007-28322]

RIN 2127-AL00

### Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Final rule; response to petitions for reconsideration.

**SUMMARY:** On December 4, 2007, NHTSA published a final rule that amended the Federal motor vehicle safety standard for lamps, reflective devices, and associated equipment with an effective date of September 1, 2008. In response, the agency received thirteen petitions for reconsideration. The effective date of the final rule was delayed in subsequent notices to December 1, 2012. This document corrects several technical errors in the final rule and completes the agency's response to the issues raised in the submitted petitions for reconsideration.

**DATES:** *Effective Date:* The final rule is effective December 1, 2012. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of December 1, 2012.

*Compliance Date:* Voluntary early compliance is permitted beginning August 8, 2011.

*Petitions for Reconsideration:* Petitions for reconsideration of this final rule must be received not later than September 22, 2011.

**ADDRESSES:** Any petitions for reconsideration should refer to the docket number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Docket Room W12-140, Washington, DC 20590.

#### FOR FURTHER INFORMATION CONTACT:

*For technical issues:* Mr. Mark Price, Office of Crash Avoidance Standards (NVS-121), NHTSA, 1200 New Jersey Avenue, SE., West Building,

Washington, DC 20590 (Telephone: (202) 366-0098) (Fax: (202) 366-7002).

*For legal issues:* Mr. Thomas Healy, Office of the Chief Counsel (NCC-112), NHTSA, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590 (Telephone: (202) 366-2992) (Fax: (202) 366-3820).

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##### I. Executive Summary

On December 4, 2007 NHTSA published a final rule<sup>1</sup> that amended Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, reflective devices, and associated equipment*. That final rule reorganized the regulatory text and explicitly added to the text existing requirements from third-party standards that had previously been incorporated by reference. In rewriting the standard NHTSA sought not to make any substantive changes or impose new requirements on regulated parties. The objectives of the rewrite were to: (1) Make requirements easier to find and comprehend; (2) present performance requirements and test procedures together in one place, instead of obliging the user to locate the relevant provisions of third-party documents previously incorporated by reference; and (3) update FMVSS No. 108 to reflect significant letters of interpretation. The rewrite of FMVSS No. 108 was considered administrative in nature because the standard's existing requirements and obligations were not increased, decreased, or substantively modified.

The agency received several petitions for reconsideration which stated some aspects of the final rule failed to adhere to the agency's stated goal of not substantively modifying the standard's existing requirements. Also, the agency received petitions for reconsideration that identified formatting and grammatical errors. In addition to the petitions addressing the technical aspects of the standard, the agency also received a submission questioning the

discussion of the preemptive effect of FMVSS No. 108 included in the preamble of the final rule. After careful review and consideration of the petitions for reconsideration, the agency is amending FMVSS No. 108 in order to correct technical errors within the final rule and is providing a partial response to petitions for reconsideration including the submission addressing the preemptive effect of the rule. The remaining items in the petitions for reconsideration, which include substantive issues and are not addressed within this partial response, will be addressed in a separate notice. We expect to publish that notice before the final rule effective date of December 1, 2012.

##### II. Background

NHTSA published a Notice of Proposed Rulemaking (NPRM) on December 30, 2005<sup>2</sup> proposing to reorganize FMVSS No. 108 and improve the clarity of the standard's requirements, thereby increasing its utility for regulated parties. The proposed administrative rewrite attempted to make the standard more understandable by adopting a simplified numbering scheme to improve organization; by grouping related materials in a more logical and consistent sequence; and by reducing the certification burden of regulated parties who previously needed to review a few dozen third-party documents.

From a regulatory perspective, it was the agency's intention, as expressed in the NPRM, that the administrative rewrite of FMVSS No. 108 would neither result in any current obligations being diminished, nor any new obligations being imposed. In other words, the substantive requirements of the standard would be identical to those of the currently-applicable version of FMVSS No. 108 and underlying documents incorporated by reference. Therefore, we stated that regulated parties would not need to make any changes to their respective products or production processes if our proposal were made final.

The agency considered comments received on the NPRM and published a final rule on December 4, 2007. The final rule incorporated some of the comments received in response to the NPRM by further consolidating test procedures and performance requirements from multiple tables to single paragraphs, incorporating additional Society of Automotive Engineers (SAE) documents directly

<sup>1</sup> 72 FR 68234, (Dec. 4, 2007).

<sup>2</sup> 70 FR 77454, (Dec. 30, 2005).