

will be used in the calculation of the duty refund and allocations.”

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2015-0643; FRL-9935-65-Region 9]

**Approval of California Air Plan Revisions, Placer County Air Pollution Control District**

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Placer County portion of the California State Implementation Plan (SIP). This revision concerns the necessary procedures to create emission reduction credits (ERCs) from the reduction of volatile organic compound (VOC), oxides of nitrogen (NOx), oxides of sulfur (SOx), particulate matter (PM), and carbon monoxide (CO) emissions due to the use and installation of a control device on stationary locomotive engines in rail yards. We are approving a local rule that provides administrative procedures for creating emissions reduction credits, consistent with Clean Air Act (CAA or the Act) requirements.

**DATES:** This rule is effective on January 5, 2016 without further notice, unless the EPA receives adverse comments by

December 7, 2015. 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-2015-0643, by one of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.

2. *Email:* [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*Instructions:* Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. If you need to include CBI as part of your comment, please visit <http://www.epa.gov/dockets/comments.html> for further instructions. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. For the full EPA public comment policy and general guidance on making effective comments, please visit <http://www.epa.gov/dockets/comments.html>.

*Docket:* Generally, documents in the docket for this action are available electronically at [www.regulations.gov](http://www.regulations.gov) or in hard copy at EPA Region IX, 75

Hawthorne Street, San Francisco, California 94105-3901. While all documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov), some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), 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:** 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. The State’s Submittal**

*A. What rule did the State submit?*

Table 1 lists the rule addressed by this action with the dates that it was adopted by the Placer County Air Pollution Control District (PCAPCD) and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
PCAPCD .....	515	Stationary Rail Yard Control Emission Reduction Credits.	02-19-2015	06-26-2015

On August 13, 2015, the EPA determined that the submittal for PCAPCD Rule 515 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?*

There are no previous versions of Rule 515 in the SIP, although the PCAPCD adopted an earlier version of this rule on October 9, 2008, and CARB submitted it to us on December 23, 2008. CARB withdrew the earlier version of Rule 515 on August 11, 2014.

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

The purpose of Rule 515 is to provide owners of a rail yard located in Placer County with a mechanism for quantifying, certifying, and banking emission reductions from the installation and use of a control device that reduces emissions from locomotive engines in rail yards. Approval of Rule 515 into the SIP would allow these emission reductions to be used as offsets under PCAPCD’s New Source Review (NSR) rule. The EPA’s technical support document (TSD) has more information about this rule.

**II. The EPA’s Evaluation and Action**

*A. How is the EPA evaluating the rule?*

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

In addition, a rule of this type that generates emission reduction credits for use as offsets in the NSR program must

meet the NSR requirements for valid offsets (see section 173(c)) and meet the criteria set forth in the EPA's guidance concerning economic incentive programs.

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

1. "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).

2. 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.

3. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the *Bluebook*).

4. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the *Little Bluebook*).

5. New Source Review—Section 173(c) of the CAA and 40 CFR part 51, appendix S, "Emission Offset Interpretative Ruling" require certain sources to obtain emission reductions to offset increased emissions from new projects.

6. "Improving Air Quality with Economic Incentive Programs," EPA-452/R-01-001, January 2001.

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

We believe this rule is consistent with the relevant policy and guidance regarding enforceability and economic incentive programs; and ensures that the emission reductions are real, surplus, quantifiable, enforceable, and permanent. This rule includes detailed emissions quantification protocols and enforceable procedures that provide the necessary assurance that the emission reduction credits issued will meet the criteria for valid NSR offsets. The TSD has more information on our evaluation.

#### *C. Public Comment and Final Action*

As authorized in section 110(k)(3) of the Act, the EPA is fully approving the submitted rule because we believe it fulfills 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 rule. If we receive adverse

comments by December 7, 2015, 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 January 5, 2016. This will incorporate the rule into the federally enforceable SIP.

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

### **III. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the CARB Regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

### **IV. 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 (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 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. 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 January 5, 2016.

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 this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the 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, Particulate matter, Sulfur dioxide, Carbon monoxide, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 25, 2015.

**Jared Blumenfeld**,

*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 paragraph (c)(463) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(463) Amended regulations for the following APCDs were submitted on June 26, 2015 by the Governor's designee.

(i) *Incorporation by reference.*

(A) Placer County Air Pollution Control District.

(1) Rule 515, "Stationary Rail Yard Control Emission Reduction Credits," amended on February 19, 2015.

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R08-OAR-2015-0428; FRL-9932-61-Region 8]

#### Air Plan Approval; WY; Update to Materials Incorporated by Reference

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

**ACTION:** Final rule; administrative change.

**SUMMARY:** The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the Wyoming State Implementation Plan (SIP). The Regulations affected by this update have been previously submitted by the Wyoming Department of Environmental Quality and approved by the EPA. In this action, the EPA is also notifying the public of corrections to typographical errors and minor formatting changes to the IBR tables. This update affects the SIP materials that are available for public inspection at the EPA Regional Office.

**DATES:** This action is effective November 6, 2015.

**ADDRESSES:** The EPA has established a docket for this action under Docket Identification Number EPA-R08-OAR-2015-0428. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in the hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at EPA Region 8, Office of Partnership and Regulatory Assistance, Air Program, 1595 Wynkoop Street, Denver, Colorado 80202-1129. The EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. An electronic copy of the State's SIP compilation is also available at <http://www.epa.gov/region8/air/sip.html>.

**FOR FURTHER INFORMATION CONTACT:** Kathy Ayala, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6142, [ayala.kathy@epa.gov](mailto:ayala.kathy@epa.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The SIP is a living document which a state revises as necessary to address its unique air pollution problems. Therefore, the EPA, from time to time, must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), the EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultation between the EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and "Identification of Plan" format are discussed in further detail in the May 22, 1997, **Federal Register** document. On November 2, 2006 (71 FR 64460) the EPA published the revised format of the IBR material for Wyoming as of August 31, 2006. Today's action is an update to the November 2, 2006 document.

#### II. EPA Action

In this action, the EPA is announcing the update to the IBR material as of September 1, 2015. The EPA is also correcting typographical errors, including omission and other minor errors in subsection 52.2620, paragraphs (c), (d), and (e).

#### III. Good Cause Exemption

EPA has determined that today's action falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon a finding of "good cause" authorizes agencies to dispense with public participation, and section 553(d)(3), which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's action simply updates the codification of provisions which are already in effect as a matter of law.

Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Likewise, there is no purpose served by delaying the effective date of this action.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Wyoming regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these