

to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rules.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

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

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

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

**Dated:** April 3, 2000.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*  
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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 226-0233; FRL-6578-3]

#### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Tehama Air Pollution Control District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the California State Implementation Plan (SIP) for ozone. The revision concerns the control of oxides of nitrogen (NO<sub>x</sub>) for the Tehama Air Pollution Control District (TCAPCD). The revision concerns TCAPCD Rule 4.14 for the control of oxides of nitrogen (NO<sub>x</sub>) emissions from fuel burning equipment. The intended effect of proposing approval of this rule is to regulate emissions of NO<sub>x</sub> in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rule will incorporate this rule into the Federally approved SIP. EPA has evaluated this rule and is proposing to approve it under provisions of the CAA regarding EPA

actions on SIP submittals, SIPs for national primary and secondary ambient air quality standards (NAAQS), and plan requirements for nonattainment areas.

**DATES:** Comments must be received on or before May 17, 2000.

**ADDRESSES:** Comments may be mailed to: Andrew Steckel, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule and EPA's evaluation report of the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket (6102) 401 "M" Street, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Tehama County APCD, P.O. Box 38 (1750 Walnut Street) Red Bluff, CA 96080.

**FOR FURTHER INFORMATION CONTACT:** Ed Addison, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1160.

#### SUPPLEMENTARY INFORMATION:

##### I. Applicability

The rule being proposed for approval into the California SIP is Tehama Air Pollution Control District Rule 4.14, Fuel Burning Equipment. Rule 4.14 was submitted by the State of California to EPA on May 13, 1999.

##### II. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q.

On November 25, 1992, EPA published a proposed rule entitled, "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). The NO<sub>x</sub> Supplement should be referred to for further information on the NO<sub>x</sub> requirements.

This document addresses EPA's proposed action for Tehama Air Pollution Control District Rule 4.14, Fuel Burning Equipment, adopted by the TCAPCD on November 3, 1998. The State of California submitted Rule 4.14

to EPA May 13, 1999. Rule 4.14 was found to be complete on May 26, 1999, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V.<sup>1</sup>

NO<sub>x</sub> emissions contribute to the production of ground level ozone and smog. TCAPCD Rule 4.14 specifies exhaust emission standards for NO<sub>x</sub>, and was originally adopted as part of TCAPCD's effort to maintain the National Ambient Air Quality Standard (NAAQS) for ozone, and in response to the CAA requirements cited above. The following is EPA's evaluation and proposed action for the rule.

#### III. EPA Evaluation and Proposed Action

In determining the approvability of a NO<sub>x</sub> rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the NO<sub>x</sub> Supplement (57 FR 55620) and various other EPA policy guidance documents.<sup>2</sup>

The California Air Resources Board (CARB) has developed a guidance document entitled, "California Clean Air Act Guidance, Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Institutional, Industrial and Commercial Boilers, Steam Generators and Process Heaters," July 18, 1991. EPA has used CARB's Determination, dated July 18, 1991, in evaluating Rule 4.14 for consistency with the CAA's requirements. In general, EPA uses the guidance documents cited above, as well as other relevant and applicable guidance documents, to ensure that submitted NO<sub>x</sub> rules meet Federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

There is currently a July 12, 1990, EPA approved (55 FR 28624) version of Tehama County Air Pollution Control District Rule 4.14, Fuel Burning Equipment, in the SIP. Submitted Rule 4.14 includes the following provisions:

- General provisions including applicability, exemptions, and definitions.

<sup>1</sup> EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

<sup>2</sup> "Issues Relating to VOC regulation Cutpoints, Deficiencies, and Deviation, Clarification to Appendix D of November 24, 1987 Federal Register document" (Blue Book) (notice of availability was published in the Federal Register on May 25, 1988).

- Exhaust emissions standards for oxides of nitrogen (NO<sub>x</sub>).
- Compliance and monitoring requirements including compliance schedule, reporting requirements, monitoring and record keeping, and test methods.

Rules submitted to EPA for approval as revisions to the SIP must be fully enforceable, must maintain or strengthen the SIP and must conform with EPA policy in order to be approved by EPA. When reviewing rules for SIP approvability, EPA evaluates enforceability elements such as test methods, record keeping, and compliance testing in addition to guidance regarding emission limits. The submitted version of Rule 4.14 strengthens the SIP through the addition of enforceable measures such as record keeping, test methods, definitions, and more stringent compliance testing. The submitted version of Rule 4.14 relaxes the SIP by exempting sources subject to Rules 4.31, 4.34 and 4.37. EPA is separately acting on these rules and believes that they generally adequately control the sources exempted from Rule 4.14. A more detailed discussion of the sources controlled and the controls required can be found in the Technical Support Document (TSD), dated January 25, 2000, which is available from the U.S. EPA, Region IX office.

EPA, in light of Rules 4.31, 4.34 and 4.37, has evaluated the submitted rule and has determined that it is consistent with the CAA, EPA regulations and EPA policy. Therefore, Tehama County Air Pollution Control District Rule 4.14 is being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a), section 182(b)(2), section 182(f) and the NO<sub>x</sub> Supplement to the General Preamble.

#### IV. Administrative Requirements

##### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, Regulatory Planning and Review.

##### B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in

the Executive Order to include regulations that 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." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule 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 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

##### C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

##### D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with

Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

##### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base

its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

#### *F. Unfunded Mandates*

Under section 202 of the Unfunded Mandates Reform Act of 1995 (“Unfunded Mandates Act”), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

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

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

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

Dated: April 3, 2000.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*  
[FR Doc. 00–9394 Filed 4–14–00; 8:45 am]

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## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **45 CFR Part 60**

**RIN 0906–AA41**

#### **National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Medical Malpractice Payments Reporting Requirements**

**AGENCY:** Health Resources and Services Administration, DHHS.

**ACTION:** Proposed rule; status.

**SUMMARY:** The Health Resources and Services Administration (HRSA) is announcing its intention to issue a second Notice of proposed Rulemaking (NPRM) on National Practitioner Data Bank (NPDB) Medical Malpractice payments Reporting Requirements following a period of data gathering and evaluation. This will involve a new 60-day public comment period for the revised proposal.

**FOR FURTHER INFORMATION CONTACT:** Thomas C. Croft, 301–443–2300.

**SUPPLEMENTARY INFORMATION:** Proposed rules regarding amending the medical malpractice payment reporting requirements for the NPDB were published on December 24, 1998 (63 FR 71255). More than 120 comments on the proposed rule were received. Given the large number of thoughtful comments and the high level of concern that was voiced about the potential impact of the proposal as published, HRSA believes it is imperative to gather additional data and conduct further analyses before proceeding. A new NPRM then will be published for public comment, with a goal of publishing the revised proposal by the end of 2000. The decision to publish another NPRM with its associated public comment period means that new final regulations likely will be implemented in 2001.

**Authority:** Secs. 401–432 of the Health Care Quality Improvement Act of 1986, Pub. L. 99–660, 100 Stat. 3784–3794, as amended by sec. 402 of Pub. L. 100–177, 101 Stat. 1007–1008 (42 U.S.C. 11101–11152).

Dated: October 19, 1999.

**Claude Earl Fox,**

*Administrator, Health Resources and Services Administration.*

Approved: December 3, 1999.

**Donna E. Shalala,**

*Secretary.*

[FR Doc. 00–9470 Filed 4–14–00; 8:45 am]

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

### **50 CFR Part 622**

**[I.D. 040600B]**

#### **South Atlantic Fishery Management Council; Public Hearings**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Public hearings; request for comments.

**SUMMARY:** The South Atlantic Fishery Management Council (Council), in cooperation with the Caribbean Fishery Management Council, will convene 17 public hearings regarding the draft Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic, Caribbean and Gulf of Mexico (draft FMP). The overall goal of the FMP is to provide a comprehensive management structure for dolphin and wahoo in the Atlantic, Gulf, and Caribbean exclusive economic zone (EEZ). The FMP will take a precautionary approach in conserving these fishery resources, achieving optimum yield (OY), and maintaining current allocations among user groups.

**DATES:** The Council will accept written comments on the draft FMP through July 7, 2000. The public hearings will be held in May and June of 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the public hearings.

**ADDRESSES:** Written comments should be sent to Bob Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699. Copies of the draft FMP are available from Kim Iverson, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699; telephone: 843–571–4366. See **SUPPLEMENTARY INFORMATION** for specific locations.

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699; telephone: 843–571–4366; fax: 843–769–4520; email address: kim.iverson@noaa.gov.

#### **SUPPLEMENTARY INFORMATION:**

##### **Management Measures**

The draft FMP provides for the following: Establishment of management units for dolphin and wahoo; proposed dealer, vessel and