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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2019-0422; FRL-10000-88-Region 9]

**Air Plan Approval; California; Ventura County Air Pollution Control District**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). This

revision concerns emissions of oxides of nitrogen (NO<sub>x</sub>) from natural gas-fired water heaters. We are approving a local rule that regulates these emission sources under the Clean Air Act (CAA or the Act).

**DATES:** This rule will be effective on November 29, 2019.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2019-0422. All documents in the docket are listed on the <https://www.regulations.gov> website. 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 through [https://](https://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov), or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Robert Schwartz, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3286 or by email at [schwartz.robert@epa.gov](mailto:schwartz.robert@epa.gov).

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

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**I. Proposed Action**

On August 2, 2019 (84 FR 37816), the EPA proposed to approve the following rule into the California SIP.

Local agency	Rule No.	Rule title	Revised	Submitted
VCAPCD .....	74.11	Natural Gas-Fired Water Heaters .....	5/11/2010	6/21/2011

We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. Our proposed action and related Technical Support Document (TSD) contain more information on the rule and our evaluation.

**II. Public Comments and EPA Responses**

The EPA’s proposed action provided a 30-day public comment period. During this period, we received no comments.

**III. EPA Action**

Pursuant to section 110(k)(3) of the Act and based on the evaluation and rationale presented in our August 2, 2019 proposed rule, the EPA is taking final action to approve VCAPCD Rule 74.11 (Natural Gas-Fired Water Heaters) as a revision to the Ventura County portion of the California SIP.

**IV. 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 VCAPCD rule described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, this document available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region IX Office (please contact the person identified in the **FOR**

**FURTHER INFORMATION CONTACT** section of this preamble for more information).

**V. 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 December 30, 2019. 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. 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: September 11, 2019.

**Kerry Drake,**

*Acting Regional Administrator, Region IX.*

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 paragraphs (c)(164)(i)(C)(6) and (c)(391)(i)(D) to read as follows:

##### § 52.220 Identification of plan-in part.

\* \* \* \* \*

(c) \* \* \*

(164) \* \* \*

(i) \* \* \*

(C) \* \* \*

(6) Previously approved on September 24, 1999 in paragraph (c)(164)(i)(C)(4) of this section and now deleted with replacement in paragraph (c)(391)(i)(D)(1) of this section, Rule 74.11 as adopted on April 9, 1985.

\* \* \* \* \*

(391) \* \* \*

(i) \* \* \*

(D) Ventura County Air Pollution Control District.

(1) Rule 74.11, "Natural Gas-Fired Water Heaters," revised on May 11, 2010.

(2) [Reserved]

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 665

[Docket No. 190325272-9537-02]

RIN 0648-XG925

##### Pacific Island Pelagic Fisheries; 2019 Commonwealth of the Northern Mariana Islands Bigeye Tuna Fishery; Closure

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is closing the U.S. pelagic longline fishery for bigeye tuna in the western and central Pacific Ocean (WCPO) because the fishery will reach the 2019 allocation limit for the Commonwealth of the Northern Mariana Islands (CNMI). This action is necessary to comply with regulations managing this fish stock.

**DATES:** Effective 12:01 a.m. local time November 4, 2019, through December 31, 2019.

**FOR FURTHER INFORMATION CONTACT:** Jarad Makaiau, NMFS PIRO Sustainable Fisheries, 808-725-5176.

**SUPPLEMENTARY INFORMATION:** On July 17, 2019, NMFS specified a 2019 catch

limit of 2,000 t of longline-caught bigeye tuna for the U.S. territories of American Samoa, Guam and the CNMI (84 FR 34321, July 18, 2019). NMFS also authorized each territory to allocate up to 1,000 t of its 2,000 t bigeye tuna limit to U.S. longline fishing vessels permitted to fish under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP). The limit is effective from July 17, 2019, through December 31, 2019.

On July 18, 2019, the Western Pacific Fishery Management Council (Council), through its Executive Director, transmitted to NMFS a specified fishing agreement between the CNMI and the Hawaii Longline Association (HLA) dated June 13, 2019. NMFS reviewed the agreement and determined that it was consistent with the requirements at 50 CFR 665.819, the FEP, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws (84 FR 37592, August 1, 2019). The criteria that a specified fishing agreement must meet, and the process for attributing longline-caught bigeye tuna, followed the procedures in 50 CFR 665.819—Territorial catch and fishing effort limits.

In accordance with 50 CFR 300.224(d) and 50 CFR 665.819(c)(9)(i), NMFS began attributing bigeye tuna caught in the WCPO by vessels identified in the CNMI/HLA agreement to the CNMI, beginning on July 20, 2019. NMFS monitored catches of longline-caught bigeye tuna by the CNMI longline fishery, including catches made by U.S. longline vessels operating under the CNMI/HLA agreement. Based on this monitoring, NMFS forecasted that the CNMI territorial allocation limit of 1,000 t will be reached by November 4, 2019, and is, as an accountability measure, prohibiting the catch and retention of longline-caught bigeye tuna by vessels in the CNMI/HLA agreement.

##### Notice of Closure and Temporary Rule

Effective 12:01 a.m. local time November 4, 2019, through December 31, 2019, NMFS closes the U.S. pelagic longline fishery for bigeye tuna in the WCPO as a result of the fishery reaching the 2019 allocation limit of 1,000 t for the CNMI.

During the closure, a U.S. fishing vessel operating under the CNMI/HLA agreement may not retain on board, transship, or land bigeye tuna captured by longline gear in the WCPO, except that any bigeye tuna already on board a fishing vessel upon the effective date of the restrictions may be retained on board, transshipped, and landed, provided that they are landed within 14