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, this rule does 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: July 21, 2010.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 2010–18926 Filed 7–30–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2010–0418; FRL–9183–8]

Revisions to the California State Implementation Plan, Santa Barbara County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the Santa Barbara County Air Pollution Control District (SBCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO_X) emissions from boilers, steam generators and process heaters with a rated heat input rate greater than 2 million BTU/hr and less than 5 million BTU/hr and internal combustion engines with a rated brake horse power of 50 or greater. We are proposing action on local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by September 1, 2010.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2010–0418, 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.*
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 *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 *http://www.regulations.gov* or e-mail. *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.

Docket: The index to the docket for this action is available electronically at *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.*

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

Table of Contents

I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules addressed by this proposal 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 No.	Rule title	Adopted	Submitted
SBCAPCD	361	Small Boilers, Steam Generators and Process Heaters	01/17/08	07/18/08
SBCAPCD	333	Control of Emissions from Reciprocating Internal Combustion Engines.	06/19/08	10/20/08

On August 22, 2008, the submittal for SBCAPCD Rule 361 was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. On November 22, 2008, the submittal for SBCAPCD 333 was found to meet the completeness criteria.

B. Are there other versions of these rules?

There are no previous versions of Rule 361 in the SIP. There are no previous versions of Rule 333 in the SIP, although the District submitted a previous version of this rule on June 19, 1992 and we proposed a limited approval and a limited disapproval (60 FR 6049) but did not finalize the action. The District then submitted another

version of this rule on March 10, 1998 and later withdrew the submittal on January 18, 2000.

C. What is the purpose of the submitted rules?

NO_X 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_X emissions. Rule 361 regulates emissions of oxides of nitrogen (NO_X) and carbon monoxide (CO) from boilers, steam generators and process heaters with a rated heat input rate greater than 2 million BTU/hr and less than 5 million BTU/hr. Rule 333 regulates emissions of nitrogen oxides (NO_X), reactive organic compounds (ROC) and carbon monoxide (CO) from internal combustion (IC) engines with a rated brake horse power of 50 or greater. EPA's technical support documents (TSDs) 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 SBCAPCD regulates an area that is classified as maintenance for the 1-hour ozone standard and is in attainment for all criteria pollutants (see 40 CFR part 81), thus, Rules 361 and 333 do not have to fulfill RACT requirements.

Guidance and policy documents that we use to evaluate enforceability 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_X 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.

5. "State Implementation Plans (SIPs): Policy Regarding Excess Emissions During Malfunctions, Startup and Shutdown" from Steven A. Herman, Assistant Administrator for Enforcement and Compliance Assurance, and Robert Perciasepe, Assistant Administrator for Air and Radiation, September 9, 1999.

B. Do the rules meet the evaluation criteria?

Rules 361 and 333 improve the SIP by establishing more stringent emission limits. The rules are largely consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. Rule provisions which do not meet the evaluation criteria are summarized below and discussed further in the TSDs.

C. What are the rule deficiencies?

These provisions in Rule 361 conflict with section 110(a) of the Act and prevent full approval of the SIP revision.

1. Section F.3 defines the length of the startup and shutdown intervals as "not last[ing] longer than is necessary to reach stable temperatures and conditions". This leads to enforceability concerns due to the lack of specificity of the duration of these periods. The duration of these periods should be further specified.

2. Section G.4 states that documentation of fuel sulfur content must be kept as a record. The type of documentation required should be specified in the rule.

These provisions in Rule 333 conflict with section 110(a) of the Act and prevent full approval of the SIP revision.

1. Rule 333 includes various provisions allowing for APCO discretion without having explicit and replicable procedures that define how the discretion will be exercised to assure emission reductions.

2. Section I.1 indicates that source tests shall be performed at the engine's maximum load or under the engines' typical duty cycle as demonstrated by historical operation data. This should be constrained to the engine's maximum load or conditions specified in the Permit to Operate. The option for testing at the engine's typical duty cycle should be further defined and justified.

D. EPA Recommendations to Further Improve the Rule

The TSDs describe additional rule revisions that we recommend for the next time the local agency modifies the rules but that are not the basis for disapproval at this time.

E. Proposed Action and Public Comment

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is proposing a limited approval of the submitted rules to improve the SIP. If finalized, this action would incorporate the submitted rules into the SIP, including those provisions identified as deficient. This approval is limited because EPA is simultaneously proposing a limited disapproval of the rules under section 110(k)(3). If this disapproval is finalized, no sanctions will be imposed under section 179 of the Act because SBCAPCD is not a required to have these rules in the applicable SIP. A final disapproval would also not trigger the 2-year clock for the federal implementation plan (FIP) requirement under section 110(c). Note that the submitted rules have been adopted by the SBCAPCD, and EPA's final limited disapproval would not prevent the local agency from enforcing them.

We will accept comments from the public on the proposed limited approval and limited disapproval for the next 30 days.

III. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

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

B. Paperwork Reduction Act

This 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 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.

These rules will not have a significant impact on a substantial number of small entities because SIP approvals or disapprovals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve or disapprove requirements that the State is already imposing. Therefore, because the

proposed Federal SIP limited approval/limited disapproval 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).

D. Unfunded Mandates Reform Act

Under sections 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 costs to State, local, or tribal governments in the aggregate; or to the 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 limited approval/limited disapproval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve and disapprove 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.

E. Executive Order 13132, Federalism

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.

These rules 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, because it merely proposes to approve or disapprove State rules 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.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." These proposed rules do not have tribal implications, as specified in Executive Order 13175. They will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to these rules.

EPA specifically solicits additional comment on these proposed rules from tribal officials.

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

EPA interprets Executive Order 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 Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because it approves state rules implementing a Federal standard.

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

These rules are not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

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

Executive Order (EO) 12898 (59 FR 7629 (Feb. 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. The Executive Order has informed the development and implementation of EPA's environmental justice program and policies. Consistent with the

Executive Order and the associated Presidential Memorandum, the Agency's environmental justice policies promote environmental protection by focusing attention and Agency efforts on addressing the types of environmental harms and risks that are prevalent among minority, low-income and Tribal populations.

This action will not have disproportionately high and adverse human health or environmental effects on minority, low-income or Tribal populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. Specially, EPA's simultaneous limited approval and limited disapproval of Rules 361 and 333 would have the affect of strengthening environmental requirements throughout SBCAPCD, and would not relax environmental requirements in any area.

List of Subjects in 40 CFR Part 52

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

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

Dated: July 21, 2010.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 2010–18889 Filed 7–30–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 100630283–0300–01]

RIN 0648–XX15

Fisheries in the Western Pacific; Bottomfish and Seamount Groundfish Fisheries; 2010–11 Main Hawaiian Islands Bottomfish Total Allowable Catch

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

ACTION: Proposed specification; request for comments.

SUMMARY: NMFS proposes to specify a total allowable catch (TAC) for the 2010–11 fishing year of 254,050 lb (115,235 kg) of Deep 7 bottomfish in the main Hawaiian Islands (MHI). The TAC would be set in accordance with regulations established to support long-term sustainability of Hawaii bottomfish.

DATES: Comments must be received by August 17, 2010.

ADDRESSES: Comments on this proposed specification, identified by 0648–XX15, may be sent to either of the following addresses:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal www.regulations.gov; or
- Mail: Mail written comments to Michael D. Tosatto, Acting Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd, Suite 1110, Honolulu, HI 96814–4700.

Instructions: Comments must be submitted to one of these two addresses to ensure that the comments are received, documented, and considered by NMFS. Comments sent to any other address or individual, or received after the end of the comment period, may not be considered. Comments will be posted for public viewing after thecomment period has closed. All comments received are a part of the public record and will generally be posted to *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the commenter may be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "NA" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

A supplemental environmental assessment (EA) was prepared that describes the impact on the human environment that would result from this proposed action. Based on the environmental impact analyses presented in the EA, NMFS prepared a finding of no significant impact (FONSI) for the proposed action. Copies of the EA and FONSI are available from *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Bob Harman, NMFS PIR Sustainable Fisheries, 808–944–2271.

SUPPLEMENTARY INFORMATION: This **Federal Register** document is available at *www.gpoaccess.gov/fr*.

The bottomfish fishery in Federal waters around Hawaii is managed under the Hawaii fishery ecosystem plan (FEP), developed by the Western Pacific Fishery Management Council (Council) and implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson-Stevens Act). Regulations governing bottomfish fishing by U.S. vessels in accordance with the Hawaii FEP appear at 50 CFR part 665 and subpart H of 50 CFR part 600. Currently, bottomfish stocks in the Hawaiian Archipelago are not experiencing overfishing, and efforts to minimize localized stock depletion in the MHI Management Subarea are precautionary. The MHI Management Subarea refers to the portion of the U.S. Exclusive Economic Zone around the Hawaiian Archipelago lying to the east of 161° 20' W. long.

Pursuant to regulations at 50 CFR 665.211, NMFS must specify a TAC for Deep 7 bottomfish in the MHI for each fishing year (September 1 through August 31), based on a recommendation from the Council, considering the best available scientific, commercial, and other information, and taking into account the associated risk of overfishing. The Deep 7 bottomfish are onaga (*Etelis coruscans*), ehu (*E. carbunculus*), gindai (*Pristipomoides zonatus*), kalekale (*P. sieboldii*), opakapaka (*P. filamentosus*), lehi (*Aphareus rutilans*), and hapuupuu (*Epinephelus quernus*).

NMFS uses commercial landings data to project the date when the TAC for the year will be reached, and closes the non-commercial and commercial fisheries from that date until the end of the fishing year. During a fishery closure for Deep 7 bottomfish, no person may fish for, possess, or sell any of these fish in the MHI, except as otherwise authorized by law. Specifically, fishing for, and the resultant possession or sale of, Deep 7 bottomfish by vessels legally registered to Pacific Remote Island Area bottomfish fishing permits, and conducted in compliance with all other laws and regulations, are not affected by the closure. There is no prohibition on fishing for or selling other non-Deep 7 bottomfish species throughout the year.

For the 2009–10 fishing year, the TAC was 254,050 lb (115,235 kg) (74 FR 48422; September 23, 2009). Monitoring of the commercial fishery indicated that the TAC for the 2009–10 fishing year was projected to be reached by April 20, 2010, and, in accordance with the regulations at § 665.211, NMFS published a temporary rule closing the non-commercial and commercial MHI bottomfish fisheries on April 20, 2010 (75 FR 17070; April 5, 2010). Subsequent analyses indicated that the 2009–10 bottomfish fishery took