

This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: May 18, 2007.

**Waverly W. Gregory, Jr.**

*Chief, Bridge Administration Branch, Fifth Coast Guard District.*

[FR Doc. E7-10276 Filed 5-29-07; 8:45 am]

BILLING CODE 4910-15-P

## LIBRARY OF CONGRESS

### Copyright Royalty Board

#### 37 CFR Part 380

[Docket No. 2005-1 CRB DTRA]

#### Digital Performance Right in Sound Recordings and Ephemeral Recordings

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Final rule: technical amendment.

**SUMMARY:** The Copyright Royalty Judges, on behalf of the Copyright Royalty Board of the Library of Congress, are making a technical amendment in the regulation regarding the royalty fees for the public performance of sound recordings and for ephemeral recordings under two statutory licenses to clarify the appropriate Aggregate Tuning Hour usage rate calculation option for the transition period of 2006 and 2007 for non-music programming.

**EFFECTIVE DATE:** May 30, 2007.

**FOR FURTHER INFORMATION CONTACT:** Richard Strasser, Senior Attorney, or Gina Giuffreda, Attorney Advisor. Telephone: (202) 707-7658. Telefax: (202) 252-3423.

**SUPPLEMENTARY INFORMATION:** On May 1, 2007, the Copyright Royalty Judges ("Judges") announced their final determination of the rates and terms for two statutory licenses, permitting certain digital performances of sound recordings and the making of ephemeral recordings, for the period beginning January 1, 2006, and ending on December 31, 2010. 72 FR 24084 (May 1, 2007). The Final Determination included a transition phase for 2006 and 2007 to use Aggregate Tuning Hours ("ATH") to estimate usage as permitted under the prior fee regime in order to facilitate a smooth transition to the fee structure adopted in the Final Determination. 72 FR 24086. Such ATH usage rate calculation options are set forth in § 380.3(a).

On May 8, 2007, Radio Broadcasters<sup>1</sup> requested the Judges to clarify whether the appropriate ATH usage rate calculation option available for the transition period of 2006 and 2007 was inadvertently misstated because the incorrect starting point was identified for the "prior fees" row for non music-programming (i.e., \$0.0008 instead of \$0.000762). None of the other parties in the proceeding filed any pleading about the request. The Judges considered the Radio Broadcasters' request under their authority in section 803(c)(4) of the Copyright Act, title 17 of the United States Code, which authorizes them to correct "any technical or clerical errors in the determination \* \* \* that would frustrate the proper implementation of the determination" and requires them to distribute to the participants of the proceeding such correction and to publish the correction in the **Federal Register**.

After full consideration of the Radio Broadcasters' request, the Judges concluded that such clerical error indeed had been made. Consequently, in accordance with 17 U.S.C. 804(c)(4), the Judges issued an order to the participants in the proceeding acknowledging the clerical error and setting forth the corrected ATH usage rate calculation option available for non-music programming for the 2006-2007 transition period. See Order Regarding Broadcasters' Request for Clarification of the Final Determination of Rates and Terms, Docket No. 2005-1 CRB DTRA (May 21, 2007).

Moreover, as further required by 17 U.S.C. 803(c)(4), the Judges today are amending §§ 380.3(a)(1)(ii) and (a)(2)(iii) to reflect, as set forth in the May 21 Order, the correct ATH usage rate calculation option available for non-music programming for the transition period 2006-2007, which is as follows:

#### NON-MUSIC PROGRAMMING

Prior Fees .....	\$0.000762 per ATH.
2006 .....	\$0.0008 per ATH.
2007 .....	\$0.0011 per ATH.

This correction also applies to footnotes 33 and 55 in Sections IV.C.1.d.i. and IV.D.1., respectively, of the Final Determination.

Because this amendment is being made simply for the purpose of correcting a clerical error, the Judges find that there is good cause to make it effective immediately.

<sup>1</sup> Radio Broadcasters include Bonneville International Corp., Clear Channel Communications, Inc., Susquehanna Radio Corp., and The National Religious Broadcasters Music License Committee ("NRBMLC").

#### List of Subjects in 37 CFR Part 380

Copyright, Sound recordings.

#### Final Regulation

■ For the reasons set forth in the preamble, 37 CFR part 380 is amended as follows:

#### PART 380—RATES AND TERMS FOR CERTAIN ELIGIBLE NONSUBSCRIPTION TRANSMISSIONS, NEW SUBSCRIPTION SERVICES AND THE MAKING OF EPHEMERAL REPRODUCTIONS

■ 1. The authority citation for part 380 continues to read as follows:

**Authority:** 17 U.S.C. 112(e), 114(f).

#### § 380.3 [Amended]

■ 2. Section 380.3 is amended as follows:

- a. In paragraph (a)(1)(ii), by removing "\$0.0008" and adding "\$0.000762" in its place, by removing "\$0.0011" and adding "\$0.0008" in its place, and by removing "\$0.0014" and adding "\$0.0011" in its place; and
- b. In paragraph (a)(2)(iii), by removing "\$0.0008" and adding "\$0.000762" in its place, by removing "\$0.0011" and adding "\$0.0008" in its place, and by removing "\$0.0014" and adding "\$0.0011" in its place.

Dated: May 23, 2007.

**James Scott Sledge,**

*Chief Copyright Royalty Judge.*

[FR Doc. E7-10366 Filed 5-29-07; 8:45 am]

BILLING CODE 1410-72-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2007-0236; FRL-8315-9]

#### Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern Oxides of Nitrogen (NO<sub>x</sub>) emissions from Boilers, Steam Generators and Process Heaters (2.0 MMBtu/hr to 5.0 MMBtu/hr, and 0.075 MMBtu/hr to 2.0 MMBtu/hr); Dryers, Dehydrators, and Ovens; Natural Gas-Fired, Fan-Type

Residential Central Furnaces; and Solid Fuel Fired Boilers, Steam Generators and Process Heaters. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on July 30, 2007 without further notice, unless EPA receives adverse comments by June 29, 2007. 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–2007–0236, 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](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:* 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 the <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:** Francisco Dóñez, EPA Region IX, (415) 972–3956, [Donez.Francisco@epa.gov](mailto:Donez.Francisco@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?
  - B. Are there other versions of these rules?
  - C. What is the purpose of the submitted rules and rule revisions?
- II. EPA’s Evaluation and Action
  - A. How is EPA evaluating the rules?
  - B. Do the rules meet the evaluation criteria?
  - C. EPA recommendations to further improve the rules
  - D. Public comment and final action
- III. Statutory and Executive Order Reviews

#### I. The State’s Submittal

##### A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVUAPCD .....	4307	Boilers, Steam Generators and Process Heaters—2.0 MMBtu/hr to 5.0 MMBtu/hr.	04/20/06	10/05/06
SJVUAPCD .....	4308	Boilers, Steam Generators and Process Heaters—0.075 MMBtu/hr to 2.0 MMBtu/hr.	10/20/05	03/10/06
SJVUAPCD .....	4309	Dryers, Dehydrators, and Ovens .....	12/15/05	03/10/06
SJVUAPCD .....	4352	Solid Fuel Fired Boilers, Steam Generators and Process Heaters	05/18/06	10/05/06
SJVUAPCD .....	4905	Natural Gas-Fired, Fan-Type Residential Central Furnaces .....	10/20/05	03/10/06

On March 30, 2006, the submittals of Rules 4308, 4309, and 4905 were found to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review. On October 24, 2006, the submittals of Rules 4307 and 4352 were found to meet these completeness criteria.

##### B. Are there other versions of these rules?

Rules 4308, 4309, and 4905 are new rules submitted to us for the first time. There are no previous versions of Rule 4307 in the SIP, although the SJVUAPCD adopted an earlier version of this rule on December 15, 2005, and CARB submitted it to us on March 10, 2006. We approved a version of Rule 4352 into the SIP on February 11, 1999 (64 FR 6803). The SJVUAPCD adopted revisions to the SIP-approved version on May 18, 2006 and CARB submitted

them to us on October 5, 2006. While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals.

##### C. What is the purpose of the submitted rules and rule revisions?

NO<sub>x</sub> 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<sub>x</sub> emissions. The amendments to Rule 4307 are purely administrative, and do no change any emissions reduction requirements. New Rule 4308 requires that small boilers, steam generators and process heaters (0.075 to 2.0 million British thermal units per hour, MMBtu/hr) be certified to meet NO<sub>x</sub> emission limits. New Rule 4309 limits NO<sub>x</sub> and carbon monoxide

(CO) emissions from dryers, dehydrators and ovens with total rated heat input of 5.0 MMBtu/hr or greater. The amendments to Rule 4352 expand the rule’s scope to apply to units with potential NO<sub>x</sub> emissions of 10 tons per year; the emissions limits have also been strengthened. New Rule 4905 limits NO<sub>x</sub> emissions from natural gas-fired, fan-type residential central furnaces with a rated heat input capacity of less than 175,000 Btu/hr, or a rated cooling capacity of less than 65,000 Btu/hr for combination heating and cooling units. EPA’s technical support documents (TSD) 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 Technique Guideline (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 SJVUAPCD regulates a "serious" ozone nonattainment area (see 40 CFR part 81), so Rules 4307, 4308, 4309, 4352, and 4905 must fulfill RACT. In addition, the San Joaquin Valley is a "serious" particulate matter (PM-10) nonattainment area, and is therefore required under section 189(b)(1)(B) and (e) of the Act to implement Best Available Control Measures (BACM) (which includes Best Available Control Technology or BACT) for control of PM-10 precursor emissions, including NO<sub>x</sub>.

Guidance and policy documents that we use to help evaluate enforceability and RACT requirements 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<sub>x</sub> Supplement), 57 FR 55620, November 25, 1992.
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," U.S. EPA, May 25, 1988 (the Bluebook).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," U.S. EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters," California Air Resources Board, July 18, 1991.
5. "Alternative Control Techniques Document—NO<sub>x</sub> Emissions from Industrial/Commercial/Institutional (ICI) Boilers," U.S. EPA, EPA-453/R-94-022, March 1994.
6. "State Implementation Plans: Policy Regarding Excess Emissions during Malfunctions, Startup, and Shutdown," U.S. EPA Memorandum to Regional Administrators, September 20, 1999.

#### *B. Do the rules meet the evaluation criteria?*

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, BACM, and SIP relaxations. The TSDs have more information on our evaluation.

#### *C. EPA Recommendations to Further Improve the Rules*

The TSDs describe additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rules.

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

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill 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 rules. If we receive adverse comments by June 29, 2007, 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 July 30, 2007. This will incorporate these rules into the federally enforceable SIP.

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

#### **III. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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). This action 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. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission; to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. 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 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 July 30, 2007. 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

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

Dated: April 30, 2007.

**Laura Yoshii,**

*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.*

#### Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(344)(i)(C) and (347) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*  
(344) \* \* \*  
(i) \* \* \*

(C) San Joaquin Valley Unified Air Quality Management District.

(1) Rule 4307, adopted on October 20, 2005; Rule 4309, adopted on December 15, 2005; and Rule 4905, adopted on October 20, 2005.

\* \* \* \* \*

(347) New and amended regulations for the following APCDs were submitted on October 5, 2006, by the Governor's designee.

(i) Incorporation by reference.

(A) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 4307, adopted on April 20, 2006; and Rule 4352, adopted on May 18, 2006.

\* \* \* \* \*

[FR Doc. E7-10236 Filed 5-29-07; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 07-2040; MB Docket No. 05-143; RM-11221; RM-11286]

#### Radio Broadcasting Services; Romney and Wardensville, WV

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Audio Division, at the request of Hardy County Broadcast Associates, allots Channel 239A at Wardensville, West Virginia, as the community's first local FM service. Channel 239A can be allotted to Wardensville, West Virginia, in compliance with the Commission's minimum distance separation requirements with at city reference coordinates: 39-04-30 North Latitude and 78-35-53 West Longitude. Because Wardensville is located within the protected areas of the National Radio Astronomy Observatory "Quiet Zone" at Green Bank, West Virginia, the successful applicant for Channel 239A at Wardensville will be required to comply with the notification requirement of Section 73.1030(a) of the Commission's rules, 47 CFR 73.1030(a).

**DATES:** Effective June 25, 2007.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Deborah Dupont, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 05-143, adopted May 9, 2007, and released May 11, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC,

20554, (800) 378-3160, or via the company's Web site, <http://www.bcpweb.com>. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

##### § 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under West Virginia, is amended by adding Wardensville, Channel 239A.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. E7-10360 Filed 5-29-07; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 061213334-6334-01; I.D. 120806B]

**RIN 0648-AV05**

#### Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Interim Rule Extension

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

**ACTION:** Temporary rule; interim rule extension.

**SUMMARY:** This action extends interim measures that were implemented by the National Marine Fisheries Service (NMFS) on December 22, 2006, to reduce the potential for overfishing the Atlantic sea scallop (scallop) resource and causing excessive scallop mortality resulting from deck loading by reducing the number of limited access and general category scallop trips to the Elephant Trunk Access Area (ETAA), and prohibiting the retention of more