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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2010-0218; FRL-9135-3]

**Revisions to the California State Implementation Plan, Placer County Air Pollution Control District, Sacramento Metropolitan Air Quality Management District, San Joaquin Valley Unified Air Pollution Control District, and South Coast Air Quality Management District**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Placer County Air Pollution Control District (PCAPCD), Sacramento Metropolitan Air Quality Management District (SMAQMD), San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), and South Coast Air Quality Management District (SCAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from petroleum facilities, chemical plants, and facilities which use organic solvents. 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 6, 2010 without further notice, unless EPA

receives adverse comments by June 4, 2010. 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-2010-0218], 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 <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. Electronic files should avoid the use of special characters, any form

of encryption, and be free of any defects or viruses.

*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:** Nicole Law, EPA Region IX, (415) 947-4126, [law.nicole@epa.gov](mailto:law.nicole@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 or 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.

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted/ amended	Submitted
PCAPCD .....	216	Organic Solvent Cleaning and Degreasing Operations .....	12/11/03	07/18/08
SMAQMD .....	466	Solvent Cleaning .....	05/23/02	09/15/09
SJVUAPCD .....	4661	Organic Solvents .....	09/20/07	03/07/08
SCAQMD .....	1173	Control of Volatile Organic Compound Leaks and Releases from Components at Petroleum Facilities and Chemical Plants.	02/06/09	01/10/10

On January 21, 2010, EPA determined that the submittal for SMAQMD Rule 466 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review. On April 17, 2008, EPA determined that the submittal for SJVUAPCD Rule 4661 met the completeness criteria. On February 4, 2010, EPA determined that the

submittal for SCAQMD Rule 1173 met the completeness criteria. The July 18, 2008 submittal for PCAPCD Rule 216 became complete by operation of law on January 18, 2009.

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

There are no previous versions of SMAQMD Rule 466 in the SIP. We approved earlier versions of PCAPCD Rule 216, SJVUAPCD Rule 4661, and SCAQMD Rule 1173 into the SIP on April 30, 1996 (61 FR 18962), July 27, 2002 (67 FR 47701), and August 25,

1994 (59 FR 43751). SCAQMD adopted earlier versions of Rule 1173 on December 6, 2002 and June 1, 2007, and CARB submitted them to us on December 29, 2006 and April 6, 2009. The PCAPCD, SJVUAPCD, and SCAQMD adopted revisions to the SIP-approved versions on December 11, 2003, September 20, 2007, and February 6, 2009 and CARB submitted them to us on July 18, 2008, March 7, 2008, and January 10, 2010. 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 or rule revisions?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. The submitted rules control VOC emissions from petroleum facilities, chemical plants, and solvent usage. 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 (b)(2)), and must not relax existing requirements (see sections 110(l) and 193). The PCAPCD, SMAQMD, SJVUAPCD, and SCAQMD regulate ozone nonattainment areas (see 40 CFR part 81), so Rule 466, Rule 4661, and Rule 1173 must fulfill RACT.

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

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the *Bluebook*).
2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the *Little Bluebook*).
3. "Control of Volatile Organic Emissions from Solvent Metal Cleaning," EPA-450/2-77-022, November 1977.
4. "Control Techniques Guidelines for Industrial Cleaning Solvents," EPA-453/R-06-001, September 2006.
5. "Organic Solvent Cleaning and Degreasing Operations," CARB, July 18, 1991.

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

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, 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 we recommend 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 4, 2010, 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 6, 2010. This will incorporate the 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 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, 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 Order 12866 (58 FR 51735, October 4, 1993);

- 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 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.

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 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 July 6, 2010. 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 today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 18, 2010.

Jared Blumenfeld,

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)(354)(i)(E)(13) and

(359)(i)(C)(2) and (377)(i)(A)(2) and (378) to read as follows:

§ 52.220 Identification of plan.

- (c) \* \* \*
(354) \* \* \*
(i) \* \* \*
(E) \* \* \*
(13) Rule 4661, "Organic Solvents," amended on September 20, 2007.
(359) \* \* \*
(i) \* \* \*
(C) \* \* \*
(2) Rule 216, "Organic Solvent Cleaning and Degreasing Operations," amended on December 11, 2003.
(377) \* \* \*
(i) \* \* \*
(A) \* \* \*
(2) Rule 466, "Solvent Cleaning," adopted on May 23, 2002.
(378) New and amended regulations were submitted on January 10, 2010 by the Governor's designee.
(i) Incorporation by Reference.
(A) South Coast Air Quality Management District.
(1) Rule 1173, "Control of Volatile Organic Compound Leaks and Releases from Components at Petroleum Facilities and Chemical Plants," amended on February 6, 2009.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2009-0960; FRL-9137-8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVAPCD) portion of the California State Implementation Plan (SIP). These revisions were proposed in the Federal Register on January 22, 2010 and concern oxides of nitrogen (NOx) emissions from residential water heaters. We are approving a local rule that regulates this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Effective Date: This rule is effective on June 4, 2010.

ADDRESSES: EPA has established docket number EPA-R09-OAR-2009-0960 for this action. The index to the docket 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. Proposed Action
II. Public Comments and EPA Responses
III. EPA Action
IV. Statutory and Executive Order Reviews

I. Proposed Action

On January 22, 2010 (75 FR 3680), EPA proposed to approve the following rule into the California SIP.

Table with 5 columns: Local agency, Rule #, Rule title, Adopted, Submitted. Row 1: SJVAPCD, 4902, Residential Water Heaters, 3/19/09, 4/29/09

We proposed to approve this rule because we determined that it complied with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

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

III. EPA Action

No comments were submitted that change our assessment that the

submitted rule complies with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving this rule into the California SIP.