

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2011-0733; FRL-9501-5]

**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 (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on September 12, 2011 and concern volatile organic compound

(VOC) emissions from polyester resin operations. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** *Effective Date:* This rule is effective on March 7, 2012.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2011-0733 for this action. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g.,

confidential business information (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:** Andrew Steckel, EPA Region IX, (415) 974-4115, [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

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

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**I. Proposed Action**

On September 12, 2011 (76 FR 56132), EPA proposed to approve the following rule into the California SIP.

Local agency	Rule No.	Rule title	Amended	Submitted
SJVUAPCD .....	4684	Polyester Resin Operations .....	08/18/11	08/26/11

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.

Our proposed approval of Rule 4684 responded to a July 22, 2011 request from the State to parallel process a version of the Rule proposed for local adoption on August 18, 2011. On August 26, 2011, CARB submitted to EPA the version of Rule 4684 that was adopted locally on August 18, 2011. We have reviewed this version, and it is unchanged from the version we proposed for approval on September 12, 2011.

**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.

**IV. 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 disproportionate human health or environmental effects with practical, appropriate, 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 April 6, 2012. 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, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 18, 2011.

**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 paragraph (c)(405) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(405) New and amended regulations for the following APCDs were submitted on August 26, 2011 by the Governor's designee.

(i) Incorporation by reference.

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

(1) Rule 4684, "Polyester Resin Operations," amended on August 18, 2011.

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[FR Doc. 2012-2599 Filed 2-3-12; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 97

[EPA-HQ-OAR-2009-0491; FRL-9626-2]

#### Federal Implementation Plans for Iowa, Michigan, Missouri, Oklahoma, and Wisconsin and Determination for Kansas Regarding Interstate Transport of Ozone: Effect of Stay of Transport Rule

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

**ACTION:** Notice of Intent.

**SUMMARY:** A December 30, 2011 order of the U.S. Court of Appeals for the District of Columbia Circuit stayed the Transport Rule, also known as the Cross State Air Pollution Rule.<sup>1</sup> This document sets out EPA's interpretation of the effect of the Court's stay on the federal implementation plans finalized by EPA on December 15, 2011 (SNFR), which included the conclusion that Iowa, Kansas, Michigan, Missouri, Oklahoma, and Wisconsin significantly contribute to nonattainment or interfere with maintenance of the 1997 ozone National Ambient Air Quality Standards (NAAQS) in other states and required sources in five states to comply with the Transport Rule's ozone season NO<sub>x</sub> trading program.<sup>2</sup>

**DATES:** The effective date of this notice of intent is February 6, 2012.

**FOR FURTHER INFORMATION CONTACT:** Gabrielle Stevens, U.S. Environmental Protection Agency, Clean Air Markets Division, MC 6204J, Ariel Rios Building, 1200 Pennsylvania Ave. NW.,

<sup>1</sup> Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone in 27 States; Correction of SIP Approvals for 22 States: Final Rule (76 FR 48208, August 8, 2011). Available on the Web at <http://www.epa.gov/crossstaterule>.

<sup>2</sup> EPA did not finalize a FIP for Kansas with respect to the 1997 ozone NAAQS in the SNFR. EPA had previously approved a section 110(a)(2)(D)(i) SIP submission from the state of Kansas for the 1997 ozone and 1997 PM<sub>2.5</sub> NAAQS on March 9, 2007 (75 FR 10608), and that SIP submission did not rely on the unlawful CAIR trading programs or on the conclusion that compliance with CAIR was sufficient to satisfy its 110(a)(2)(D)(i)(I) obligations with respect to the 1997 ozone and PM<sub>2.5</sub> NAAQS. EPA therefore did not have the obligation to promulgate a FIP for Kansas under section 110(c)(1) of the CAA, and instead proposed a SIP Call for Kansas under section 110(k)(5) of the Act (76 FR 763, January 6, 2011). EPA proposed to find Kansas' SIP substantially inadequate to meet the requirements of 110(a)(2)(D)(i)(I) with respect to the 1997 ozone NAAQS based on the proposed conclusion that emissions from Kansas are significantly contributing to nonattainment or interfering with maintenance of the 1997 ozone NAAQS in another state. EPA has not taken final action yet on the proposed SIP Call.

Washington, DC 20460, telephone (202) 343-9252, email at [stevens.gabrielle@epa.gov](mailto:stevens.gabrielle@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On July 6, 2011, the EPA issued a final rule promulgating the Transport Rule (76 FR 48208, August 8, 2011). The Transport Rule limits the interstate transport of emissions of nitrogen oxides (NO<sub>x</sub>) and sulfur dioxide (SO<sub>2</sub>) that contribute to harmful levels of fine particulate matter (PM<sub>2.5</sub>) and ozone in downwind states. The rule identified emissions within 27 states in the eastern United States that significantly affect the ability of downwind states to attain and maintain compliance with the 1997 and 2006 fine particulate matter NAAQS and the 1997 ozone NAAQS. EPA established trading programs to reduce these emissions through Federal Implementation Plans (FIPs) that regulate electric generating units (EGUs) in the 27 states.

As explained in the preambles to the final Transport Rule (76 FR 48208) and the supplemental notice of final rulemaking (SNFR) (76 FR 80761), EPA updated and improved its modeling platforms and inputs in response to public comments received on the proposed Transport Rule and subsequent Notices of Data Availability (NODAs), and performed other updates. Therefore, some of the results of the analysis performed for the final Transport Rule differed from the results of the analysis conducted for the Transport Rule proposal. Under the proposed Transport Rule, EPA's analysis did not identify Wisconsin, Iowa, and Missouri as states that significantly contribute to nonattainment and/or interfere with maintenance of the ozone NAAQS in another state with respect to the 1997 ozone NAAQS. Under the final Transport Rule's analysis, however, the results indicated that emissions from these states do interfere with maintenance of the ozone NAAQS of another state. The results also showed that emissions from Missouri significantly contribute to nonattainment of the ozone NAAQS in another state. The analysis for the final rule also identified two ozone maintenance receptors, located in Allegan County, Michigan and Harford County, Maryland, which were not identified by modeling conducted for the proposed rule. The analysis indicated that five states—Iowa, Kansas, Michigan, Oklahoma, and Wisconsin—interfered with maintenance problems at these receptors. EPA did not include