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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2006-0055; FRL-8030-7]

**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 Air

Pollution Control District portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on August 30, 2005 and concern particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10) emissions from fugitive dust sources. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**EFFECTIVE DATE:** This rule is effective on March 20, 2006.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2006-0055 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:** Andrew Steckel, EPA Region IX, (415) 947-4115, [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

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

**I. Proposed Action**

On August 30, 2005 (70 FR 51303), EPA proposed to approve the following rules into the California SIP:

TABLE 1.—SUBMITTED RULES

Rule No.	Rule title	Adopted	Submitted
8011 .....	General Requirements .....	08/19/04	09/23/04
8021 .....	Construction, Excavation, Extraction, and Other Earthmoving .....	08/19/04	09/23/04
8031 .....	Bulk Materials .....	08/19/04	09/23/04
8041 .....	Carryout and Trackout .....	08/19/04	09/23/04
8051 .....	Open Areas .....	08/19/04	09/23/04
8061 .....	Paved and Unpaved Roads .....	08/19/04	09/23/04
8071 .....	Unpaved Traffic Areas .....	09/16/04	09/23/04
8081 .....	Agricultural Sources .....	09/16/04	09/23/04

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

**II. Public Comments**

EPA’s proposed action provided a 30-day public comment period. During this period, we received comments supportive of our approval of the rules from the following parties:

1. Roger A. Isom, California Cotton Ginners and Growers Association (CCGGA); letter dated January 10, 2006.
2. San Joaquin Valley agricultural groups: California Citrus Mutual; California Grape and Tree Fruit League; Fresno County Farm Bureau; Kings County Farm Bureau; Merced County Farm Bureau; Nisei Farmers League; letter dated January 10, 2006.

We received no adverse comments on our proposed action.

**III. EPA Action**

No comments were submitted that change our assessment that the submitted rules comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the

Act, EPA is fully approving these rules into the California SIP.

**IV. 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 these rules 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 these rules 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).

These rules also do not have tribal implications because they 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 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. These rules also are not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because they are not economically significant.

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 these rules 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 18, 2006. Filing a petition for reconsideration by the Administrator of these final rules do 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: January 24, 2006.

**Wayne Nastri,**

*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)(334) (i)(B)(2) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(334) \* \* \*

(i) \* \* \*

(B) \* \* \*

(2) Rules 8011, 8021, 8031, 8041, 8051, and 8061, amended on August 19, 2004 and Rules 8071 and 8081, amended on September 16, 2004.

\* \* \* \* \*

[FR Doc. 06-1413 Filed 2-16-06; 8:45 am]

**BILLING CODE 6560-50-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 112

[EPA-HQ-OPA-2005-0003; FRL-8033-9]

RIN 2050-AG28

#### Oil Pollution Prevention; Non-Transportation Related Onshore Facilities

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency is today extending the dates by which facilities must prepare or amend Spill Prevention, Control, and Countermeasure (SPCC) Plans, and implement those Plans. This action allows the Agency time to take final action on proposed revisions to the July 17, 2002 SPCC rule before owners and operators of facilities are required to meet requirements of that rule when preparing or amending their SPCC Plans.

**DATES:** This final rule is effective February 17, 2006.

**ADDRESSES:** The public docket for this final rule, Docket ID No. EPA-HQ-OPA-2005-0003, contains the information related to this rulemaking,

including the response to comment document. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information may not be publicly available, e.g., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Public Reading Room is 202-566-1744, and the telephone number to make an appointment to view the docket is 202-566-0276.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the Superfund, TRI, EPCRA, RMP, and Oil Information Center at (800) 424-9346 or TDD (800) 553-7672 (hearing impaired). In the Washington, DC metropolitan area, call (703) 421-9810 or TDD (703) 421-3323. For more detailed information on specific aspects of this final rule, contact either Vanessa Rodriguez at (202) 564-7913 ([rodriguez.vanessa@epa.gov](mailto:rodriguez.vanessa@epa.gov)), or Mark W. Howard at (202) 564-1964 ([howard.markw@epa.gov](mailto:howard.markw@epa.gov)), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC, 20460-0002, Mail Code 5104A.

#### SUPPLEMENTARY INFORMATION:

##### I. Authority

33 U.S.C. 1251 *et seq.*; 33 U.S.C. 2720; E.O. 12777 (October 18, 1991), 3 CFR, 1991 Comp., p. 351.

##### II. Background

On July 17, 2002, the Agency published a final rule that amended the SPCC regulations (*see* 67 FR 47042). The rule became effective on August 16, 2002. The final rule included compliance dates in § 112.3 for preparing, amending, and implementing SPCC Plans. The original compliance dates were amended on January 9, 2003 (*see* 68 FR 1348), again on April 17, 2003 (*see* 68 FR 18890), and a third time on August 11, 2004 (*see* 69 FR 48794).

Under the regulations in effect prior to this final rule, § 112.3(a) and (b) required a facility that was in operation on or before August 16, 2002 to make any necessary amendments to its SPCC