

EPA—APPROVED KANSAS NONREGULATORY PROVISIONS—Continued

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanation
(5) Letter Concerning Attainment of CO Standards	Kansas City	5/29/73	11/8/73, 38 FR 30876..	Correction notice published 3/2/76.
(6) Amendment to State Air Quality Control Law Dealing with Public Access to Emissions Data.	Statewide	7/27/73	11/8/73, 38 FR 30876..	Correction notice published 3/2/76.
(7) Analysis and Recommendations Concerning Designation of Air Quality Maintenance Areas.	Statewide	2/28/74	3/2/76, 41 FR 8960.	
(8) Ozone Nonattainment Plan	Kansas City	9/17/79	4/3/81, 46 FR 20165.	
(9) Ozone Nonattainment Plan	Douglas County	10/22/79	4/3/81, 46 FR 20165.	
(10) TSP Nonattainment Plan	Kansas City	3/10/80	4/3/81, 46 FR 20165.	
(11) Lead Plan	Statewide	2/17/81	10/22/81, 46 FR 51742.	
(12) CO Nonattainment Plan	Wichita	4/16/81	12/15/81, 46 FR 61117.	
(13) Air Monitoring Plan	Statewide	10/16/81	1/22/82, 47 FR 3112.	
(14) Letter and Supporting Documentation Relating to Reasonably Available Control Technology for Certain Particulate Matter Sources.	Kansas City	9/15/81	6/18/82, 47 FR 26387.	Correction notice published 1/12/84.
(15) Letter Agreeing to Follow EPA Interim Stack Height Policy for Each PSD Permit Issued Until EPA Revises the Stack Height Regulations.	Statewide	6/20/84	12/11/84, 49 FR 48185.	
(16) Letters Pertaining to Permit Fees	Statewide	3/27/86 9/15/87	12/21/87, 52 FR 48265.	
(17) Revisions to the Ozone Attainment Plan	Kansas City	7/2/86 4/16/87 8/18/87 8/19/87 1/6/88	5/18/88, 53 FR 17700.	
(18) Revised CO Plan	Wichita	3/1/85 9/3/87	10/28/88, 53 FR 43691.	
(19) Letter Pertaining to the Effective Date of Continuous Emission Monitoring Regulations.	Statewide	1/6/88	11/25/88, 53 FR 47690.	
(20) Letters Pertaining to New Source Permit Regulations, Stack Height Regulations, and Stack Height Analysis and Negative Declarations.	Statewide	3/27/86 12/7/87 1/6/88	4/20/89, 54 FR 15934.	
(21) PM ₁₀ Plan	Statewide	10/5/89 10/16/89	1/16/90, 55 FR 1422.	
(22) Ozone Maintenance Plan	Kansas City	10/23/91	6/23/92, 57 FR 27936.	
(23) Letter Pertaining to PSD NO _x Requirements	Statewide	9/15/92	1/12/93, 58 FR 3847.	
(24) Small Business Assistance Plan	Statewide	1/25/94	5/12/94, 59 FR 24644.	
(25) Letter Regarding Compliance Verification Methods and Schedules Pertaining to the Board of Public Utilities Power Plants.	Kansas City	12/11/92	10/18/94, 59 FR 52425.	
(26) Emissions Inventory Update Including a Motor Vehicle Emissions Budget.	Kansas City	5/11/95	4/25/96, 59 FR 52425.	
(27) Air monitoring plan	Statewide	1/6/02	8/30/02, 67 FR 55728.	

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**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Part 52

[CA261-0420a; FRL-7582-2]

**Revisions to the California State
Implementation Plan, San Diego
County Air Pollution Control District;
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 Diego County Air Pollution Control District (SDCAPCD) and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from the metal parts and aerospace coating industries. 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 January 13, 2004 without further notice, unless EPA receives adverse comments by

December 15, 2003. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Send comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, or e-mail to steckel.andrew@epa.gov, or submit comments at <http://www.regulations.gov>.

You can inspect copies of the submitted SIP revisions, EPA's technical support documents (TSDs), and public comments at our Region IX office during normal business hours by appointment. You may also see copies of the submitted SIP revisions by appointment at the following locations:

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B-102, 1301 Constitution

Avenue, NW., (Mail Code 6102T), Washington, DC 20460;
 California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814;
 San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123;
 San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Street, Fresno, CA, 93726.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA website and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, EPA Region IX, at either (415) 947-4111, or wamsley.jerry@epa.gov.

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

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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 #	Rule title	Adopted	Submitted
SDCAPCD	67.3	Metal Parts and Products	04/09/03	06/05/03
SJVUAPCD	4605	Aerospace Assembly and Component Coating Operations.	12/20/01	02/20/02

On July 18, 2003 for SDCAPCD Rule 67.3 and March 15, 2002 for SJVUAPCD Rule 4605, EPA found these rule submittals met the completeness criteria in 40 CFR Part 51 Appendix V.

B. Are There Other Versions of These Rules?

We approved a version of SDCAPCD Rule 67.3 into the SIP on March 27, 1997 (see 62 **Federal Register** (FR) 14639). Similarly, we approved a version of SJVUAPCD Rule 4605 into the SIP on August 17, 1998 (see 63 FR 43884). Between these SIP incorporations and today, CARB has made no intervening submittals of these two rules.

C. What Is The Purpose of the Submitted 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.

SDCAQMD Rule 67.3 is designed to reduce volatile organic compound (VOC) emissions at industrial sites engaged in metal parts and product coating operations. VOCs are emitted during the preparation and coating of the metal parts and products, as well as the drying phase of the coating process.

Rule 67.3 establishes general emission limits in units of pound of VOC per gallon of coating (lb/gal), and grams of VOC per litre (gr/l) of coating, less water and exempt compounds as applied. Also, the rule allows the use of add-on emission controls whose combined capture and control efficiency must be 85 percent or better and specifies certain operating equipment. The rule also contains provisions for appropriate methods of analysis, exemptions, alternative emission control plans (pursuant to Rule 67.1), record keeping, and emission reduction credits.

SDCAPCD's April 9, 2003 amendments to Rule 67.3 included these significant changes to the May 15, 1996 adopted version within the SIP.

- An exemption was added for specialty sign painting and construction.
- The VOC content definition was deleted and referenced to Rule 2, Subsection (b)(52).

SJVUAPCD Rule 4605 is designed to reduce volatile organic compound (VOC) emissions at industrial sites engaged in manufacturing, assembling, coating, masking, bonding, paint stripping, surface cleaning, service, and maintenance of aerospace components. VOCs are emitted during the preparation, coating, and drying phase

of any of the above listed processes. Rule 4605 establishes general emission limits of VOC per liter of coating less water and exempt compounds as applied. It also allows for the use of add-on emission controls with a combined capture/control efficiency of approximately 81 percent.

SJVUAPCD's December 20, 2001 amendments to Rule 4605 included the following significant changes to its 1998 SIP-limited approved/disapproved version.

- The rule's purpose and applicability statements were changed to include organic solvent cleaning as well as the storage and disposal of organic solvents and waste solvent materials derived from coating operations subject to the rule. The majority of changes to the rule stem from adding organic solvent use, disposal, and storage requirements to the rule.
- Eleven new definitions were added to the rule to support the new rule amendments.
- In Table 1, May 1, 2002 emission limits are delayed until May 1, 2003. However, this change affects only Adhesive Bonding Primer requirements. Adhesive Bonding Primer requirements are amended beginning May 1, 2003. First, several sub-categories are deleted and

renamed reducing them from 8 to 6. Of these renamed subcategories of Adhesive Bonding Primer, All Military Aircraft, Remanufactured Commercial Aircraft Parts, and Sonic and Acoustic Applications are given a content requirement of 805 grams per liter (gr/l) where they had been assigned requirement of 250 gr/l.

- A requirement for enclosed equipment cleaning is added at Section 5.2.3.
- High Volume Low Pressure spray application requirements were defined at Section 5.5.3.
- Records must be retained for 5 years.

The respective TSD each rule has more information about each rule and its revisions.

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 major sources in nonattainment areas (*see* section 182(a)(2)(A)), and must not relax existing requirements (*see* sections 110(l) and 193). Both the SDCAPCD and SJVUAPCD regulate an ozone nonattainment area (*see* 40 CFR part 81), so each rule must fulfill RACT.

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

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987;
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. "Control of Volatile Organic Emissions from Existing Stationary Sources Volume VI: Surface Coating of Miscellaneous Metal Parts and Products," USEPA, June 1978, EPA-450/2-78-015; and,
5. "Control of Volatile Organic Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations," USEPA, 1997, EPA-453/R-97-004.

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. While the revisions to SDCAPCD Rule 67.3 and SJVUAPCD

Rule 4605 contain specific rule relaxations, SDCAPCD and SJVUAPCD have provided analyses demonstrating that the added emissions resulting from these rule relaxations are either a de minimis amount in the case of SDCAPCD Rule 67.3, or offset by emission reductions elsewhere in the case of SJVUAPCD Rule 4605. Given these analyses, we find that neither reasonable further progress towards, nor achievement of the air quality standards will be jeopardized.

The respective TSD for each rule has more detailed information on these analyses and our evaluation.

C. EPA Recommendations To Further Improve the Rules

We have no 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 December 15, 2003, 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 January 13, 2004. 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 is 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. section 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. section 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 January 13, 2004. 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 16, 2003.

Debra Jordan,

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)(294)(i)(A)(5) and (c)(316)(i)(C) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *
(294) * * *
(i) * * *
(A) * * *

(5) Rule 4605 adopted on December 19, 1991 and amended on December 20, 2001.

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(316) * * *
(i) * * *

(C) San Diego County Air Pollution Control District.

(1) Rule 67.3 adopted on May 9, 1979 and amended on April 9, 2003.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE067-1041a; FRL-7586-2]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Revisions to Stage I and Stage II Vapor Recovery at Gasoline Dispensing Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Delaware State Implementation Plan (SIP). The revisions allow existing gasoline dispensing facilities to continue using installed vapor recovery equipment and require new gasoline dispensing facilities to be equipped with the most recently approved system. EPA is proposing to approve these revisions in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on January 13, 2004 without further notice, unless EPA receives adverse written comment by December 15, 2003. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be mailed to Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to *morris.makeba@epa.gov* or to *http://www.regulations.gov*, which is an alternative method for submitting electronic comments to EPA. To submit

comments, please follow the detailed instructions described in Part III of the Supplementary Information section. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; and Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Catherine L. Magliocchetti, at (215) 814-2174, or by e-mail at *magliocchetti.catherine@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On April 12, 2002, the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of revisions to the State's regulations pertaining to the Control of Volatile Organic Compound Emissions, in particular, Stage I and Stage II vapor recovery at gasoline dispensing stations. The SIP revision went to public hearing on September 24, 2001 and became effective on January 11, 2002.

II. Summary of SIP Revision

The 1990 Clean Air Act Amendments (CAAA) required states to develop regulations requiring owners or operators of certain gasoline dispensing facilities to install systems for recovery of gasoline vapor emissions. These requirements are also known as Stage I and Stage II Vapor Recovery and are required in areas classified as moderate and above ozone nonattainment. Stage I is the control of gasoline vapors when dispensing gasoline from tankers into gasoline storage tanks. Stage II is the control of gasoline vapors when dispensing gasoline into vehicle fuel tanks from the gasoline storage tanks.

The DNREC adopted definitions pertaining to the Control of Volatile Organic Compound Emissions (under Regulation 24, section 2), Stage I regulations (under Regulation 24, section 26) and Stage II regulations (under Regulation 24, section 36) on January 11, 1993 which became immediately effective. These regulations were submitted to EPA as a SIP revision on January 11, 1993. The definitions