

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[CA-121-CORR; FRL-7807-2]

**Approval and Promulgation of Implementation Plans for California—San Joaquin Valley PM-10****AGENCY:** U.S. Environmental Protection Agency (EPA).**ACTION:** Final rule; correction.

**SUMMARY:** This action corrects language in Title 40 of the Code of Federal Regulations that appeared in a final rule published in the **Federal Register** on May 26, 2004, relating to the particulate matter (PM-10) State Implementation Plan (SIP) for the San Joaquin Valley portion of California.

**DATES:** *Effective Date:* This action is effective October 4, 2004.

**FOR FURTHER INFORMATION CONTACT:** Doris Lo, EPA Region IX, (415) 972-3959, *lo.doris@epa.gov*.

**SUPPLEMENTARY INFORMATION:** On May 26, 2004 (69 FR 30006), EPA published a final rule approving the “2003 PM10 Plan, San Joaquin Valley Plan to Attain Federal Standards for Particulate Matter 10 Microns and Smaller,” submitted on August 19, 2003, and amendments to that plan submitted on December 30, 2003 (collectively, “2003 PM-10 Plan”), as meeting the Clean Air Act (CAA) requirements applicable to the San Joaquin Valley (SJV) nonattainment area for particulate matter of ten microns or less (PM-10). The final rule contained amendments to 40 CFR part 52, subpart F. The final rule, which incorporated material by reference in Sec. 52.220, Identification of plan, inadvertently omitted a paragraph relating to the following submittal, which was incorporated by reference in the 2003 PM-10 Plan and approved by EPA in the May 26, 2004 action: Appendix E (“Regional Transportation Planning Agency Commitments for Implementation”) to the “Amended 2002 and 2005 Ozone Rate of Progress Plan for San Joaquin Valley,” adopted on December 19, 2002, and submitted by the California Air Resources Board on April 10, 2003.<sup>1</sup> In the May 26, 2004

<sup>1</sup> The San Joaquin Valley Unified Air Pollution Control District mistakenly identified these materials as “Appendix F” in the Table of Contents to the April 10, 2003 submittal, but the document itself is titled “Appendix E.” In the May 26, 2004 final rule, EPA refers to the ozone ROP plan in some places as the “2002 Ozone ROP Plan” and in other places as the “2003 Ozone ROP Plan.” The SJV Ozone ROP Plan, was originally adopted in May 2002 and submitted in September 2002, but this submittal was wholly replaced by the amended

action, EPA approved these materials as Transportation Control Measures (TCMs), which were explicitly included by reference in the 2003 PM-10 Plan in order to address the Best Available Control Measure (BACM) provisions for PM-10 with respect to TCMs. See 69 FR 30020-21, and 30035. In today’s action, Appendix E of the April 10, 2003 submittal is being added in its entirety to 40 CFR 52, subpart F, as new paragraph (c)(330)(i)(A)(1). This action makes no other corrections to the May 26, 2004 final rule.

In this action, EPA is simply correcting an omission and amending the regulatory language accordingly. The affected provisions were previously subject to notice and comment prior to EPA approval. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedures are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment.

**Administrative Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and, is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (P.L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule

plan referenced above. The two plans contain an identical version of Appendix E. Because the ROP plan submitted in September 2002 has been replaced by the ROP plan submitted in 2003, EPA is incorporating Appendix E as included in the 2003 submittal. EPA determined that the April 10, 2003 SIP submittal was complete on September 4, 2003, pursuant to CAA section 110(k)(1)(B) and 40 CFR 51, Appendix V.

and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today’s **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 13, 2004.

**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 paragraph (c)(330) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*  
(330) The following plan was submitted on April 10, 2003 by the Governor’s designee.

(i) Incorporation by reference.  
(A) San Joaquin Valley Unified Air Pollution Control District.

(1) Amended 2002 and 2005 Ozone Rate of Progress Plan for San Joaquin Valley, adopted on December 19, 2002.

(i) Appendix E, “Regional Transportation Planning Agency Commitments for Implementation.”

\* \* \* \* \*

[FR Doc. 04-20136 Filed 9-2-04; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency****44 CFR Part 64**

[Docket No. FEMA-7843]

**Suspension of Community Eligibility**

**AGENCY:** Federal Emergency Management Agency, Emergency