

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. 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. 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 May 22, 2006. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 13, 2006.

**Carol Rushin,**

*Acting Regional Administrator, Region 8.*

■ 40 CFR part 52 is amended to read 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 G—Colorado

■ 2. Section 52.320 is amended by adding paragraph (c)(110) to read as follows:

##### § 52.320 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(110) A Revision to the State Implementation Plan was submitted by the State of Colorado on April 12, 2004. The revision corrects a clerical error in Section VIII.A of Regulation No. 1.  
(i) Incorporation by reference.  
(A) Colorado Regulation No. 1, 5CCR 1001-3, Section VIII.A, adopted June 19, 2003, effective August 31, 2003.

[FR Doc. 06-2812 Filed 3-22-06; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2005-0556a; FRL-8046-6]

### Revisions to the California State Implementation Plan, 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

Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from components at petroleum refineries, chemical plants, light crude oil production facilities, and natural gas production and processing facilities. 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 May 22, 2006 without further notice, unless EPA receives adverse comments by April 24, 2006. 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-2005-0556a, by one of the following methods:

1. Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the online 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 [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or e-mail.

[www.regulations.gov](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. Docket: The index to the docket for this action is available electronically at [www.regulations.gov](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:**

Jerald S. Wamsley, EPA Region IX, at either (415) 947-4111, or [wamsley.jerry@epa.gov](mailto: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 date that they were adopted by the SJVUAPCD and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVUAPCD .....	4403	Components Serving Light Crude Oil or Gases at Light Crude Oil and Gas Production Facilities and Components at Natural Gas Processing Facilities.	04/20/05	07/15/05
SJVUAPCD .....	4409	Components at Light Crude Oil Production Facilities, Natural Gas Production Facilities, and Natural Gas Processing Facilities.	04/20/05	07/15/05
SJVUAPCD .....	4451	Valves, Pressure Relief Valves, Flanges, Threaded Connections, and Process Drains at Petroleum Refineries and Chemical Plants.	04/20/05	07/15/05
SJVUAPCD .....	4452	Pump and Compressor Seals at Petroleum Refineries and Chemical Plants	04/20/05	07/15/05
SJVUAPCD .....	4455	Components at Petroleum Refineries, Gas Liquids Processing Facilities, and Chemical Plants.	04/20/05	07/15/05

On August 18, 2005, we found these rule submittals met the completeness criteria in 40 CFR part 51, appendix V. The State must meet these criteria before formal EPA review may begin.

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

There are previous versions of Rules 4403 and 4452 in the SIP. We last acted on Rules 4403 and 4452 on February 1, 1996 (see 61 **Federal Register** (FR) 3579) and November 16, 2001 (see 66 FR 57666), respectively. Since our actions, CARB has made no intervening submittals of these rules. Rule 4451 was adopted on April 11, 1991 and revised subsequently, but SJVUAPCD has not submitted the rule to EPA for SIP incorporation until now. Finally, Rules 4409 and 4455 are newly adopted and submitted rules; consequently, there are no previous versions of these rules in the SIP.

*C. What is the purpose of the submitted rules?*

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 concern fugitive emissions from various components at petroleum refineries, chemical plants, crude oil production facilities, and natural gas production and processing facilities. The general purpose of these rules is to reduce the number and severity of leaking

components by regular inspection, repair, and replacement requirements, as well as mandating violations and penalties above a certain leak threshold. SJVUAPCD has amended Rules 4403, 4451, and 4452 causing them to expire by April 20, 2006. In turn, Rules 4409 and 4455, consistent with their compliance schedules, will replace Rules 4403, 4451, and 4452. Specifically, Rule 4409 is to replace Rule 4403 and Rule 4455 is to replace Rule 4451 and Rule 4452.

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 major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). The SJVUAPCD regulates a 1-hour ozone nonattainment area (see 40 CFR part 81), so Rules 4403, 4409, 4451, 4452, and 4455 must fulfill RACT.

Guidance and policy documents that we use 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 Cut-points, 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 Technique Guideline on Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants,” USEPA-450/3-83-007, December 1983.

*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. As we pointed out earlier, SJVUAPCD has amended Rules 4403, 4451, and 4452 causing them to expire by April 20, 2006. In turn, Rule 4409 is to replace Rule 4403 and Rule 4455 is to replace Rule 4451 and Rule 4452. These substitutions raise concerns about SIP relaxations. However, after our review, we find that Rules 4409 and 4455 have more stringent leak criteria, leak rates, and shorter repair periods than Rules 4403, 4451 and 4452. Also, Rules 4409 and 4455 have retrofit and repair requirements not found in the rules they replace. Finally, Rules 4409 and 4455 have updated test methods and recordkeeping requirements for determining compliance. In sum, Rules 4409 and 4455 either make more stringent, or maintain the requirements in the rules they will replace.

The TSDs have more information on our evaluation.

*C. EPA Recommendations to Further Improve the Rules*

We have no recommendations 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 April 24, 2006, 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 May 22, 2006. 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 submittal, 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 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. 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 May 22, 2006. 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: February 16, 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)(337)(i)(A)(2) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*  
 (337) \* \* \*  
 (i) \* \* \*  
 (A) \* \* \*

(2) Rule 4403, adopted on April 11, 1991 and revised on April 20, 2005; Rule 4409 adopted on April 20, 2005; Rule 4451 adopted on April 11, 1991 and revised on April 20, 2005; Rule 4452 adopted on April 11, 1991 and revised on April 20, 2005; and, Rule 4455 adopted on April 20, 2005.

\* \* \* \* \*

[FR Doc. 06–2814 Filed 3–22–06; 8:45 am]