

recommended decision as promptly as is consistent with its statutory responsibilities.

(4) In order to assist in the rapid development of an adequate evidentiary record, all participants may file appropriate discovery requests on other participants as soon as an Express Mail Market Response Rate Request is filed. Answers to such discovery requests will be due within 10 days. Objections to such discovery requests must be made within 10 days in the form of a Motion to Excuse from Answering, with service on the questioning participant made by hand, facsimile, or expedited delivery. Responses to Motions to Excuse from Answering must be submitted within seven days, and should such a motion be denied, the answers to the discovery in question are due within seven days of the denial thereof. It is the Commission's intention that parties resolve discovery disputes informally between themselves whenever possible. The Commission, therefore, encourages the party receiving discovery requests considered to be unclear or objectionable to contact counsel for the party filing the discovery requests whenever further explanation is needed, or a potential discovery dispute might be resolved by means of such communication.

(5) If, either on its own motion, or after having received a request for a hearing, the Commission concludes that there exist one or more genuine issues of material fact and that a hearing is needed, the Commission shall expedite the conduct of such record evidentiary hearings to meet both the need to respond promptly to changed circumstances in the market and the standards of 5 U.S.C. 556 and 557. The procedural schedule, subject to change as described in paragraph (e)(6) of this section, is as follows: Hearings on the Postal Service case will begin 35 days after the filing of an Express Mail Market Response Rate Request; parties may file evidence either in support of or in opposition to the Postal Service proposal 49 days after the filing; hearings on the parties' evidence will begin 56 days after the filing; briefs will be due 70 days after the filing; and reply briefs will be due 77 days after the filing.

(6) The Presiding Officer may adjust any of the schedule dates prescribed in (e)(5) of this section in the interests of fairness, or to assist in the development of an adequate evidentiary record. Requests for the opportunity to present evidence to rebut a submission by a participant other than the Postal Service should be filed within three working days of the receipt of that material into

the evidentiary record, and should include a description of the evidence to be offered and the amount of time needed to prepare and present it. Requests for additional time will be reviewed with consideration as to whether the requesting participant has exercised due diligence, and whether the requesting participant has been unreasonably delayed from fully understanding the proposal.

§ 3001.57c Express Mail Market Response—rule for decision.

The Commission will issue a recommended decision in accordance with the policies of 39 U.S.C., and which it determines would be a reasonable response to the change in the market for expedited delivery services. The purpose of §§ 3001.57 through 3001.57c is to allow for consideration of Express Mail Market Response Rate Requests within 90 days, consistent with the procedural due process rights of interested persons.

Issued by the Commission on February 17, 1995.

Margaret P. Crenshaw,
Secretary.

[FR Doc. 95-5115 Filed 3-3-95; 8:45 am]

BILLING CODE 7710-FW-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 95-3-6638a; FRL-5159-9]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern a rule from the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD). The revised rule controls emissions of volatile organic compounds (VOCs) from in-situ combustion well vents. This approval action will incorporate this rule into the Federally approved SIP. The intended effect of approving this rule is to regulate VOC emissions in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In addition, the final action on this rule serves as a final determination that the finding of

nonsubmittal for this rule has been corrected and that on the effective date of this action, any Federal Implementation Plan (FIP) clock is stopped. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This final rule is effective on May 5, 1995 unless adverse or critical comments are received by April 5, 1995. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report for the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 92123-1095.

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, suite 200, Fresno, CA 93721.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Section (A-5-3), Air and Toxics Division, U.S.

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1200.

SUPPLEMENTARY INFORMATION:

Applicability

The rule being approved into the California SIP is SJVUAPCD Rule 4407, In-Situ Combustion Well Vents. This rule was submitted by the California Air Resources Board (CARB) to EPA on July 13, 1994.

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the San Joaquin Valley Area which encompassed the following eight air pollution control districts (APCDs): Fresno County APCD, Kern County

APCD,¹ Kings County APCD, Madera County APCD, Merced County APCD, San Joaquin County APCD, Stanislaus County APCD, and Tulare County APCD. 43 FR 8964, 40 CFR 81.305. Because some of these areas were unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987.² 40 CFR 52.222. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the above districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(b)(2)(C) of the CAA, Congress statutorily required nonattainment areas to submit reasonably available control technology (RACT) rules for all major sources of VOCs by November 15, 1992 (the RACT catch-up requirement).

On March 20, 1991, the SJVUAPCD was formed. The SJVUAPCD has authority over the San Joaquin Valley Air Basin which includes all of the above eight counties except for the Southeast Desert Air Basin portion of Kern County. Thus, Kern County Air Pollution Control District still exists, but only has authority over the Southeast Desert Air Basin portion of Kern County.

Section 182(b)(2) applies to areas designated as nonattainment prior to enactment of the amendments and classified as moderate or above as of the date of enactment. It requires such areas to adopt RACT rules pursuant to section 172(b) as interpreted in pre-amendment guidance.³ The San Joaquin Valley Area

¹ At that time, Kern County included portions of two air basins: the San Joaquin Valley Air Basin and the Southeast Desert Air Basin. The San Joaquin Valley Air Basin portion of Kern County was designated as nonattainment, and the Southeast Desert Air Basin portion of Kern County was designated as unclassified. See 40 CFR 81.305 (1991).

² This extension was not requested for the following counties: Kern, King, Madera, Merced, and Tulare. Thus, the attainment date for these counties remained December 31, 1982.

³ Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register Notice**" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988);

is classified as serious⁴; therefore, this area was subject to the RACT catch-up requirement and the November 15, 1992 deadline.⁵

The State of California submitted many RACT rules for incorporation into its SIP on July 13, 1994, including the rule being acted on in this document. This document addresses EPA's direct-final action for SJVUAPCD Rule 4407, In-situ Combustion Well Vents. The SJVUAPCD adopted Rule 4407 on May 19, 1994. This submitted rule was found to be complete on July 22, 1994 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V⁶ and is being finalized for approval into the SIP.

Rule 4407 controls emissions of VOCs from crude oil production wells where production has been enhanced by the heat of combustion resulting from air injected into the oil reservoir. VOCs contribute to the production of ground level ozone and smog. This rule was adopted as part of the SJVUAPCD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to the section 182(b)(2)(C) CAA requirement. The following is EPA's evaluation and final action for this rule.

EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 3. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This

and the existing control technique guidelines (CTGs).

⁴ The San Joaquin Valley Area retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

⁵ California did not make the required SIP submittals by November 15, 1992. On January 15, 1993, the EPA made a finding of failure to make a submittal pursuant to section 179(a)(1), which started an 18-month sanction clock. The rule being acted on in this Notice of Direct Final Rulemaking was submitted in response to the EPA finding of failure to submit.

⁶ EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "catch-up" their RACT rules. See section 182(b)(2). For some source categories, such as in-situ combustion well vents, EPA has not published a CTG. In such cases, the air pollution control agency may determine what controls are required to satisfy the RACT requirement by reviewing the operations of facilities within the affected source category. In that review, the technological and economic feasibility of the proposed controls are considered. Additionally, for both CTG and non-CTG rules, the air pollution control agency may rely on EPA policy documents, such as the Blue Book, to ensure that the adopted VOC rules are fully enforceable and strengthen or maintain the SIP.

SJVUAPCD's submitted Rule 4407, In-Situ Combustion Well Vents, is a new rule which controls VOC emissions from well vents by requiring either the use of an emissions control device which reduces well vent emissions by 85%, or routing emissions to fuel burning equipment or a smokeless flare. Rule 4407 also requires leak inspection and repair, annual compliance testing of control systems, and recordkeeping for operations, inspections and maintenance.

EPA has evaluated the submitted rule and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, SJVUAPCD is being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D. If this direct final action is not withdrawn, on May 5, 1995, any FIP clock is stopped.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this document without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate

document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective May 5, 1995, unless, by April 5, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective May 5, 1995.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. §§ 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over population of less than 50,000.

SIP approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: February 8, 1995.

Felicia Marcus,

Regional Administrator.

Subpart F of 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. 7401-7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(198)(i)(C) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(198) * * *

(i) * * *

(C) San Joaquin Valley Unified Air Pollution Control District

(1) Rule 4407, adopted on May 19, 1994.

* * * * *

[FR Doc. 95-5342 Filed 3-3-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[MA-30-1-6846a; A-1-FRL-5158-4]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; VOC RACT for Brittany Dyeing and Printing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision consists of a reasonably available control technology (RACT) Plan Approval for controlling volatile organic compound (VOC) emissions from Brittany Dyeing and Printing Corporation of New Bedford, Massachusetts. The intended effect of this action is to approve a source-specific RACT determination made by the Commonwealth of Massachusetts in accordance with commitments of its approved 1982 ozone attainment plan. This action is being taken in accordance with the Clean Air Act.

DATES: This final rule is effective May 5, 1995, unless notice is received by April

5, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Linda M. Murphy, Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., (LE-131), Washington, DC 20460; and Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT:

Anne E. Arnold, (617) 565-3166.

SUPPLEMENTARY INFORMATION: On March 31, 1994, the Commonwealth of Massachusetts submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of a reasonably available control technology (RACT) Plan Approval for controlling volatile organic compound (VOC) emissions from Brittany Dyeing and Printing Corporation of New Bedford, Massachusetts.

Background Information

On November 9, 1983 (48 FR 51480), EPA approved Massachusetts Regulation 310 CMR 7.18(17) "Reasonably Available Control Technology," as part of the Commonwealth of Massachusetts 1982 ozone attainment plan. This regulation requires the Massachusetts Department of Environmental Protection to determine and impose RACT on all facilities with the potential to emit one hundred tons per year or more of VOC that are not already subject to Massachusetts' regulations developed pursuant to the EPA Control Techniques Guideline (CTG) documents.¹

Summary of SIP Revision

On March 31, 1994, Massachusetts submitted a RACT Plan Approval for Brittany Dyeing and Printing. EPA has reviewed this Plan Approval against the

¹ On February 12, 1993, Massachusetts revised 310 CMR 7.18(17) to apply to 50 ton per year facilities pursuant to Section 182 of the Clean Air Act Amendments of 1990. This revised rule has not yet been approved into the Massachusetts SIP.