

Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of \$100 million;

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal

regulation was not considered a major rule.

*Unfunded Mandates*

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on any local, State, or Tribal governments or private entities.

**List of Subjects in 30 CFR Part 934**

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 12, 2001.

**Brent Wahlquist,**  
*Regional Director, Western Regional Coordinating Center.*

For the reasons set out in the preamble, 30 CFR part 934 is amended as set forth below:

**PART 934—NORTH DAKOTA**

1. The authority citation for part 934 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 934.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

**§ 934.15 Approval of North Dakota's regulatory program amendments.**

\* \* \* \* \*

| Original amendment submission date | Date of final publication | Citation/description |
|------------------------------------|---------------------------|----------------------|
| *<br>May 9, 2001                   | *<br>November 16, 2001    | *<br>NDCC 38-14.1    |

[FR Doc. 01-28759 Filed 11-15-01; 8:45 am]  
BILLING CODE 4310-05-P

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 938**

[PA-132-FOR]

**Pennsylvania Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Final rule.

**SUMMARY:** The Secretary of the Interior (Secretary) is approving legislation submitted by Pennsylvania as part of its regulatory program (Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Pennsylvania submitted the legislation to satisfy a condition of program approval found at 30 CFR 938.11(i). The condition requires the submission of enacted laws providing for the award of costs and expenses that are no less effective than 30 CFR 840.15 and in accordance with section 525(e) of SMCRA.

**EFFECTIVE DATE:** November 16, 2001.

**FOR FURTHER INFORMATION CONTACT:** Beverly Brock, Acting Director, Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office,

Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101, Telephone: (717) 782-4036, email: bbrock@osmre.gov.

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Pennsylvania Program
- II. Pennsylvania's Submission
- III. Secretary's Findings
- IV. Summary and Disposition of Comments
- V. Secretary's Decision
- VI. Procedural Determinations

**I. Background on the Pennsylvania Program**

Section 503(a) of SMCRA permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act \* \* \*" and "rules and regulations consistent with regulations issued by the Secretary" pursuant to the Act. 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary conditionally approved the Pennsylvania program on July 30, 1982. You can find background information on the Pennsylvania program, including the Secretary's findings, the disposition of comments, and the conditions of the approval in the July 30, 1982, **Federal Register** (47 FR 33050). Subsequent actions

concerning the Pennsylvania program and previous amendments are codified at 30 CFR 938.11, 938.12, 938.15 and 938.16.

**II. Pennsylvania's Submission**

By letter dated January 3, 2001, (Administrative Record Number PA 848.25), the Pennsylvania Department of Environmental Protection (PADEP) submitted legislation consisting of excerpts of House Bill 393 regarding attorney costs and expenses associated with administrative legal proceedings relating to coal mining for Secretarial approval. House Bill 393 amends Title 27 of the Pennsylvania Consolidated Statutes by adding section 7708 titled, "Costs for Mining Proceedings."

The full text of Pennsylvania's submission was published in the February 15, 2001, **Federal Register** (66 FR 10405). The public comment period closed on March 19, 2001. OSM received two comments. No one requested an opportunity to speak at a public hearing, so no hearing was held.

**III. Secretary's Findings**

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Secretary's findings concerning the legislation submitted by Pennsylvania.

Section 1 of House Bill 393 amends Title 27 of the Pennsylvania Consolidated Statutes by adding Chapter 77, "Costs and Fees," section 7708. Section 7708 (a) states that

purpose of the section is to "provide costs and fees to the same extent of section 525(e) of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87, 30 U.S.C. 1201 *et seq.*) and the regulations promulgated pursuant thereto." The Secretary finds that this portion of the legislation is in keeping with the requirements of the program condition at 30 CFR 938.11 that requires Pennsylvania to submit legislation in accordance with section 525(e) of SMCRA. The Secretary is approving this portion of the submission.

Section 7708 (b) provides that, "Any party may file a petition for award of costs and fees reasonably incurred as a result of that party's participation in any proceeding involving coal mining activities which results in a final adjudication being issued by the Environmental Hearing Board or a final order being issued by an appellate court." The Secretary finds that this provision is consistent with the provision in the Federal regulations at 43 CFR 4.1290. The Secretary is approving this portion of the submission.

Section 7708 (c) defines who may receive an award. Subsection (1) defines the circumstances under which appropriate costs and fees may be awarded to any person from the permittee. This section is substantively identical to the provisions in the Federal regulations at 43 CFR 4.1294(a). The Secretary is approving this portion of the submission.

Subsection (2) defines the circumstances under which appropriate costs and fees may be awarded to any party, other than a permittee or his representative, from the department. This section is substantively identical to the provisions in the Federal regulations at 43 CFR 4.1294(b). The Secretary is approving this portion of the submission.

Subsection (3) provide that costs and fees may be awarded to a permittee from the department when the permittee demonstrates that the department in a matter concerning coal mining activities issued an order of cessation, a compliance order or an order to show cause why a permit should not be suspended or revoked, in bad faith and for the purpose of harassing or embarrassing the permittee. This section is substantively identical to the provisions in the Federal regulations at 43 CFR 4.1294(c). The Secretary is approving this portion of the submission.

Subsection (4) defines the circumstances under which appropriate costs and fees may be awarded to a

permittee from any party. This section is substantively identical to the provisions in the Federal regulations at 43 CFR 4.1294(d). The Secretary is approving this portion of the submission.

Section 7708(d) defines the time for petitions for an award of costs. This section requires the petitions to be filed with the Environmental Hearing Board within 30 days of the date an adjudication of the Environmental Hearing Board becomes final. The Federal regulations at 43 CFR 4.1291 require petitions to be filed within 45 days of receipt of a final order. While the Pennsylvania provision allows less time for the filing of these petitions, the Secretary finds that 30 days is still a reasonable allotment of time. Moreover, the deadline will apply to both citizens and coal operators, and is therefore even-handed on its face. As such, the Secretary finds that subsection (d) is no less effective than its Federal counterpart in ensuring that parties have an adequate opportunity to petition the appropriate tribunal for an award of costs and fees, and it is therefore approved.

Section 7708(e) states the requirements for the contents of a petition. The requirements are substantively identical to the requirements of the Federal regulations at 43 CFR 4.1292(a)(1) through (3). The Secretary is approving this portion of the submission.

Section 7708(f) provides that any party shall have 30 days from service of the petition within which to file an answer to such petition. This section is substantively identical to the Federal regulation at 43 CFR 4.1293. The Secretary is approving this portion of the submission.

Section 7708(g) states, "Except for section 601 of the act of June 22, 1937 (P.L.1987, No.394), known as the Clean Streams Law, Section 18.3 of the act of May 31, 1945 (P.L.1198, No.418), known as the Surface Mining Conservation and Reclamation Act, Section 13 of the Act of April 27, 1966 (1st Sp.Sess., P.L.31, No.1), known as the Bituminous Mine Subsidence and Land Conservation Act and Section 13 of the act of September 24, 1968 (P.L.1040, No.318), known as the Coal Refuse Disposal Control Act, this section shall be the exclusive remedy for the awarding of costs and fees in proceedings involving coal mining activities." The sections of the various laws excluded in section 7708(g) refer to citizen suits. Section 520 of SMCRA provides for citizen suits, and subsection (f) of this section allows persons to bring actions for damages, including attorney fees and

expert witness fees, in the event of personal or property injury caused by a violation of SMCRA. Section 7708(g) merely preserves this independent basis for seeking awards of costs and attorney fees incurred in citizen suits.

Accordingly, the Secretary finds that this portion of the submission does not make the submission as a whole inconsistent with SMCRA or the Federal regulations regarding petitions for awards and costs and is approving this section.

Section 7708(h) provides definitions for terms used in this section. The language states:

(h) Definitions—The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Coal mining activities." The extraction of coal from the earth, waste or stockpiles, pits or banks by removing the strata or material which overlies or is above or between them or otherwise exposing and retrieving them from the surface, including, but not limited to, strip mining, auger mining, dredging, quarrying and leaching and all surface activity connected with surface or underground coal mining, including, but not limited to, exploration, site preparation, coal processing or cleaning, coal refuse disposal, entry, tunnel, drift, slope, shaft and borehole drilling and construction, road construction, use, maintenance and reclamation, water supply restoration or replacement, repair or compensation for damages to structures caused by underground coal mining and all activities related thereto.

"Coal mining acts." The provisions of the act of June 22, 1937 (P.L.1987, No.394), known as the Clean Streams Law, the act of May 31, 1945 (P.L.1198, no.418), known as the Surface Mining Conservation and Reclamation Act, the Act of April 27, 1966 (1st 27 Sp.Sess., P.L.31, No.1), known as the Bituminous Mine Subsidence and Land Conservation Act, and the act of September 24, 1968 (P.L.1040, No.318), known as the Coal Refuse Disposal Control Act, which govern coal mining or activities related to coal mining.

"Costs and fees." All reasonable costs and expenses, including attorney fees and expert witness fees, reasonably incurred as a result of participation in a proceeding involving coal mining activities.

"Department." The Department of Environmental Protection of the Commonwealth.

"Proceeding." Appeals of final Department of Environmental Protection actions before the Environmental Hearing Board and judicial review of Environmental Hearing Board adjudications.

The Secretary finds that the definitions of the terms, "coal mining activities," "coal mining acts," "costs and fees," "Department," and "proceeding" do not make the submission inconsistent with the

Federal regulations and is approving those definitions.

We note that this submission lacks a specific counterpart to the Federal regulations at 43 CFR 4.1295(b), which states that an award may include "all costs and expenses, including attorneys' fees and expert witness fees, reasonably incurred in seeking the award\* \* \*" However, section 7708(a) states that the purpose of section 7708 is to "provide costs and fees to the same extent of section 525(e) of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87, 30 U.S.C. 1201 *et seq.*) and the regulations promulgated pursuant thereto." Also, while section 7708(b) sets forth a general rule that a party may file a petition for costs and fees as a result of any "proceeding involving coal mining activities," and while the definition of "proceeding" contained in section 7708(h) does not expressly include fee petition proceedings, the general rule does not appear to prevent the Environmental Hearing Board from complying with the above-stated purpose of section 7708 by awarding costs and fees reasonably incurred in seeking the award for the underlying proceeding. Thus, the Secretary finds that section 7708 provides the Environmental Hearing Board with the authority to award all costs and expenses, including attorneys' fees and expert witness fees, reasonably incurred in seeking the award.

Section 2 of House Bill 393 repeals sections of several Pennsylvania mining laws. Specifically, the following sections are repealed:

The fifth sentence of section 4(b) and subsection (f)(5) of section 4.2 of the act of May 31, 1945 (P.L. 1198, No. 418), known as the Surface Mining Conservation and Reclamation Act. The fifth sentence of section 4(b) states, "The Environmental Hearing Board, upon the request of any party, may in its discretion order the payment of costs and attorney's fees it determines to have been reasonably incurred by such party in proceedings pursuant to this section." Subsection (f)(5) states, "A surface mining operator or owner who provides a successful defense to the presumptions of liability shall be entitled to recover the costs incurred, including, but not limited to, the costs of temporary water supply, design, construction, restoration or replacement costs, attorney fees and expert witness fees from the department."

The last sentence of section 5(g) of the act of April 27, 1966 (1st Sp. Sess., P.L. 31, No. 1), known as the Bituminous Mine Subsidence and Land Conservation Act. This sentence states, "The Environmental Hearing Board,

upon the request of any party, may in its discretion order the payment of costs and attorney's fees it determines have been reasonably incurred by such party (sic) proceedings pursuant to this section."

The last sentence of section 5(i) of the act of September 24, 1968 (P.L. 1040, No. 318), known as the Coal Refuse Disposal Control Act. This sentence states, "The Environmental Hearing Board, upon the request of any party, may in its discretion order the payment of costs and attorney's fees it determines to have been reasonably incurred by such party in proceedings pursuant to this section."

In addition, section 2(b) of House Bill 393 indicated that, "All other acts and parts of acts are repealed insofar as they are inconsistent with this act."

The Secretary is approving the repeal of the above noted statute sections. Repeal of these sections, in conjunction with the addition of the new section 7708, does not make this submission inconsistent with the Federal regulations.

Section 3 of House Bill 393 states, "The addition of 27 Pa.C.S. Section 7708 shall apply to all proceedings and petitions for costs and fees filed after the effective date of this act." The Secretary finds that this section is not inconsistent with SMCRA or the Federal regulations, and is therefore approving it.

Section 4 of House Bill 393 provides that:

- This act shall take effect as follows:
- (1) The following provisions shall take effect immediately:
    - (i) The addition of 27 Pa.C.S. Section 7708.
    - (ii) This section.
  - (2) The remainder of this act shall take effect in 60 days.

The Secretary finds that this section is not inconsistent with SMCRA or the Federal regulations, and is therefore approving it.

#### IV. Summary and Disposition of Comments

##### *Federal Agency Comments*

On January 31, 2001, we asked for comments from various Federal agencies who may have an interest in the Pennsylvania submission (Administrative Record Number PA 848.26). We solicited comments in accordance with section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations.

The U.S. Department of Labor, Mine Safety and Health Administrative (MSHA) commented that Title 27, Environmental Resources of the Pennsylvania Consolidated Statutes, is consistent with requirements of section

525(e) of the Surface Mining Control and Reclamation Act of 1977.

No other Federal agency comments were received.

##### *Environmental Protection Agency (EPA)*

Pursuant to 30 CFR 732.17(h)(11)(i) and (ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program submission that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). We have determined that this submission contains no such provisions, thereby rendering EPA concurrence unnecessary. By letter dated January 31, 2001, we requested comments from EPA on the State's proposed submission of January 3, 2001, (Administrative Record Number PA 848.26). EPA responded on April 11, 2001, (Administrative Record Number PA 848.29) by noting that it had no comments on the submission.

##### *Public Comments*

No comments were received in response to our request for public comments.

#### V. Secretary's Decision

Based on the findings above we are approving Pennsylvania's submission and removing the condition codified at 30 CFR 938.11(i).

The Federal regulations at 30 CFR Part 938 codifying decisions concerning the Pennsylvania program are being amended to implement this decision. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. Consistency of State and Federal standards is required by SMCRA.

#### VI. Procedural Determinations

##### *Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

##### *Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

*Executive Order 13132—Federalism*

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to “establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.” Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be “in accordance with” the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations “consistent with” regulations issued by the Secretary pursuant to SMCRA.

*Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

*Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a

significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866, and because it is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

*National Environmental Policy Act*

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior has determined 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.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulation.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business

Regulatory Enforcement Fairness Act. This rule:

- a. Does not have an annual effect on the economy of \$100 million.
  - b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
  - c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.
- This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

**List of Subjects in 30 CFR Part 938**

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 15, 2001.

**J. Steven Griles,**

*Acting Assistant Secretary Lands and Minerals Management.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below.

**PART 938—PENNSYLVANIA**

1. The authority citation for Part 938 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 938.11 is amended by removing and reserving paragraph (i).

3. Section 938.15 is amended in the table by adding a new entry in chronological order by “Date of Final Publication” to read as follows:

**§ 938.15 Approval of Pennsylvania regulatory program amendments.**

\* \* \* \* \*

| Original amendment submission date | Date of final publication | Citation/description  |
|------------------------------------|---------------------------|---|
| January 3, 2001                    | 11/16/01                  | Addition of Chapter 77, Section 7708 to 2001 Title 27 of the Pennsylvania Consolidated Statutes; repeal of the fifth sentence of section 4(b) and section 4.2(f)(5) of the Surface Mining Conservation and Reclamation Act of May 31, 1945 (P.L. 1198, No. 418); repeal of the last sentence of section 5(g) of the Bituminous Mine Subsidence and Land Conservation Act of April 27, 1966 (1st Sp. Sess., P.L. 31, No. 1); repeal of the last sentence of section 5(j) of the Coal Refuse Disposal Control Act of September 24, 1968 (P.L. 1040, No. 318). |

[FR Doc. 01-28761 Filed 11-15-01; 8:45 am]  
 BILLING CODE 4310-05-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CA 169-0272a; FRL-7100-6]

**Revisions to the California State Implementation Plan, California State Implementation Plan Revision; San Joaquin Valley Unified Air Pollution Control District, and South Coast Air Quality Management 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), and South Coast Air Quality Management District (SCAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) and oxides of nitrogen (NO<sub>x</sub>) emissions from equipment tuning procedure for boilers, steam generators, and process heaters, pumps and compressor seals at petroleum refineries and chemical plants, and residential type, natural gas-fired water heaters. We

are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). 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 15, 2002 without further notice, unless EPA receives adverse comments by December 17, 2001. 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:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

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

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814

San Joaquin Valley Unified Air Pollution Control District, 1990 E. Gettysburg, Fresno, CA 93726

South Coast Air Quality Management District, 21865 E. Copley Dr. Diamond Bar, CA 91765-4182

**FOR FURTHER INFORMATION CONTACT:** Charnjit Bhullar, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 744-1153.

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

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*A. What Rules Did the State Submit?*

Table 1 lists the rules we are approving with the dates that they were adopted by local air agencies and submitted by the California Air Resources Board (CARB).

**TABLE 1.—SUBMITTED RULES**

| Local agency | Rule # | Rule title   | Adopted  | Submitted |
|--------------|--------|--|----------|-----------|
| SJVUAPCD     | 4304   | Equipment tuning procedure for boilers, steam generators, and process heaters.     | 10/19/95 | 03/26/96  |
| SJVUAPCD     | 4452   | Pumps and compressor seals at petroleum refineries and chemical plants             | 12/17/92 | 09/07/99  |
| SCAQMD       | 1121   | Control of nitrogen oxides from residential type, natural gas-fired water heaters. | 12/10/99 | 03/28/00  |

On May 15, 1996, October 20, 1999, and May 19, 2000 these rule submittals were found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

*B. Are There Other Versions of These Rules?*

There is no previous version of SJVUAPCD Rule 4304 in the SIP. EPA approved an earlier version of Rule 4452, numbered 464.2, which was adopted locally on April 11, 1991. We approved a version of SCAQMD Rule 1121 adopted on March 10, 1995.

*C. What Is the Purpose of the Submitted Rule and Rule Revisions?*

SJVUAPCD Rule 4304 provides tuning procedures for boilers, steam generators, and process heaters to control visible emissions, and both nitrogen oxide (NO<sub>x</sub>) and carbon monoxide (CO) emissions.