

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2009-0350; FRL-8918-3]

Revisions to the California State Implementation Plan, San Joaquin Valley Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the San Joaquin Valley Air Pollution Control District portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from coating of metal parts, large appliances, metal furniture, motor vehicles, mobile equipment, cans, coils, and organic solvent cleaning, storage, and disposal related to such operations. We are approving three local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by July 16, 2009.

ADDRESSES: Submit comments, identified by docket number [EPA-R09-OAR-2009-0350], by one of the following methods:

1. *Federal eRulemaking Portal:* www.regulations.gov. Follow the on-line instructions.

2. *E-mail:* 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, 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 or e-mail. 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 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: Nicole Law, EPA Region IX, (415) 947-4126, Law.Nicole@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 addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board.

TABLE 1—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
SJVAPCD	4603	Surface Coating of Metal Parts and Products	10/16/08	12/23/08
SJVAPCD	4604	Can and Coil Coating Operations	09/20/07	03/07/08
SJVAPCD	4612	Motor Vehicle and Mobile Equipment Coating Operations	09/20/07	03/07/08

On April 20, 2009 and April 17, 2008, 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?

We approved versions of Rules 4603 and 4604 into the SIP on June 25, 2002 and May 19, 2002. Rule 4612 is replacing Rule 4602 which was approved into the SIP on June 26, 2002. The San Joaquin Valley Air Pollution Control District adopted revisions to the SIP-approved version of Rule 4603 on May 18, 2006, September 20, 2007, and October 16, 2008 and CARB submitted them to us on October 5, 2006, March 7, 2008, and December 23, 2008. While

we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals. No other versions of Rule 4604 and 4602/4612 have been adopted by the district after 2002.

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. The rules control VOC emissions by limiting VOC content in the coatings used for metal parts, large appliances, metal furniture, motor vehicles, mobile equipment, cans, and coils. In addition, the rules also limit

emission of VOCs by regulating organic solvent cleaning, storage, and disposal relating to the coating operations. The most significant changes in the rules are reductions of the VOC limits on organic solvents to 25 grams of VOC per liter solvent. 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 each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see section

182(a)(2)), and must not relax existing requirements (*see* sections 110(l) and 193). The San Joaquin Valley Air Pollution Control District regulates an ozone nonattainment area (*see* 40 CFR part 81), so Rules 4603, 4604, and 4612 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 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 Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings," EPA-453/R-08-003, September 2008.

5. "Control Techniques Guidelines for Large Appliance Coatings," EPA-453/R-07-004, September 2007.

6. "Control Techniques Guidelines for Metal Furniture Coatings," EPA-453/R-07-005, September 2007.

7. "Control of Volatile Organic Emissions From Existing Stationary Sources Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks," EPA-450/2-77-008, May 1977.

8. "Reasonably Available Control Technology (RACT) Demonstration for Ozone State Implementation Plans (SIP)" SJVAPCD, April 16, 2009.

9. "Suggested Control Measure for Automotive Coatings," CARB, October 2005.

10. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

11. "State Implementation Plans, General Preamble for the Implementation of Title I of the Clean Air Amendments of 1990" 57 FR 13498, April 16, 1992.

12. "Preamble, Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard" 70 FR 71612; Nov. 29, 2005.

13. Letter from William T. Hartnett to Regional Air Division Directors, "RACT Qs & As—Reasonable Available Control Technology (RACT) Questions and Answers," May 18, 2006.

B. Do the rules meet the evaluation criteria?

We believe these rules are generally consistent with the relevant policy and

guidance regarding enforceability, RACT, and SIP relaxations. The TSDs have more information on our evaluation.

C. EPA recommendations to further improve the rule

The TSDs describe additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rule.

D. Public comment and final action

Because EPA believes the submitted rules fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or

safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 2, 2009.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. E9-14020 Filed 6-15-09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 191 and 194

[EPA-HQ-OAR-2009-0330; FRL-8916-5]

Intent To Evaluate Whether the Waste Isolation Pilot Plant Continues To Comply With the Disposal Regulations and Compliance Criteria

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability; official opening of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) intends to evaluate and recertify whether or not the Waste Isolation Pilot Plant (WIPP) continues to comply with EPA's environmental radiation protection standards for the disposal of radioactive waste. Pursuant to the 1992 WIPP Land Withdrawal Act (LWA), as amended, the U.S.