• 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 the 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.

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 action 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 rules 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 these actions must be filed in the United States Court of Appeals for the appropriate circuit by September 6, 2011. Filing a petition for reconsideration by the Administrator of these final rules does not affect the finality of this action 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 23, 2011.

Al Armendariz,

Regional Administrator, Region 6.

40 CFR part 52 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 T—Louisiana

■ 2. Section 52.977 is amended by adding paragraph (c) to read as follows:

§ 52.977 Control strategy and regulations: Ozone.

* * * * *

(c) Determination to Terminate the Clean Air Act Section 185 Penalty Fee Requirement. Effective September 6, 2011 EPA has determined that the State of Louisiana is no longer required to submit a section 185 fee program State Implementation Plan (SIP) revision for the Baton Rouge ozone nonattainment area to satisfy anti-backsliding requirements for the 1-hour ozone standard. This determination is based on EPA's determination that the area has attained the 1-hour ozone standard due to permanent and enforceable emissions reductions.

[FR Doc. 2011–16881 Filed 7–6–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2010–0907; FRL–9428–7]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollutions Control District (SJVUAPCD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on January 4, 2011 and concerns volatile organic compound (VOC) emissions from crude oil production operations and refineries. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves local rules that regulate these emission sources and directs California to correct rule deficiencies.

DATES: *Effective Date:* This rule is effective on August 8, 2011.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2010–0907 for this action. Generally, documents in the docket for this action are available electronically at *http://www.regulations.gov* or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *http://www.regulations.gov,* some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material, large maps, multi-volume reports), and some may not be available in either location (*e.g.,* confidential business information (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: Joanne Wells, EPA Region IX, (415) 947–4118, *wells.joanne@epa.gov.*

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

Table of Contents

I. Proposed Action

On January 4, 2011 (76 FR 298), EPA proposed a limited approval and limited disapproval of the following rules that were submitted for incorporation into the California SIP.

Local agency	Rule No.	Rule title	Amended	Submitted
SJVUAPCD	4402	Crude Oil Production Sumps	12/17/92	08/24/07
SJVUAPCD	4625	Wastewater Separators	12/17/92	08/24/07

We proposed a limited approval because we determined that these rules improve the SIP and are largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the Act. These provisions include the following:

A. Rule 4402, Crude Oil Production Sumps

1. SJVUAPCD should strengthen these requirements to help implement RACT or demonstrate why such improvements are not appropriate in light of analogous requirements in neighboring districts.

a. Section 5.1.2 allows a 1 inch gap and does not require seals for rigid floating covers. In contrast, SCAQMD Rule 1176(e)(2)(B)(vi) and SLOCAPCD Rule 419 D.2.e. require rigid floating covers to have seals, the gap cannot exceed ⅛″ for a cumulative length of 95% of the perimeter, and no single gap may exceed ½ inch.

b. Section 5.2.5 requires fixed covers to be equipped with a pressure/vacuum valve set to within ten percent of maximum safe working pressure. In contrast, SCAQMD Rule 1176(2)(A)(ii) and (6)(A) and SBCAPCD Rule 344 D.2.b.2 require that fixed covers be equipped with a 95% efficient Air Pollution Control (APC) device.

c. Rule 4402 does not require periodic inspection of covers and APC equipment to ensure proper operation. In contrast, SCAQMD Rule 1176(f)(1)(C) requires periodic leak inspection and APC testing.

d. Rule 4402 has exemptions that are more broad than those found in other districts rules. SJVUAPCD should analyze whether these exemptions continue to be appropriate. This analysis should consider more current cost data than used in the 2009 RACT Analysis, and should consider alternative disposal methods (*e.g.,* underground injection, tanks, or additional pretreatment) in addition to sump and pond covers. The following exemptions are of particular concern:

• Uncontrolled VOC emissions from exempted 2nd and 3rd stage sumps. Section 4.1.1 exempts operations less than 6000 barrels per day with sumps less than 1000 sf and section 4.1.3 exempts operations less than 300 barrels per day with sumps less than 5000 sf from substantive requirements. No other neighboring districts allow exemptions for small producers except for SBCAPCD Rule 344, and the exemption in Santa Barbara's rule is more restrictive than the exemptions found in Rule 4402.

• Section 4.1.7 exempts ponds of ''clean produced water'' with less than 35 mg/l VOC from Rule 4402 requirements. In contrast, SCAQMD Rule 1176(i)(5)(J), VCAPCD Rule 71.4 C.1.c and SLOCAPCD Rule 419 C.4 exempt wastewater sumps only where the VOC/ROC content does not exceed 5 mg/l at the inlet. Of particular concern are VOC emissions from the ponds that initially receive the oily wastewater from oil production facilities. Alternatives including additional pretreatment to lower the VOC content and other disposal methods such as underground injection should be evaluated.

e. Rule 4402 does not limit the time that oil or oily water can be kept in an emergency pit. In contrast, SLOCAPCD Rule 419 C.2 requires clean-up to begin within 24 hours and finish within 15 days.

f. Rule 4402 allows 1st stage sumps. In contrast, SBCAPCD Rule 344 and VCAPCD Rule 71.4 do not allow the operation of 1st stage sumps.

g. Provisions should be added in Rule 4402 or Rule 4623 (Storage of Organic Liquids) that ensure that tanks used to replace the 1st stage crude oil sumps have adequate VOC controls.

2. The following revisions are needed to improve rule clarity and enforceability consistent with CAA section 110(a).

a. Please remove the language at the end of Section 5.3 that states ''If replacement tank exclusively serves identical function of sump replaced, permitting of such tank shall not be considered an emission change for the purposes of Rule 2201 (New and Modified Source Review Rule)''. Any exemptions to NSR requirements should be evaluated in context of SJVUAPCD's NSR program (*e.g.,* Rule 2020) and incorporated within the NSR program only if appropriate. Such exemptions should not be in source-specific prohibitory rules like Rule 4402.

b. Revise section 6.2 Test Methods to remove and/or replace inappropriate or outdated test methods such as 6.2.1 ARB Method 432, which is designed for paints and coatings and not oily wastewater. We also recommend adding EPA Test Method 21 in section 6.2 for determining leaks.

c. Update the definition of clean product water (Section 3.1) replacing outdated EPA Test Methods 4.13.2, 418.2 and 8240 that used CFC–113 as the extraction solvent. The new test methods using non-CFC extraction solvents are EPA Method 1664A and EPA Method 8260.

d. Please revise section 6.1 (Recordkeeping) to:

• Add requirement for facilities to keep records of all inspections for leaks and testing of APC devices (for example, see SCAQMD Rule 1176(g)(1)).

• Add requirement to document use of emergency pits, including when use started, clean-up started and clean-up finished.

• Require documentation justifying any exemptions claimed under section 4, including 4.1.7, which exempts pits and ponds.

• Add requirements to verify the sump surface area and the annual production rates for both the small producers and very small producers in section 6.1.1.

• Add requirement to keep all records for at least two, and preferably five years.

B. Rule 4625, Wastewater Separators

The following revisions are needed to improve rule clarity, enforceability, and to strengthen requirements to help implement RACT.

1. The December 1992 amendment added exemption 4.3, which reads ''For existing facilities, if an incineration device is added or modified for the sole purpose of complying with the requirements of this rule, such a device shall be exempt from the Best Available Control Technology and the Offset requirements of Rule 2201 (New and Modified Stationary Source Review Rule)''. This exemption should be removed from Rule 4625. Any exemptions to NSR requirements should be evaluated in context of SJVUAPCD's NSR program (*e.g.,* Rule 2020) and incorporated within the NSR program only if appropriate. Such exemptions should not be in source-specific prohibitory rules like Rule 4625.

2. SJVUAPCD has not adequately demonstrated that Rule 4625 currently implements RACT because RACT can change over time as control technology improves and/or becomes more available. More stringent requirements

exist in the NSPS (1988), NESHAP (1995), BAAQMD Rule 8–8 (1993) and SCAQMD 1176 (1996). These regulations have requirements for stricter VOC controls (see, *e.g.,* 95% requirement in SCAQMD Rule 1176, section (e)(2)(A)(ii) and (e)(6)), additional design requirements for controlling fugitive emissions or breathing losses (see, *e.g.,* BAAQMD Regulation 8 Rule 8, section 302.4), and additional requirements for inspections and maintenance (see, *e.g.,* BAAQMD Regulation 8 Rule 8, section 302.4 and 302.6).

3. The exemption for air flotation units precludes regulation of potentially significant VOC sources (section 4.2). Even though these sources are currently regulated via District permit conditions, SJVUAPCD should subject them to SIP requirements as part of Rule 4625 or demonstrate why that is not necessary. There is no specific allowance in the CTG or other guidance documents for exempting air flotation units from regulation and no other California air district rules include such an exemption.

4. To improve enforceability, SJVUAPCD should revise section 6.0 Test Methods to remove inappropriate or outdated test methods such as 6.1.2 ARB Method 432 for paints and coatings, and 6.1.3 which refers to an obsolete document superseded by EPA Method 204 for determining capture efficiency (40 CFR 51). We recommend including EPA Test Method 21 (measurements of leaks) as referenced in SJVUAPCD Rule 4455, Section 6.4 Test Methods, or SCAQMD Rule 1176, Section (h).

5. The SJVUAPCD 2009 RACT SIP Demonstration mentions that the requirements in SJVUAPCD Rule 4455, ''Components at Petroleum Refineries, Gas Liquids Processing Facilities and Chemical Plants'', apply to oil-water separators. SJVUAPCD should include those requirements directly in Rule 4625 or by reference to improve enforceability, or demonstrate that this is not appropriate.

6. To ensure ongoing compliance and strengthen enforceability, SJVUACPD should add to the rule requirements for inspections of covers, access hatches and other openings and emissions control equipment, along with recordkeeping requirements for inspections and testing or demonstrate that this is not appropriate. For example, please see SCAQMD Rule 1176, section (f) and (g).

7. SJVUAPCD should delete or justify exemption 4.1 for wastewater separators exceeding a set value for a sump surface area to the rate of oil vapor loss ratio. The only other rule where we found such exemption is SCAQMD Rule 464 for Wastewater Separators; last amended December 7, 1990. This exemption is not found in the newer SCAQMD Rule 1176, ''VOC Emissions from Wastewater Systems'', amended September 13, 1996, which also addresses wastewater separators and which largely supersedes Rule 464.

Additional detailed information on the deficiencies listed above can be found in the TSDs and proposed notice for this rulemaking (76 FR 298).

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from the following parties.

1. Sarah E. Jackson, Earthjustice; letter and email dated and received February 2, 2011.

2. Samir Sheikh, San Joaquin Valley Air Pollution Control District (SJVAPCD); letter and email dated and received February 3, 2011.

The comments and our responses are summarized below.

Comment #1: Earthjustice generally supported EPA's analysis of these rules and the deficiencies identified.

Response #1: No response required.

Comment #2: Earthjustice raised concerns regarding the inventory associated with these rules and asserted that EPA should thoroughly analyze the inventory. Earthjustice asserted that SJVUAPCD fails to require related reporting as required by San Luis Obispo Rule 419, and instead bases inventory estimates on an industry survey. Earthjustice provided two inventory reports and asserted that SJVUAPCD uses an older lower emission factor but does not justify the use of this lower emission factor.

Response #2: Recordkeeping and reporting requirements must be sufficient to ensure rule enforceability. Rule 4402 requirements are sufficient for this purpose except for the deficiencies described in paragraph A.2.d above. Nothing in San Luis Obispo Rule 419 or elsewhere in the comment provides evidence of additional requirements necessary for this purpose. Additional emissions inventory information, such as for the clean produced water ponds, might clarify the importance of additional controls from affected sources for overall SIP planning purposes. However, such information is not needed to evaluate the submitted rules with respect to rule enforceability, SIP relaxation and RACT, the primary criteria at issue in this action.

Comment #3: Earthjustice stated that the District's inventory excludes sumps containing ''clean produced water'' and that the District allows a much higher VOC content in its clean water than other districts allow, therefore the district could be failing to capture a large source of emissions in its inventory.

Response #3: Additional emissions inventory information, such as for the clean produced water ponds, might clarify whether additional controls are needed for overall SIP planning purposes. However, such information is not needed to evaluate the submitted rules with respect to rule requirements, enforceability, SIP relaxation and RACT, the primary criteria at issue in this action. We believe that the issue of the higher VOC content allowed in Rule 4402 for ''clean produced water'' is adequately addressed by the deficiency described in paragraph I.A.1.d above.

Comment 4: Earthjustice supported EPA's request that SJVUAPCD should ensure that the tanks that replace the primary sumps have adequate VOC controls and requested that EPA keep this recommendation in mind as it evaluates its options on the District's RACT SIP.

Response #4: No response required.

Comment #5: Earthjustice asserted that the rules identified by EPA for comparison to the SJVUAPCD rules are quite old themselves and their requirements may no longer represent the lowest emissions these sources are capable of achieving with reasonable control technology. As a result, Earthjustice asserted that an analysis of the cost effectiveness of eliminating more open sumps should be prepared in order to demonstrate compliance with RACT.

Response #5: The rules used for comparison are older rules, however we are not aware of newer RACT controls likely to significantly reduce emissions from these sources, and no other new technologies were identified in the comment. In addition, paragraph I.A.1.d above directs SJVUAPCD to examine potential additional RACT controls for open sumps.

Comment #6: SJVUACPD agreed that Rule 4402 imposes some requirements that are similar to those found in other Districts, and that Rule 4625 imposes requirements similar to the relevant CTG, NSPS and MACT. SJVUAPCD further noted that rule language and test method requirements could be updated because these rules were last amended in 1992.

Response #6: No response required.

Comment #7: SJVUAPCD commented that their rule requirements do not need

to be changed simply because rules in other parts of California appear more stringent. The District asserted that analogous requirements in other agencies are not comparable to SJVUAPCD rules because the affected sources are different. SJVUAPCD provided the example of crude oil sumps, and stated that other California agencies have far fewer, if any, sumps subject to the rules used for comparison with SJVUAPCD Rule 4402.

Response #7: SJVUAPCD must demonstrate that these rules fulfill CAA RACT requirements. This demonstration should include comparison and consideration of rules and guidance adopted elsewhere for analogous sources. Our proposed action identified examples where SJVUAPCD did not explain why more stringent requirements adopted in South Coast, Santa Barbara, Ventura and San Luis Obispo were not also reasonably available in San Joaquin. While differences among affected sources may justify different rule requirements, the comment did not provide support for any specific differences among rule provisions. The comment stated that other districts have far fewer, if any, sumps subject to the rules used for comparison with SJVUAPCD Rule 4402. However, the comment did not provide evidence for this statement and we do not believe it is correct. For example, data provided by VCAPCD from their permits database shows about 50 sumps in their relatively small district.[1] Similarly, in informal discussions with CARB staff, they confirmed that South Coast and Santa Barbara also have significant numbers of sumps.[2]

Comment 8: SJVUAPCD commented that the 2009 RACT SIP demonstration showed that the cost effectiveness of additional emission controls far exceeds RACT. The district acknowledged that EPA believes this analysis is based on old cost estimates, but notes that even if true costs are half as large, the resulting cost effectiveness would still be $32,000 per ton of VOC emissions reduced, which exceeds RACT.

Response #8: The 2009 RACT SIP demonstration for Rule 4402 provided a cost analysis for a 5000 square foot (sf) second stage sump cover based on a 1986 cost estimate from a Santa Barbara County Air Pollution Control District staff report.[3] Our proposed action questioned SJVUAPCD's reliance on this cost estimate because it is over 20 years old, because it is the only cost estimate provided by SJVUAPCD, and because other agencies have adopted more stringent regulations.[4] Upon further review of this cost effectiveness analysis in response to the comment, we also note that it significantly underestimated potential emission reductions, thus overestimating cost effectiveness. Specifically, the analysis assumed 2 tons/year VOC emissions reduced from controlling a 5000 sf second stage heavy crude oil sump. However, SJVUAPCD currently estimates uncontrolled emissions from such sumps at 0.0412 lbs VOC/sf-day.[5] Assuming 90% emission reductions from a ridged floating cover (as required by Rule 4402 if not exempted in section 4.1.3), we recalculate the emission reduction at 34 tons/year at less than $4000/ton.[6] This is well within the range of control cost effectiveness that SJVUAPCD and other agencies routinely require in prohibitory rules.

Comment #9: SJVUAPCD commented that, in light of their large workload, they are hesitant to divert resources to conduct work that is not demonstrated to have significant potential for additional, cost-effective emissions reductions.

Response #9: We appreciate this comment and acknowledge that the District has limited resources and a substantial workload. We are trying to be sensitive to this issue in our various interactions with the District, including our actions on SIP rules such as these. We hope that the analysis and rule revisions called for by this action will not be unduly burdensome, though we believe they are needed to comply with the CAA.

III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a limited approval of the submitted rule. This action incorporates the submitted rule into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rule. As a result, sanctions will be imposed unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months of the effective date of this action. These sanctions will be imposed under section 179 of the Act according to 40 CFR 52.31. In addition, EPA must promulgate a Federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months. Note that the submitted rule has been adopted by the SJVUAPCD, and EPA's final limited disapproval does not prevent the local agency from enforcing it. The limited disapproval also does not prevent any portion of the rule from being incorporated by reference into the federally enforceable SIP as discussed in a July 9, 1992 EPA memo found at: *http://www.epa.gov/ttn/caaa/t1/memoranda/siproc.pdf.*

IV. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals and limited approvals/limited disapprovals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because this limited approval/limited disapproval action does not create any new requirements, I certify that this action will not have a significant economic

[1] Sumps Data from the VCAPCD Permit Database, received by EPA from Stan Cowen via e-mail dated May 10, 2011, Ventura County Air Pollution Control District.

[2] Based on preliminary data collected for the ''CARB 2007 Oil and Gas Industry Survey Results'', Draft Report, March 2011.

[3] *2009 RACT SIP,* SJVUAPCD (April 16, 2009), Rule 4402, page 4–79.

[4] See Section I.A.1.d above or 76 FR 298 Section II.C.1.d for description of this deficiency.

[5] SJVUAPCD: *2007 Area Source Emissions Inventory Methodology, 310–Oil Production Fugitive Losses-Sumps and Pits,* dated February 6, 2009, Table 7—Uncontrolled emission factors for oil sumps.

[6] *5000 sf × 0.0412 lb/sfday × 365 day/yr × 2000 lb/ton × 90% = 33.8 ton/yr @$129,644 = $3836/ton*

impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the limited approval/limited disapproval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will 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, because it 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, 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. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because it approves a State rule implementing a Federal standard.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this rulemaking.

K. Congressional Review Act

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). This rule will be effective on August 8, 2011.

L. Petitions for Judicial Review

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 September 6, 2011. 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: June 9, 2011.

Jared Blumenfeld,

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 paragraphs (c)(351)(i)(C)(*5*) and (*6*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(351) * * *

(i) * * *

(C) * * *

(*5*) Rule 4402, ''Crude Oil Production Sumps'', adopted on April 11, 1991 and amended December 17, 1992.

(*6*) Rule 4625, ''Wastewater Separators'', adopted on April 11, 1991 and amended December 17, 1992.

* * * * *

[FR Doc. 2011–16882 Filed 7–6–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–8187]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.;* unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No