

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 226-0210; FRL-6529-2]

#### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; San Joaquin Valley Unified Air Pollution Control District, Sacramento Metropolitan Air Quality Management District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District and Sacramento Metropolitan Air Quality Management District portions of the California State Implementation Plan (SIP). These revisions concern the control of volatile organic compound (VOC) emissions from gasoline transfer into stationary storage container, delivery vessels and bulk plants, and from organic chemical manufacturing operations.

The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rule will incorporate these rules into the federally approved SIP. EPA has evaluated each of these rules and is proposing to approve them 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:** Comments must be received on or before February 25, 2000.

**ADDRESSES:** Comments may be mailed to: Andrew Steckel, Rulemaking Office, [AIR-4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

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

California Air Resources Board,  
Stationary Source Division, Rule  
Evaluation Section, 2020 "L" Street,  
Sacramento, CA 95814  
San Joaquin Valley Unified Air  
Pollution Control District, 1999  
Tuolumne Street, Suite 200, Fresno,  
CA 93721

Sacramento Metropolitan Air Quality  
Management District, 8411 Jackson  
Road, Sacramento, CA 95826.

**FOR FURTHER INFORMATION CONTACT:** Max Fantillo, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1183.

#### SUPPLEMENTARY INFORMATION:

##### I. Applicability

The rules being proposed for approval into the California SIP include: San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) Rule 4621, Gasoline Transfer into Stationary Storage Containers, Delivery Vessels, and Bulk Plants; and Sacramento Metropolitan Air Quality Management District's (SMAQMD) Rule 464, Organic Chemical Manufacturing Operations. These rules were submitted by the California Air Resources Board (CARB) to EPA on August 21, 1998 and May 13, 1999 respectively.

##### II. 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 CAA or pre-amended Act), that included the San Joaquin Valley Area and the Sacramento Metropolitan Area. 43 FR 8964; 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended 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(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies. Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.<sup>1</sup> EPA's SIP-Call used that

<sup>1</sup> Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that

guidance to indicate the necessary corrections for specific nonattainment areas. The San Joaquin Valley Area is classified as serious; the Sacramento Metropolitan Area is classified as severe;<sup>2</sup> therefore, these areas were subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on August 29, 1998 and May 13, 1999, including the rules being acted on in this document. This document addresses EPA's proposed action for SJVUAPCD Rule 4621, Gasoline Transfer into Stationary Storage Containers, Delivery Vessels, and Bulk Plants, and SMAQMD Rule 464, Organic Chemical Manufacturing Operations. SJVUAPCD adopted Rule 4621 on June 18, 1998 and SMAQMD adopted Rule 464 on July 23, 1998. These submitted rules were found to be complete on October 2, 1998 (Rule 4621) and June 10, 1999 (Rule 464) pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51 Appendix V<sup>3</sup> and are being proposed for approval into the SIP.

SJVUAPCD's Rule 4621 controls VOC emissions from gasoline transfer into stationary storage containers, delivery vessels, and bulk plants; and SMAQMD's Rule 464 controls VOC emissions from organic chemical manufacturing operations. VOCs contribute to the production of ground-level ozone and smog. The rules were adopted as part of each district's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for these rules.

##### III. EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of

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); and the existing control technique guidelines (CTGs).

<sup>2</sup> San Joaquin Valley Area retained its designation of nonattainment and classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991). The Sacramento Metro Area was reclassified from serious to severe on June 1, 1995. See 60 FR 20237 (April 25, 1995).

<sup>3</sup> 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).

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 1. 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 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 "fix-up" their RACT rules. See section 182(a)(2)(A). The CTGs applicable to Rule 4621 are entitled, "Control of Hydrocarbons from Tank Gasoline Terminals," EPA-450/2-77-026 and "Control of Volatile Organic Emissions from Bulk Gasoline Plants," EPA-450/2-77-035. There is no single CTG document applicable to Rule 464. However, the following CTG documents were used as guidance in evaluating the rule: "Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry," EPA-450/4-91-031, "Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Manufacturing Industry," EPA-450/2-78-029, and draft CTG entitled "Control of Volatile Organic Compound Emissions from Industrial Wastewater," EPA-453/D-930056. Other guidance documents used in evaluating Rule 464 are: "Control of Volatile Organic Compound Emissions from Batch Processes—Alternative Control Techniques Information Document," 40 CFR Part 60, subparts VV, NNN, RRR, and 40 CFR Part 63, subparts F and G. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

On May 2, 1996, EPA approved into the SIP a version of SJVUAPCD Rule 4621, Gasoline Transfer into Stationary Storage Containers, Delivery Vessels, and Bulk Plants that had been adopted

by SJVUAPCD on May 20, 1993. Revisions to this rule were subsequently adopted on June 18, 1998 and submitted to EPA on August 21, 1999.

SJVUAPCD's submitted Rule 4621, Gasoline Transfer into Stationary Storage Containers, Delivery Vessels, and Bulk Plants includes the following significant changes from the current SIP:

- Addition of applicability threshold to tank capacity (i.e., 250–19,800 gallons) from Section 5, Requirements, of the SIP approved version of the rule for clarity;
- Addition of requirements for inspection, frequency of inspection and repair response period;
- Addition of leak-free requirements for loading racks, aboveground tanks, and vapor collection equipment.
- Addition of new recordkeeping requirements;
- Addition of new provisions, new definitions and revisions of some, and other minor changes to improve enforceability and clarity; and
- Deletion of extraneous provisions and obsolete requirements in the rule.

There is currently no version of SMAQMD Rule 464, Organic Chemical Manufacturing Operations in the SIP. The submitted is divided into five sections consisting of the following:

- General provisions which include applicability and exemptions;
- Definitions pertinent to the rule;
- Standards for various process equipment including: reactors, distillation columns, crystallisers, evaporators, dryers, process tanks, wastewater, storage tanks, and liquid transfer;
- Administrative requirements; and
- Monitoring, recordkeeping, and test methods.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, SJVUAPCD's Rule 4621, Gasoline Transfer into Stationary Storage Containers, Delivery Vessels, and Bulk Plants, and SMAQMD's Rule 464, Organic Chemical Manufacturing Operations are being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D.

#### IV. Administrative Requirements

##### A. Executive Order 12866

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

##### B. Executive Order 13132

Executive Order 13132, 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 proposed 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 (64 FR 43255, August 10, 1999), 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.

##### C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is

preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it is does not involve decisions intended to mitigate environmental health or safety risks.

#### *D. Executive Order 13084*

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

#### *E. 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 final rule will not have a significant impact on a substantial number of small entities because SIP approvals 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 the Federal SIP approval does not create

any new requirements, I certify that this action will not have a significant economic 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).

#### *F. Unfunded Mandates*

Under Section 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 annual costs to State, local, or tribal governments in the aggregate; or to 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 approval action promulgated does not include a Federal mandate that may result in estimated annual 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.

#### **List of Subjects in 40 CFR Part 52**

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

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

Dated: January 14, 2000.

**Nora McGee,**

*Acting Regional Administrator, Region IX.*  
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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[GA-043-1-9905b; and GA-045-1-9906b; FRL-6528-8]

### **Approval and Promulgation of Implementation Plans; Georgia: Approval of Revision to Enhanced Inspection and Maintenance Portion**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to approve the State Implementation Plan (SIP) revisions submitted, in two separate packages, by the State of Georgia in November and December of 1998. Both submittals request revisions to the enhanced Inspection and Maintenance (I/M) program, in accordance with the requirements of Section 110 of the Clean Air Act as amended in 1990 (CAA) and section 348 of the National Highway Systems Designation Act (NHSDA). In total, these submittals request revisions to modify the following sections: "Emission Inspection Procedures," "Inspection Station Requirements," "Certificate of Emissions Inspection," "Definitions," "Waivers," "Inspection Fees," and the "Accelerated Simulated Mode (ASM) Start-up Standards" found in Appendix H of the Enhanced I/M Test Equipment, Procedures, and Specifications—Phase II. In the Final Rules Section of this **Federal Register**, the EPA is approving the State's SIP revisions as a direct final rule without prior proposal because the Agency views these as noncontroversial submittals and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** Written comments must be received on or before February 25, 2000.

**ADDRESSES:** All comments should be addressed to: Dale Aspy (November 1998 submittal) or Lynorae Benjamin (December 1998 submittal) at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.