

EPA-APPROVED MISSISSIPPI REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
<b>APC-S-3 Regulations for the Prevention of Air Pollution Emergency Episodes</b>				
Section 1 .....	General .....	2/4/72	5/31/72, 37 FR 10875.	
Section 2 .....	Definitions .....	2/4/72	5/31/72, 37 FR 10875.	
Section 3 .....	Episode Criteria .....	6/3/88	11/13/89, 54 FR 47211.	
Section 4 .....	Emission Control Action Programs .....	2/4/72	5/31/72, 37 FR 10875.	
Section 5 .....	Emergency Orders .....	6/3/88	11/13/89, 54 FR 47211.	
<b>APC-S-5 Regulations for the Prevention of Significant Deterioration of Air Quality</b>				
All .....	.....	8/27/05	7/10/06, 71 FR 38773.	

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 [FR Doc. 2010-348 Filed 1-12-10; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2009-0474; FRL-9100-1]

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

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVAPCD) portion of the California

State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on August 14, 2009 and concern oxides of nitrogen (NO<sub>x</sub>) and particulate matter (PM) emissions from boilers of various capacities. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** *Effective Date:* This rule is effective on February 12, 2010.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2009-0474 for this action. The index to the docket is available electronically at <http://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:** Idalia Perez, EPA Region IX, (415) 972-3248, [perez.idalia@epa.gov](mailto:perez.idalia@epa.gov).

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

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**I. Proposed Action**

On August 14, 2009 (74 FR 41104), EPA proposed to approve the following rules into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVAPCD .....	4306	Boilers, Steam Generators and Process Heaters—Phase 3.	10/16/08	03/17/09
SJVAPCD .....	4307	Boilers, Steam Generators and Process Heaters—2.0 MMbtu/hr to 5.0 MMbtu/hr.	10/16/08	03/17/09

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

**II. Public Comments and EPA Responses**

EPA’s proposed action provided a 30-day public comment period. During this period, we received no comments.

**III. EPA Action**

Since publication of the proposed action, we identified two minor issues regarding Rule 4307 that do not change our assessment that the submitted rule complies with the relevant CAA requirements. Nonetheless, revisions to

these provisions should be made when the Rule is next revised.

We have identified the possibility that some units that are subject to Rule 4307 do not need exemptions from basic emission limits during start-up and shutdown periods as long as they are maintained and operated appropriately. For example, we believe that heater treaters which rely only on low-NO<sub>x</sub> burners for compliance are capable of consistent compliance with the Rule’s basic emission limits during these periods. As a result, Section 5.4 should be revised to remove the start-up and shutdown exemption period for such devices.

Currently Section 6.1.4 requires recordkeeping only if the start-up and

shut-down event exceeds the limitations of the duration of such events in Section 5.4.1 or 5.4.2. EPA recommends that Section 6.1.4 of Rule 4307 be revised to require records that specify the duration of all start-up and shut-down periods (at least for units located at Title V facilities). EPA notes that the limited applicability of the current version of 6.1.4 may not be appropriate in other rules, particularly those where periodic or continuous monitoring is required.

No comments were submitted that change our assessment that the submitted rules comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving these rules into the California SIP.

#### IV. 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, these rules do 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 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).

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 March 15, 2010. Filing a petition for reconsideration by the Administrator of this final rule 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: November 23, 2009.

**Laura Yoshii**,

*Acting 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)(363)(i)(A)(3) and (4) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(363) \* \* \*

(i) \* \* \*

(A) \* \* \*

(3) Rule 4306, "Boilers, Steam Generators and Process Heaters—Phase 3," adopted on October 16, 2008.

(4) Rule 4307, "Boilers, Steam Generators and Process Heaters—2.0 MMBtu/hr to 5.0 MMBtu/hr," adopted on October 16, 2008.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2009-0024; FRL-9097-2]

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

**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 August 19, 2009, and concerns a local fee rule that applies to major sources of volatile organic compound and nitrogen oxide emissions in the San Joaquin Valley ozone nonattainment area. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves a local rule that regulates these emission sources and directs California to correct rule deficiencies.

**DATES:** *Effective Date:* This rule is effective on February 12, 2010.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2009-0024 for this action. The index to the docket is available electronically at <http://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.