

with the applicable statutory and regulatory requirements and instructing the claimant to proceed with service under 37 CFR 222.5 and 17 U.S.C. 1506(g); or

(2) Informing the claimant or counterclaimant that the claim or counterclaim, respectively, does not comply with the applicable statutory and regulatory requirements and identifying the noncompliant issue(s) according to the procedure set forth in 17 U.S.C. 1506(f).

(d) *Dismissal without prejudice.* If the original claim and an amended claim were previously reviewed by the Copyright Claims Attorney and were found not to comply with the applicable statutory and regulatory requirements, and if the Copyright Claims Attorney concludes, following the submission of a second amended claim, that the claim still does not comply with the applicable statutory and regulatory requirements, the claim shall be referred to a Copyright Claims Officer who shall confirm whether the second amended claim complies with the applicable statutory and regulatory requirements. If the Copyright Claims Officer concurs with the conclusion of the Copyright Claims Attorney, the proceeding shall be dismissed without prejudice.

(e) *Clearance is not endorsement.* The finding that a claim or counterclaim complies with the applicable statutory and regulatory requirements does not constitute a determination as to the validity of the allegations asserted or other statements made in the claim or counterclaim.

(f) *No factual investigations.* For the purpose of the compliance review, the Copyright Claims Attorney shall accept the facts stated in the claim or counterclaim materials, unless they are clearly contradicted by information provided elsewhere in the materials or in the Board's records. The Copyright Claims Attorney shall not conduct an investigation or make findings of fact; however, the Copyright Claims Attorney may take administrative notice of facts or matters that are well known to the general public, and may use that knowledge during review of the claim or counterclaim.

§ 224.2 Dismissal for unsuitability.

(a) *Review by Copyright Claims Attorney.* During the compliance review under § 224.1, the Copyright Claims Attorney shall review the claim or counterclaim for unsuitability on grounds set forth in 17 U.S.C. 1506(f)(3). If the Copyright Claims Attorney concludes that the claim should be dismissed for unsuitability, the Copyright Claims Attorney shall

recommend to the Board that the Board dismiss the claim and shall set forth the basis for that conclusion.

(b) *Dismissal by the Board for unsuitability.* (1) If, upon recommendation by a Copyright Claims Attorney as set forth in paragraph (a) of this section or at any other time in the proceeding upon the request of a party or on its own initiative, the Board determines that a claim or counterclaim should be dismissed for unsuitability under 17 U.S.C. 1506(f)(3), the Board shall issue an order stating its intention to dismiss the claim without prejudice.

(2) Within 30 days following issuance of an order under paragraph (b) of this section, the claimant or counterclaimant may request that the Board reconsider its determination. The respondent or counterclaim respondent may file a response within 30 days following service of the claimant's request.

(3) Following the expiration of the time for the respondent or counterclaim respondent to submit a response, the Board shall render its final decision whether to dismiss the claim for unsuitability.

(c) *Request by a party to dismiss a claim or counterclaim for unsuitability.* At any time, any party who believes that a claim or counterclaim is unsuitable for determination by the Board may file a request providing the basis for such belief. An opposing party may file a response within 14 days of the date of service of the request, setting forth the basis for such opposition to the request. There will be no reply papers related to a request to dismiss for unsuitability unless ordered by the Board in its discretion.

Dated: March 16, 2022.

Shira Perlmutter,

Register of Copyrights and Director of the U.S. Copyright Office.

Approved by:

Carla D. Hayden,

Librarian of Congress.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2022-0221; FRL-9598-02-R9]

Approval and Promulgation of Implementation Plans; California; Correcting Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On August 28, 2009, the Environmental Protection Agency (EPA) issued a final rule titled "Revisions to the California State Implementation Plan, Antelope Valley Air Quality Management District." That publication inadvertently omitted regulatory text rescinding four previously approved rules for the Antelope Valley Air Quality Management District portion of the California State Implementation Plan (SIP). On September 20, 2016, the EPA issued a final rule titled "Approval of California Air Plan Revisions, Department of Pesticide Regulations." That publication listed the wrong EPA approval dates and **Federal Register** citations for certain rules. The EPA is taking direct final action to correct these errors.

DATES: This rule is effective on May 24, 2022 without further notice unless the EPA receives adverse comments by April 25, 2022. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2022-0221 at <https://www.regulations.gov>. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT:

Kevin Gong, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3073 or by email at gong.kevin@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, wherever “we”, “us” or “our” are used, we mean the EPA. Information is organized as follows:

Table of Contents

- I. Background
- II. What the EPA Is Doing in This Action
- III. Incorporation by Reference
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I. Background

Each State has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Under the Clean Air Act (CAA or “Act”), the states are responsible for adopting and submitted SIPs and SIP revisions to implement, maintain and enforce the NAAQS and to meet other related requirements under the CAA and the EPA’s implementing regulations. The EPA is responsible for taking action to approve, disapprove or conditionally approve, in whole or in part, SIPs and SIP revisions that have been adopted by the states and submitted to the EPA. The EPA reviews such SIPs and SIP revisions for compliance with all applicable requirements of the CAA and the EPA’s implementing regulations.

A. Addition of Regulatory Text Rescinding Certain Rules Applicable Within the Antelope Valley Portion of California SIP

Formed in 1997, the Antelope Valley Air Quality Management District (AQMD) administers air quality management programs in the Mojave Desert portion of Los Angeles County that is referred to as “Antelope Valley.” The Antelope Valley AQMD portion of the California SIP includes rules adopted by various air pollution control agencies that had jurisdiction over stationary sources in Antelope Valley since 1972, including the Los Angeles County Air Pollution Control District (APCD), the Southern California APCD, the South Coast Air Quality Management District (AQMD), and the Antelope Valley AQMD.

On August 28, 2009 (74 FR 44294), the EPA took direct final action to

approve Antelope Valley AQMD Rule 1173 (“Fugitive Emissions of Volatile Organic Compounds”) and to approve the rescission of four rules originally adopted by the South Coast AQMD and carried forward as part of the SIP for Antelope Valley when the Antelope Valley AQMD was established: Rule 465 (“Vacuum Producing Devices or Systems”), Rule 466 (“Pumps and Compressors”), Rule 466.1 (“Valves and Flanges”) and Rule 467 (“Pressure Relief Devices”).¹

In our 2009 direct final rule, we added regulatory text for the approval of Antelope Valley AQMD Rule 1173 but inadvertently failed to include regulatory text to remove South Coast AQMD Rules 465, 466, 466.1 and 467 from the applicable SIP for Antelope Valley. Through this direct final rule, we are correcting the error by adding regulatory text to codify the rescission of South Coast AQMD Rules 465, 466, 466.1 and 467 as applicable to the Antelope Valley AQMD.

B. Correction of EPA Approval Dates and Federal Register Citations for Certain Rules Adopted by the California Department of Pesticide Regulation

On September 20, 2016 (81 FR 64350), the EPA took final action to approve certain rules adopted by the California Department of Pesticide Regulation (DPR) for the California SIP. In our final rule, we inadvertently cited the corresponding proposed rule (81 FR 6481, February 8, 2016) as the citation and date for approval for some of the rules, namely, California Code of Regulations (CCR), title 3, sections 6452, 6452.2, 6558, 6577 and 6864. Through this direct final rule, we are correcting the EPA approval dates and **Federal Register** citations for these DPR rules in the table of 40 CFR 52.220a(c) that lists EPA-approved state statutes and regulations.

II. What the EPA Is Doing in This Action

Section 110(k)(6) of the Clean Air Act (CAA or “Act”), as amended in 1990, provides that, whenever the EPA determines that the EPA’s action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification or

reclassification was in error, the EPA may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the state. Such determination and the basis thereof must be provided to the state and the public. We interpret this provision to authorize the EPA to make corrections to a promulgated regulation when it is shown to our satisfaction (or we discover) that (1) we clearly erred by failing to consider or by inappropriately considering information made available to the EPA at the time of the promulgation, or the information made available at the time of promulgation is subsequently demonstrated to have been clearly inadequate, and (2) other information persuasively supports a change in the regulation. See 57 FR 56762, at 56763 (November 30, 1992) (correcting designations, boundaries, and classifications of ozone, carbon monoxide, particulate matter and lead areas).

In this action, pursuant to CAA section 110(k)(6), we are correcting the August 28, 2009 direct final rule by adding regulatory text that was inadvertently omitted and that removes rules for which we approved rescissions from the Antelope Valley AQMD portion of the California SIP. We are also correcting incorrect EPA approval dates and **Federal Register** citations for certain DPR rules that we approved in a September 20, 2016 final rule.

We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing the same error corrections. If we receive adverse comments by April 25, 2022, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final error correction will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final error correction will be effective without further notice on May 24, 2022. This will incorporate these rules into the federally enforceable SIP.

Please note that if the EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

¹ The EPA approved South Coast AQMD Rule 465, adopted on December 7, 1990, at 57 FR 35758 (August 11, 1992). The EPA approved South Coast AQMD Rule 466, adopted on October 7, 1983, at 52 FR 1627 (January 15, 1987). The EPA approved South Coast AQMD Rule 466.1, adopted on May 2, 1980, at 47 FR 29668 (July 8, 1982). The EPA approved South Coast AQMD Rule 467, adopted on March 5, 1982, at 48 FR 52054 (November 16, 1983).

III. Incorporation by Reference

In this action, the EPA is finalizing the deletion of certain rules that were previously incorporated by reference in the applicable California SIP. In accordance with requirements of 1 CFR 51.5, the EPA is deleting certain South Coast AQMD rules that were applicable in the Antelope Valley AQMD, as described in the amendments to 40 CFR 52.220 as set out below. The EPA has made, and will continue to make, incorporation by reference documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

A. General Requirements

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, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely corrects errors in previous rulemakings 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

B. Submission to Congress and the Comptroller General

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. The 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).

C. 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 February 8, 2016. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section

of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Dated: March 20, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 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)(79)(iv)(C), (c)(125)(ii)(E), (c)(166)(i)(A)(2), (c)(166)(i)(B), (c)(166)(ii), (c)(184)(i)(B)(13), and (c)(184)(ii) to read as follows:

§ 52.220 Identification of plan—in part.

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(c) * * *

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(79) * * *

(iv) * * *

(C) Previously approved on July 8, 1982 in paragraph (c)(79)(iv)(B) and now deleted without replacement for implementation in the Antelope Valley Air Quality Management District, Rule 466.1.

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(125) * * *

(ii) * * *

(E) Previously approved on November 16, 1983 in paragraph (c)(125)(ii)(D) and now deleted without replacement for implementation in the Antelope Valley Air Quality Management District, Rule 467.

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(166) * * *

(i) * * *

(A) * * *

(2) Previously approved on January 15, 1987 in paragraph (c)(166)(i)(A)(1) and now deleted without replacement for implementation in the Antelope Valley Air Quality Management District, Rule 466.

(B) [Reserved]

(ii) [Reserved]

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(184) * * *

(i) * * *

(B) * * *

(13) Previously approved on August 11, 1992 in paragraph (c)(184)(i)(B)(2) and now deleted without replacement for implementation in the Antelope Valley Air Quality Management District, Rule 465.

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(ii) [Reserved]

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■ 3. Section 52.220a in paragraph (c), table 1 is amended by revising the entries for “6452”, “6452.2”, “6558”, “6577” and “6864” to read as follows:

§ 52.220a Identification of plan—in part.

* * * * *

(c) * * *

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS ¹

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
6452	Reduced Volatile Organic Compound Emissions Field Fumigation Methods.	11/1/2013	81 FR 64350, 9/20/2016.	Amends previous version of rule approved at 77 FR 65294 (October 26, 2012). Amended rule adopted by the California Department of Pesticide Regulation on May 23, 2013. Submitted on February 4, 2015.
6452.2	Volatile Organic Compound Emission Limits.	11/1/2013	81 FR 64350, 9/20/2016.	Amends previous version of rule approved at 77 FR 65294 (October 26, 2012). Amended rule adopted by the California Department of Pesticide Regulation on May 23, 2013. Submitted on February 4, 2015.
6558	Recommendations for Use of Non-fumigants in the San Joaquin Valley Ozone Nonattainment Area.	11/1/2013	81 FR 64350, 9/20/2016.	Adopted by the California Department of Pesticide Regulation on May 23, 2013. Submitted on February 4, 2015.
6577	Sales of Nonfumigants for Use in the San Joaquin Valley Ozone Nonattainment Area.	11/1/2013	81 FR 64350, 9/20/2016.	Adopted by the California Department of Pesticide Regulation on May 23, 2013. Submitted on February 4, 2015.
6864	Criteria for Identifying Pesticides as Toxic Air Contaminants.	11/1/2013	81 FR 64350, 9/20/2016.	Adopted by the California Department of Pesticide Regulation on May 23, 2013. Submitted on February 4, 2015.

¹ Table 1 lists EPA-approved California statutes and regulations incorporated by reference in the applicable SIP. Table 2 of paragraph (c) lists approved California test procedures, test methods and specifications that are cited in certain regulations listed in table 1. Approved California statutes that are nonregulatory or quasi-regulatory are listed in paragraph (e).

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[FR Doc. 2022–06292 Filed 3–24–22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2021–0854; FRL–9381–02–R3]

Air Plan Approval; Delaware; Philadelphia Area Base Year Inventory for the 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state

implementation plan (SIP) revision formally submitted by the State of Delaware. This revision consists of the base year inventory for the Delaware portion of the Philadelphia-Wilmington-Atlantic City, PA–NJ–MD–DE marginal nonattainment area (Philadelphia Area) for the 2015 ozone national ambient air quality standards (NAAQS). This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on April 25, 2022.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2021–0854. All documents in the docket are listed on