

for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. 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**. This rule 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 August 4, 2003. 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, to prevent and control air pollution from the emission of sulfur oxides in West Virginia, 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, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 8, 2003.

James W. Newsom,

Acting Regional Administrator, Region III.

■ 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 XX—West Virginia

■ 2. Section 52.2520 is amended by adding paragraph (c)(53) to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(53) Revisions to West Virginia's Regulations to prevent and control air pollution from the emission of sulfur oxides, submitted on September 21, 2000 by the West Virginia Division of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of September 21, 2000 from the West Virginia Division of Environmental Protection to EPA transmitting the regulation to prevent and control air pollution from the emission of sulfur oxides.

(B) Revisions to Title 45, Series 10, 45CSR10, To Prevent and Control Air Pollution from the Emission of Sulfur Oxides, effective August 31, 2000.

(ii) Additional Material.

(A) Letter of April 29, 1996 from the West Virginia Division of Environmental Protection to EPA transmitting the regulation to prevent and control air pollution from the emission of sulfur oxides.

(B) Letter of March 19, 2003 from the West Virginia Department of Environmental Protection to EPA providing clarification on the interpretation and implementation of certain regulations on air pollution control.

(C) Remainder of the State submittal pertaining to the revisions listed in paragraph (c)(53)(i) of this section.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 267-0394a; FRL-7495-4]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District and South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) and South Coast Air Quality Management District (SCAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) and particulate matter (PM-10) emissions from commercial charbroiling and VOC emissions from solvent cleaning. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on August 4, 2003 without further notice, unless EPA receives adverse comments by July 3, 2003. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; steckel.andrew@epa.gov.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Street, Fresno, CA 93726.

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

A copy of the rules may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>.

Please be advised that this is not an EPA website and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Al Petersen, U.S. Environmental Protection Agency, Region IX, (415) 947-4118.

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

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I. The State’s Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule number	Rule title	Adopted or amended	Submitted
SJVUAPCD	4692	Commercial Charbroiling	Adopted 3/21/2	5/21/2.
SCAQMD	1171	Solvent Cleaning Operations	Amended 8/2/2	12/23/2.

On August 6, 2002 and December 30, 2002, respectively, these rule submittals were found to meet the completeness criteria in 40 CFR part 51 appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

There are no previous versions of SJVUAPCD Rule 4692 in the SIP. We approved a version of SCAQMD Rule 1171 into the SIP on August 13, 1999 (64 FR 44134). The SCAQMD adopted revisions to the SIP-approved version on October 8, 1999 and CARB submitted them to us on January 21, 2000. While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals.

C. What Is the Purpose of the Submitted Rules or Rule Revisions?

The purposes of new Rule 4692 are as follows:

- To reduce emissions of VOCs and PM-10 from chain-driven commercial charbroilers. The charbroiler must be equipped with a catalytic oxidizer control device on the exhaust gases, or a unit certified by the SCAQMD must be used, or another control device may be used if it is as effective as a catalytic oxidizer. The purposes of the changes to SCAQMD 1171 are as follows:

- Paragraph (c)(1)(D)(vi) on UV ink application is changed to include the similar EB ink application.
- Paragraph (c)(1) advances the requirement for lower VOC content from July 1, 2005 forward to January 1, 2003. The cleaning operations affected include (A) product cleaning and surface preparation—general, (B) repair and maintenance cleaning—general, (C) cleaning of ink application equipment—general, flexographic printing,

packaging, and removable press components, and (D) cleaning of polyester resin application equipment.

- Paragraph (e)(4) prohibits the use in automotive maintenance and repair of (A) perchloroethylene, (B) methylene chloride, or (C) trichloroethylene solvents.

- Paragraphs (h)(3) and (h)(5) have deleted obsolete exemptions for cleaning of plastics and handwipe cleaning of equipment.

- Paragraph (h)(7) clarifies that the 25 grams/liter limit for general cleaning of ink application equipment shall not take place until July 1, 2005.

- The allowance for a person to apply for a Clean Air Solvent Certificate is deleted.

- Obsolete paragraphs describing future limitations on solvent concentration are deleted.

The TSD has more information about these rules.

II. EPA’s Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). The SJVUAPCD is a severe ozone nonattainment area and a serious PM-10 nonattainment area (see 40 CFR part 81). There are no major sources of VOC in the chain-driven commercial charbroiling source category in SJVUAPCD, and therefore the rule does not need to fulfill RACT for VOC. Section 189(b) of the CAA requires serious PM-10 nonattainment areas with major sources or significant source categories of PM-10 to adopt best available control measures (BACM),

including best available control technology (BACT). BACM is not required for source categories that are not significant (*de minimis*) and there are no major sources. See *Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, 59 FR 41998 (August 16, 1994). The chain-driven commercial charbroiling source category is *de minimis* with about 0.02% of the total PM-10 emissions and does not have any major sources. Therefore Rule 4292 does not need to fulfill BACM/BACT for PM-10.

Guidance and policy documents that we used to help evaluate specific enforceability and RACT requirements consistently include the following:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans*, U.S. EPA, 40 CFR part 51.
- *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations*, EPA (May 25, 1988) (the Bluebook).
- *Guidance Document for Correcting Common VOC & Other Rule Deficiencies*, EPA Region 9 (August 21, 2001) (the Little Bluebook).
- *Determination of RACT and BARCT for Organic Solvent Cleaning Degreasing Operations*, California Air Resources Board (July 7, 1991).
- *Control of VOE from Solvent Metal Cleaning*, EPA-450-2-77-022 (November 1977).
- *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, 57 FR 13498, 13540 (April 16, 1992).
- *Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, 59 FR 41998 (August 16, 1994).
- *PM-10 Guideline Document* (EPA-452/R-93-008).

B. Do the Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. 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 approval of the same submitted rules. If we receive adverse comments by July 3, 2003, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval 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 approval will be effective without further notice on August 4, 2003. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this direct final rule and if that provision may be

severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Background Information

Why Were These Rules Submitted?

VOCs help produce ground-level ozone, smog, and particulate matter which harm human health and the environment. EPA has established National Ambient Air Quality Standards (NAAQS) for ozone. Section 110(a) of the CAA requires states to submit regulations in order to achieve and maintain the NAAQS. Table 2 lists some of the national milestones leading to the submittal of local agency VOC rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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). This action 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 CAA. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission

that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 4, 2003. 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, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 28, 2003.

Alexis Strauss,

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)(310) and (c)(311) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(310) New and amended rules for the following districts were submitted on May 21, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 4692, adopted on March 21, 2002.

(311) New and amended rules for the following districts were submitted on December 23, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(1) Rule 1171, adopted on August 2, 1991 and amended on August 2, 2002.

* * * * *

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BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN-213-9952(a); FRL-7506-8]

Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Tennessee State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to the Tennessee Department of Environment and Conservation's definition of Volatile Organic Compounds submitted on February 3, 1999 by the state of Tennessee. These revisions are designed for the State Implementation Plan (SIP) to attain the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act (CAA). The additional compounds HFC43-10mee, HCFC-225ca, and HCFC-225cb are added to the list of exempt compounds on the basis that they have negligible contribution to the tropospheric ozone formation.

DATES: This direct final rule is effective August 4, 2003 without further notice, unless EPA receives adverse comment by July 3, 2003. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: All comments should be addressed to: Steve Scofield or Nacosta Ward; Regulatory Development Section; Air Planning Branch; Air, Pesticides, and Toxics Management Division; U. S. Environmental Protection Agency Region 4; 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. [Steve Scofield, 404-562-9034 or Nacosta Ward, 404-562-9140]. Tennessee Department of Environment and Conservation, Division of Air Pollution Control, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243-1531. 615-532-0554.

FOR FURTHER INFORMATION CONTACT:

Steve Scofield or Nacosta Ward; Regulatory Development Section; Air Planning Branch; Air, Pesticides, and Toxics Management Division; U. S. Environmental Protection Agency

Region 4; 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Mr. Scofield and Ms. Ward can also be reached by telephone at 404-562-9034 and 404-562-9140, or by electronic mail at scofield.steve@epa.gov and ward.nacosta@epa.gov, respectively.

SUPPLEMENTARY INFORMATION:

I. Analysis of State's Submittal

On February 3, 1999, the state of Tennessee through the Tennessee Department of Environment and Conservation submitted a revision to chapter 1200-3-18, Volatile Organic Compounds, which provides SIP definitions. The revision to chapter 1200-3-18 provides greater clarity to the existing definition. The additional compounds HFC43-10mee, HCFC-225ca, and HCFC-225cb are added to the list of exempt compounds on the basis that they have negligible contribution to the tropospheric ozone formation.

II. Final Action

EPA is approving the aforementioned changes to the State of Tennessee's SIP because they are consistent with the CAA and EPA policy. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective August 4, 2003 without further notice unless the Agency receives adverse comments by July 3, 2003.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on August 4, 2003 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.