

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 oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 23, 2022.

**Daniel Blackman,**

*Regional Administrator, Region 4.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 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 S—Kentucky

■ 2. In § 52.920(e), amend the table by adding at the end of the table entries for “1997 8-Hour Ozone Second 10-Year Limited Maintenance Plan for the Kentucky portion of the Huntington-Ashland, WV-KY Maintenance Area” and “1997 8-Hour Ozone Second 10-Year Limited Maintenance Plan for the Kentucky portion of the Clarksville-Hopkinsville, TN-KY Maintenance Area” to read as follows:

#### § 52.920 Identification of plan.

\* \* \* \* \*

(e) \* \* \*

#### EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

| Name of non-regulatory SIP provision                                                                                                        | Applicable geographic or nonattainment area | State submittal date/effective date | EPA approval date                            | Explanations |
|---------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|-------------------------------------|----------------------------------------------|--------------|
| * * *                                                                                                                                       | * * *                                       | * * *                               | * * *                                        | * * *        |
| 1997 8-Hour Ozone Second 10-Year Limited Maintenance Plan for the Kentucky portion of the Huntington-Ashland, WV-KY Maintenance Area.       | Boyd County .....                           | 3/29/2021                           | 9/30/2022, [Insert citation of publication]. |              |
| 1997 8-Hour Ozone Second 10-Year Limited Maintenance Plan for the Kentucky portion of the Clarksville-Hopkinsville, TN-KY Maintenance Area. | Christian County ....                       | 3/29/2021                           | 9/30/2022, [Insert citation of publication]. |              |

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R09–OAR–2022–0416; FRL–9820–02–R9]

#### Limited Approval, Limited Disapproval of California Air Plan Revisions; California Air Resources Board

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing a limited approval and limited disapproval of California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 10 Climate Change, Article 4, Subarticle 13: Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities (Oil and Gas Methane Rule) into the California State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs) from crude oil and natural gas facilities. Under the authority of the Clean Air Act (CAA or the Act), this action simultaneously approves a state rule that regulates these

emission sources and identifies deficiencies with the rule that must be corrected for the EPA to grant full approval of the rule. We are also finalizing disapprovals of the reasonably available control technology (RACT) demonstrations for the 2008 and 2015 ozone National Ambient Air Quality Standards (NAAQS) for sources covered by the EPA’s 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry (Oil and Gas CTG) for the Sacramento Metropolitan Air Quality Management District (SMAQMD), San Joaquin Valley Air Pollution Control District (SJVAPCD), South Coast Air Quality Management District (SCAQMD), Ventura County Air Pollution Control District (VCAPCD), and the Yolo-Solano Air Quality Management District (YSAQMD). **DATES:** This rule will be effective on October 31, 2022.

**ADDRESSES:** The EPA has established a docket for this action under Docket No. EPA–R09–OAR–2022–0416. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on

the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. 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:** Nicole Law, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4126 or by email at [law.nicole@epa.gov](mailto:law.nicole@epa.gov). Donnique Sherman, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4129 or by email at [sherman.donnique@epa.gov](mailto:sherman.donnique@epa.gov). Sina Schwenk-Mueller, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4100 or by email at [SchwenkMueller.Sina@epa.gov](mailto:SchwenkMueller.Sina@epa.gov).

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

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**I. Proposed Action**

On May 12, 2022 (87 FR 29103), the EPA proposed a limited approval and

limited disapproval of the following rule that was submitted for incorporation into the California SIP.

| Agency                          | Rule title                                                                                                                                                                                                                     | Adopted    | Submitted  |
|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------------|
| California Air Resources Board. | California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 10 Climate Change, Article 4 Subarticle 13: Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities (Oil and Gas Methane Rule). | 03/23/2017 | 12/11/2018 |

The submission also contained a staff report evaluating the Oil and Methane Rule against the Federal RACT standard, concluding that the Oil and Gas Methane Rule, in combination with applicable SIP-approved local air district rules, met the RACT requirement for the 2008 and 2015 ozone NAAQS for sources covered by the EPA's 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry for SMAQMD, SJVAPCD, SCAQMD, VCAPCD, and YSAQMD.

We proposed a limited approval of the Oil and Gas Methane Rule because we determined that this rule strengthens the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions do not comply with the requirements of section 110 and part D of the Act. In addition, we proposed a disapproval of the RACT demonstrations for the 2008 and 2015 ozone NAAQS for sources covered by the Oil and Gas CTG for SMAQMD, SJVAPCD, SCAQMD, VCAPCD, and YSAQMD.

The provisions identified in our proposed limited disapproval of the Oil and Gas Methane Rule include the following:

*Reoccurring Deficiencies*

1. Subsections 95668(a)(2)(C), 95669(b)(1), and 95670(a)(1) include insufficiently specific exemptions for storage tanks or components "approved for use by a local air district" or "subject to a local air district requirement."

2. Subsections 95668(a), 95668(b)(4), and 95671 do not contain a requirement for initial and continuous compliance demonstration and do not specify test methods or reporting requirements.

3. The Rule provides exemptions from the vapor control requirements of the Rule for low use compressors in subsections 95668(c)(2)(A) and 95668(d)(2)(A) that has not been demonstrated to implement RACT.

4. In subsections 95668(c)(4)(F) and 95668(d)(9) the Rule potentially allows a leak to go unrepaired for an additional year after being identified.

5. Subsections 95668(c)(4)(B), 95668(d)(4), and 95668(g)(1) do not

specify test methods or a calculation methodology for determining flow rate.

6. Subsections of 95668: (c)(3)(D)(1)(a), (c)(4)(D)(1)(a), (d)(6)(A)(1) and Subsections of 95669: (h)(4)(A)(1) and (i)(5)(A)(1) provide for an open ended, and potentially indefinite period during which a leak could remain unrepaired.

*Rule Deficiencies by Section**95668 Standards*

7. According to the 2016 Oil and Natural Gas CTG, storage vessels with a potential to emit at or greater than 6 tons per year (tpy) VOC are required to implement RACT-level control. It is not clear whether the Rule captures all storage vessels at oil and gas facilities that meet or exceed the CTG Potential to Emit (PTE) threshold because the Oil and Gas Methane Rule only requires evaluation of the separator and first tank connected to the separator, to determine if they fall above or below the 10 tpy methane emissions applicability threshold.

8. Subsection (a)(2)(A) exempts separator and tank systems that receive an average of less than 50 barrels of crude oil or condensate per day from the Oil and Gas Methane Rule's flash testing and vapor control requirements for storage vessels. By using the word "or," this exemption potentially exempts tanks that receive a minor amount of either crude oil or condensate, but a significant quantity of the other organic liquid.

9. Subsections (a)(3) and (a)(4) require existing and new tanks that are not equipped with vapor collection systems (VCS) to comply with specified requirements for flash testing. The Oil and Gas Methane Rule requires tanks with emissions greater than 10 tpy of methane to meet specified vapor control requirements. The Oil and Gas Methane Rule does not specify requirements for how tanks equipped with vapor control determine their emissions to assess whether they must meet RACT-level control requirements.

10. Subsection (b)(4) includes an exemption for when the California Air Resources Board (CARB) Executive Officer makes a determination that

controlling emissions is not possible. This provides insufficiently bounded director's discretion, and is not an exemption included in the CTG.

11. Subsections (c)(3)(B) and (c)(4)(B)(3) contain the term "inspection period." The term is not defined.

*95669 Leak Detection and Repair*

12. Subsection (b)(7) includes an exemption that is not included in the CTG for one-half inch and smaller stainless steel tube fittings used to supply natural gas to equipment or instrumentation.

13. Subsection (i)(1) requires leaks of 1,000–9,999 parts per million (ppm) be repaired in 14 days, but the CTG recommends that within 5 days of the detected leak an attempt at repair be made.

14. The CTG contains a requirement to maintain a list of identification numbers for all the equipment subject to leak regulation. Subsection 95669 does not contain a similar requirement.

15. The CTG contains a requirement to maintain a list of equipment that is designated as "unsafe to monitor." Subsection 95669 does not contain a similar requirement.

*95671 Vapor Collection Systems and Vapor Control Devices*

16. Subsection (f) allows VCS to be taken out of service for up to 30 calendar days per year while maintenance is performed. The State has not justified that a smaller amount of time, or less frequent interval is not reasonably available. Moreover, this maintenance requirement is not bounded by requirements specifying the necessity of taking the system out of service and minimizing the outage time.

*95672 Record Keeping Requirements*

17. Subsection 95672 does not contain specification on what type of records need to be kept.

*Appendix C Test Procedure for Determining Annual Flash Emission Rate of Gaseous Compounds From Crude Oil, Condensate, and Produced Water*

18. The flash emission test procedure established in Appendix C relies upon

several test methods that have not been approved by the EPA. In addition, paragraph 13 of Appendix C indicates that alternative test procedures, sampling methods, or laboratory methods may be used if written permission is obtained from CARB. This constitutes unapprovable director's discretion.

In addition to the deficiencies identified in the CARB Oil and Gas Methane Rule, the following deficiencies, organized by California District Rule, serve as additional bases for disapproval of the RACT demonstrations that the CARB Oil and Gas Methane Rule along with the associated California District Rules meet RACT for sources covered by the 2016 Oil and Gas CTG in the associated districts.

#### *Sacramento Metropolitan AQMD*

##### *Rule 446: Storage of Petroleum Products*

A. The State has not demonstrated that Rule 446 will capture all storage vessels at oil and gas facilities that meet or exceed the CTG PTE threshold because the applicability of Rule 446 is based on vapor pressure of the liquid stored and the CTG applicability is based on a PTE threshold.

B. The definition of "gas tight" in section 202 of Rule 446 is much higher than the 500 ppm threshold used in the CTG and other California district rules and does not represent RACT.

C. Rule 446 does not contain initial or continuous testing requirements to demonstrate compliance with the vapor control efficiency requirements. While Rule 446 does require inspections, it does not require recordkeeping of these inspections.

#### *South Coast AQMD*

##### *Rule 463: Organic Liquid Storage and Rule 1178: Further Reductions of VOC Emissions From Storage Tanks at Petroleum Facilities*

D. The State has not demonstrated that Rules 463 and 1178 will capture all storage vessels at oil and gas facilities that meet or exceed the CTG PTE threshold because the applicability of Rules 463 and 1178 is based on a tank's volumetric capacity and the CTG applicability is based on a PTE threshold.

#### *San Joaquin Valley APCD*

##### *Rule 4623: Storage of Organic Liquids*

E. The State has not demonstrated that Rule 4623 will capture all storage vessels at oil and gas facilities that meet or exceed the CTG PTE threshold because the applicability of Rule 4623 is based on a tank's volumetric capacity

and the CTG applicability is based on a PTE threshold.

##### *Rule 4401: Steam-Enhanced Crude Oil Production Wells*

F. Rule 4401 does not require controls that are reasonably available because the leak inspection requirements in Rule 4401 are less stringent than the CTG and other comparable California district rules.

#### *Ventura County APCD*

##### *Rule 71.1: Crude Oil Production and Separation and Rule 71.2 Storage of Reactive Organic Compound Liquids*

G. The State has not demonstrated that Rules 71.1 and 71.2 will capture all storage vessels at oil and gas facilities that meet or exceed the CTG PTE threshold because the applicability of Rules 71.1 and 71.2 is based on the vapor pressure of the liquid stored and a tank's volumetric capacity, while the CTG applicability is based on a PTE threshold.

H. Rule 71.1 does not contain inspection or initial compliance determination requirements.

#### *Yolo Solano AQMD*

##### *Rule 2.21: Organic Liquid Storage and Transfer*

I. The State has not demonstrated that Rule 2.21 will capture all storage vessels at oil and gas facilities that meet or exceed the CTG PTE threshold because the applicability of Rule 2.21 is based on vapor pressure of the liquid stored and a tank's volumetric capacity, while the CTG applicability is based on a PTE threshold.

Our proposed action and technical support document (TSD) contain more information on the basis for this rulemaking and on our evaluation of the submittal.

## **II. Public Comments and EPA Responses**

The EPA's proposed action provided a 30-day public comment period. During the comment period we received one comment submitted by Earthjustice on behalf of the Center for Biological Diversity, Central California Asthma Collaborative, Central Valley Air Quality Coalition, Clean Water Action, Earthjustice, Little Manila Rising, Mi Familia Vota, and Sierra Club (Kern-Kaweah Chapter) (collectively, the "Valley Coalition"). The comment and our response are summarized below.

*Comment:* The Valley Coalition comment addresses "what appears to be a systematic failure to control significant leaks of volatile organic compounds (VOCs) from oil and gas

wells in neighborhoods in Bakersfield, California." The commenters state that the leaks may fall within loopholes in the Oil and Gas Methane Rule, and related local air district rules. They claim that such loopholes would preclude a finding that the State is implementing RACT.

The Valley Coalition writes that at least 30 idle wells in and nearby to Bakersfield neighborhoods are leaking methane, with many wells near homes, and leaking methane at volumes that would make the air near the escaping gas explosive. The comment describes the discovery of the leaks, and states that two wells were hissing audibly within a few hundred feet of homes, and that concentrations near other wells exceeded 50,000 parts per million.

The Valley Coalition asserts that the leaks are undoubtedly also sources of VOCs and that "EPA therefore must assume these leaks are significant sources of VOCs." The commenters state that there are approximately 38,000 idle wells in California and cite a study that, according to the commenters, suggests that idle well leaks are widespread.

The commenters encourage the EPA to learn about where the leaks fall within the regulatory scheme, and then require state and local air districts to remedy any loopholes or inadequacies that may allow such leaks. Commenters assert that "[s]uch remediation plainly falls within the scope of the requirement in section 182(b)(2) of the Clean Air Act that the State implement RACT."

The Valley Coalition also writes: "Specifically, it appears that if a well within the jurisdiction of the San Joaquin Valley Unified Air Pollution Control District is used for oil with an American Petroleum Institute (API) gravity below 20 and is not steam-enhanced, that well is exempt from leak detection and repair (LDAR) requirements under the Oil and Gas Methane Rule and the San Joaquin Valley Air District's relevant local rules. The Oil and Gas Methane Rule itself, in Cal. Code Regs., title 17, section 95669(b)(2), exempts 'components found on tanks, separators, wells, and pressure vessels [ ] used exclusively for crude oil with an API gravity less than 20 averaged on an annual basis.' San Joaquin Valley Rule 4401—which regulates VOC emissions from steam-enhanced crude oil production wells—applies only to components at wells that are steam-enhanced. And San Joaquin Valley Rule 4409—which regulates VOC emissions from leaking components at light crude oil production facilities, natural gas production facilities, and natural gas processing facilities—does

not apply to facilities used for oil with an API gravity below 30 degrees.”

The commenters write that it appears that the Bakersfield wells, and potentially the majority of wells in California, fall within these exemptions. The Valley Coalition states that the Bakersfield wells at issue were not involved in steam injection, and that oil from two of the fields at issue had API gravities of 15.3 and 19.2. They note that in 2018, 68% of California’s crude oil production was heavy (that is, with an API gravity between 10 and 22.3). Consequently, the commenters claim, exemptions for equipment with an API gravity below 20 “could allow a vast proportion of California’s oil production to escape LDAR requirements.”

The Valley Coalition writes that other loopholes and exemptions may exist and encourages the EPA to identify and close any such loopholes and inadequacies.

*Response:* With respect to the commenters’ concerns regarding leaking wells, the EPA agrees that if wells are leaking methane, they are likely to also leak VOCs. As a result, leaking wells might implicate the RACT requirement. We note, however, that this rulemaking evaluates California’s Oil and Gas Methane Rule submittal with respect to a specific part of section 182(b)(2)’s RACT requirement. Section 182(b)(2) obligates states with nonattainment areas that are classified as Moderate or above to submit SIP revisions that require the implementation of RACT in these areas with respect to two distinct categories of VOC sources: sections 182(b)(2)(A) and (B) govern VOC sources covered by a CTG, whereas section 182(b)(2)(C) relates to major stationary sources of VOCs (*i.e.*, “non-CTG major sources”). As explained in our proposed action, California submitted the Oil and Gas Methane Rule for the purpose of satisfying the RACT requirements for the first category, *i.e.*, VOC sources covered by a CTG (namely, the EPA’s 2016 Oil and Gas CTG). Therefore, this rulemaking evaluates California’s submissions with respect to CAA section 182(b)(2)(A) and the provisions of the 2016 Oil and Gas CTG and does not evaluate the submissions with respect to section 182(b)(2)(C) and non-CTG major sources in Moderate and above nonattainment areas.

The above point regarding the scope of this rulemaking is important because idle wells are not within the scope of the EPA’s 2016 Oil and Gas CTG. Section 9.1 of the 2016 Oil and Gas CTG provides: “[f]or purposes of this CTG, the emissions and programs to control emissions discussed herein would apply to the collection of fugitive emissions

components at well sites with an average production of greater than 15 barrel equivalents per well per day.” The CTG further explains that “[f]or the purposes of this CTG, fugitive emission reduction recommendations would not apply to well sites that only contain wellheads.”<sup>1</sup> We further note that no other CTGs apply to emissions from idle wells. As a result, the commenters’ concerns regarding idle wells relate to emissions from sources not covered by the CTG (*i.e.*, well sites with average production less than or equal to 15 barrel equivalents per day) and are therefore beyond the scope of this rulemaking.<sup>2</sup>

Although the Valley Coalition comment focuses on idle wells, the comment also identifies specific exemptions that the commenters suggest may constitute loopholes or inadequacies in the regulatory scheme that could allow a large number of wells in California to escape LDAR requirements. To the extent that these exemptions may represent an inadequacy in the regulation of non-idle wells that are covered by the CTG, the validity of these exemptions is within the scope of the present rulemaking.

The commenters raise the following exemptions as potential loopholes in the regulatory scheme:

(1) CARB Oil and Gas rule section 95669(b)(2), exemption for “components found on tanks, separators, wells, and pressure vessels [ ] used exclusively for crude oil with an API gravity less than 20 averaged on an annual basis.”

(2) San Joaquin Valley Rule 4401, which regulates VOC emissions from steam-enhanced crude oil production wells. applies only to components at wells that are steam-enhanced.

(3) San Joaquin Valley Rule 4409, which regulates VOC emissions from leaking components at light crude oil production facilities, natural gas production facilities, and natural gas processing facilities, does not apply to facilities used for oil with an API gravity below 30 degrees.

The commenters assert that this combination of regulations exempts from LDAR requirements wells in the San Joaquin Valley that are not steam-enhanced and that produce oil from

fields with an API gravity below 20 degrees.

The exemption found in section 95669(b)(2) is not found in the CTG; the CTG does not provide for an exemption for wells based on API gravity or volatility of the oil in the produced field. Although a state may provide for an exemption for sources that are not exempted in the CTG, if it chooses to do so it must provide an analysis of why the exemption is consistent with the RACT requirement. The State has not done so here.<sup>3</sup> Although some of the active wells producing oil from fields with API gravity less than 20 degrees are regulated by SIP-approved local district rules, the submission does not analyze the impacts of this exemption or show how it is consistent with the section 182(b)(2) RACT requirement.

Based on the submission before us, the scope of the exemption from LDAR requirements is unclear in terms of number of wells and associated emissions. Similarly, the submission does not address the cost of potential monitoring and control options. As a result, the EPA agrees that CARB’s submission does not sufficiently demonstrate that RACT is in place for wells that are subject to the section 95669(b)(2) exemption. We recognize that, given the low volatility of the oil in such fields, the State may have valid reasons for exempting such components. Analyses demonstrating that controls are not cost effective, or that emissions are minimal may, in some instances, satisfy the RACT requirement. However, no such analysis was included with the submission of the Oil and Gas Methane Rule.

Therefore, in addition to the grounds for disapproval that we identified in our notice of proposed rulemaking, we are also disapproving the CTG RACT demonstrations for the relevant districts based on the inclusion of an exemption for production from fields with API gravity below 20 degrees, that has not been justified as RACT.

### III. EPA Action

No comments were submitted that change our proposed simultaneous limited approval and limited disapproval of the rule or our disapproval of the RACT demonstrations for the 2008 and 2015 ozone National Ambient Air Quality

<sup>1</sup> 2016 Oil and Gas CTG, 9–1.

<sup>2</sup> The EPA notes that the Biden Administration recently awarded \$560 million to plug orphaned oil and gas wells across 24 states, including California. See U.S. Department of the Interior Press Release “Through President Biden’s Bipartisan Infrastructure Law, 24 States Set to Begin Plugging Over 10,000 Orphaned Wells” August 25, 2022, <https://www.doi.gov/pressreleases/through-president-bidens-bipartisan-infrastructure-law-24-states-set-begin-plugging>.

<sup>3</sup> In its submission, the State indicated that components associated with heavy oil emit less total hydrocarbons than components found in gas or other liquid service. CARB Staff Report: Initial Statement of Reasons, Date of Release: May 31, 2016, 55. The fact that these wells emit less per well is not, on its own, sufficient to justify the exemption.

Standards (NAAQS) for sources covered by the EPA's 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry (Oil and Gas CTG) for the SMAQMD, SJVAPCD, SCAQMD, VCAPCD, and the YSAQMD. As noted in Section II of this rule, in addition to the deficiencies listed in the TSD, and summarized in Section I above, subsection 95669(b)(2) includes an exemption for components used for crude oil with an API Gravity less than 20 that is not in the CTG, that the State has not justified as meeting the RACT requirement.

Because the rule strengthens the SIP and is largely consistent with the relevant CAA requirements, the EPA is finalizing a limited approval of the submitted rule, as authorized in sections 110(k)(3) and 301(a) of the Act. This action incorporates the submitted rule into the California SIP, including those provisions identified as deficient. Due to the deficiencies enumerated above, the EPA is simultaneously finalizing a limited disapproval of the rule as authorized under sections 110(k)(3) and 301(a).

As a result, the 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. In addition, the offset sanction in CAA section 179(b)(2) will be imposed 18 months after the effective date of this action, and the highway funding sanction in CAA section 179(b)(1) will be imposed six months after the offset sanction. A sanction will not be imposed if the EPA determines that a subsequent SIP submission corrects the identified deficiencies before the applicable deadline.

Note that the submitted rule has been adopted by CARB, and the EPA's final limited disapproval does not prevent CARB from enforcing it. The limited disapproval also does not prevent any portion of the rules from being incorporated by reference into the federally enforceable SIP as discussed in a July 9, 1992 EPA memo found at: <https://www.epa.gov/sites/production/files/2015-07/documents/procsip.pdf>.

#### IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 10 Climate Change, Article 4 Subarticle 13: Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities as

described in Section I of this preamble and set forth in the amendments to 40 CFR part 52 below. Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of this final rulemaking, and will be incorporated by reference in the next update to the SIP compilation.<sup>4</sup> The EPA has made, and will continue to make, these documents available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

#### V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

##### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

##### B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

##### C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

##### D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

##### E. Executive Order 13132: Federalism

This action does not have federalism implications. It 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.

##### F. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because 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, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

##### I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

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

The state did not evaluate environmental justice considerations as part of its SIP submittal. There is no information in the record inconsistent with the stated goals of E.O. 12898 of

<sup>4</sup> 62 FR 27968 (May 22, 1997).

achieving environmental justice for people of color, low-income populations, and indigenous peoples.

#### K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

#### 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 November 29, 2022. 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: September 21, 2022.

**Martha Guzman Aceves,**  
Regional Administrator, Region IX.

Part 52, 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 52.220a is amended by adding at the end of table 1 to paragraph (c) an undesignated center heading and entries “95665” through “95677,” “Appendix A,” “Appendix B,” and “Appendix C” to read as follows:

#### § 52.220a Identification of plan—in part.

\* \* \* \* \*

(c) \* \* \*

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS <sup>1</sup>

| State citation                                                                                                                                                                                                                                                                            | Title/subject                                                         | State effective date | EPA approval date                                     | Additional explanation                                                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|----------------------|-------------------------------------------------------|-------------------------------------------------------------------------------------|
| * * * * *                                                                                                                                                                                                                                                                                 |                                                                       |                      |                                                       |                                                                                     |
| Title 17 (Public Health), Division 3 (Air Resources), Chapter 1 (Air Resources Board); Subchapter 10 (Climate Change); Article 4 (Regulations to Achieve Greenhouse Gas Emission Reductions); Subarticle 13 (Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities). |                                                                       |                      |                                                       |                                                                                     |
| 95665 .....                                                                                                                                                                                                                                                                               | Purpose and Scope .....                                               | 3/23/2017            | [INSERT <b>Federal Register</b> CITATION], 9/30/2022. | Submitted on December 11, 2018 as an attachment to a letter dated December 4, 2018. |
| 95666 .....                                                                                                                                                                                                                                                                               | Applicability .....                                                   | 3/23/2017            | [INSERT <b>Federal Register</b> CITATION], 9/30/2022. | Submitted on December 11, 2018 as an attachment to a letter dated December 4, 2018. |
| 95667 .....                                                                                                                                                                                                                                                                               | Definitions .....                                                     | 3/23/2017            | [INSERT <b>Federal Register</b> CITATION], 9/30/2022. | Submitted on December 11, 2018 as an attachment to a letter dated December 4, 2018. |
| 95668 .....                                                                                                                                                                                                                                                                               | Standards .....                                                       | 3/23/2017            | [INSERT <b>Federal Register</b> CITATION], 9/30/2022. | Submitted on December 11, 2018 as an attachment to a letter dated December 4, 2018. |
| 95669 .....                                                                                                                                                                                                                                                                               | Leak Detection and Repair .....                                       | 3/23/2017            | [INSERT <b>Federal Register</b> CITATION], 9/30/2022. | Submitted on December 11, 2018 as an attachment to a letter dated December 4, 2018. |
| 95670 .....                                                                                                                                                                                                                                                                               | Critical Components .....                                             | 3/23/2017            | [INSERT <b>Federal Register</b> CITATION], 9/30/2022. | Submitted on December 11, 2018 as an attachment to a letter dated December 4, 2018. |
| 95671 .....                                                                                                                                                                                                                                                                               | Vapor Collection Systems and Vapor Control Devices.                   | 3/23/2017            | [INSERT <b>Federal Register</b> CITATION], 9/30/2022. | Submitted on December 11, 2018 as an attachment to a letter dated December 4, 2018. |
| 95672 .....                                                                                                                                                                                                                                                                               | Record Keeping Requirements .....                                     | 3/23/2017            | [INSERT <b>Federal Register</b> CITATION], 9/30/2022. | Submitted on December 11, 2018 as an attachment to a letter dated December 4, 2018. |
| 95673 .....                                                                                                                                                                                                                                                                               | Reporting Requirements .....                                          | 3/23/2017            | [INSERT <b>Federal Register</b> CITATION], 9/30/2022. | Submitted on December 11, 2018 as an attachment to a letter dated December 4, 2018. |
| 95674 .....                                                                                                                                                                                                                                                                               | Implementation .....                                                  | 3/23/2017            | [INSERT <b>Federal Register</b> CITATION], 9/30/2022. | Submitted on December 11, 2018 as an attachment to a letter dated December 4, 2018. |
| 95675 .....                                                                                                                                                                                                                                                                               | Enforcement .....                                                     | 3/23/2017            | [INSERT <b>Federal Register</b> CITATION], 9/30/2022. | Submitted on December 11, 2018 as an attachment to a letter dated December 4, 2018. |
| 95676 .....                                                                                                                                                                                                                                                                               | No Preemption of More Stringent Air District or Federal Requirements. | 3/23/2017            | [INSERT <b>Federal Register</b> CITATION], 9/30/2022. | Submitted on December 11, 2018 as an attachment to a letter dated December 4, 2018. |
| 95677 .....                                                                                                                                                                                                                                                                               | Severability .....                                                    | 3/23/2017            | [INSERT <b>Federal Register</b> CITATION], 9/30/2022. | Submitted on December 11, 2018 as an attachment to a letter dated December 4, 2018. |

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS<sup>1</sup>—Continued

| State citation   | Title/subject                                                                                                                  | State effective date | EPA approval date                                     | Additional explanation                                                              |
|------------------|--------------------------------------------------------------------------------------------------------------------------------|----------------------|-------------------------------------------------------|-------------------------------------------------------------------------------------|
| Appendix A ..... | Record Keeping and Reporting Forms                                                                                             | 3/23/2017            | [INSERT <b>Federal Register</b> CITATION], 9/30/2022. | Submitted on December 11, 2018 as an attachment to a letter dated December 4, 2018. |
| Appendix B ..... | Calculation for Determining Vented Natural Gas Volume from Liquids Unloading of Natural Gas Wells.                             | 3/23/2017            | [INSERT <b>Federal Register</b> CITATION], 9/30/2022. | Submitted on December 11, 2018 as an attachment to a letter dated December 4, 2018. |
| Appendix C ..... | Test Procedure for Determining Annual Flash Emission Rate of Gaseous Compounds from Crude Oil, Condensate, and Produced Water. | 3/23/2017            | [INSERT <b>Federal Register</b> CITATION], 9/30/2022. | Submitted on December 11, 2018 as an attachment to a letter dated December 4, 2018. |

<sup>1</sup> 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).

\* \* \* \* \*

■ 3. Section 52.237 is amended by adding paragraphs (b)(1)(ii) and (b)(3) through (6) to read as follows:

**§ 52.237 Part D disapproval.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) RACT Determinations for the source category Control Techniques Guidelines for the Oil and Natural Gas Industry (EPA-453/B-16-001) for the 2008 and 2015 ozone NAAQS, as contained in the submittal titled “California Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities,” dated December 4, 2018, as adopted March 23, 2017 and submitted on December 11, 2018.

\* \* \* \* \*

(3) San Joaquin Valley Air Pollution Control District.

(i) RACT Determinations for the source category Control Techniques Guidelines for the Oil and Natural Gas Industry (EPA-453/B-16-001) for the 2008 and 2015 ozone NAAQS, as contained in the submittal titled “California Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities,” dated December 4, 2018, as adopted March 23, 2017 and submitted on December 11, 2018.

(ii) [Reserved]

(4) South Coast Air Quality Management District.

(i) RACT Determinations for the source category Control Techniques Guidelines for the Oil and Natural Gas Industry (EPA-453/B-16-001) for the 2008 and 2015 ozone NAAQS, as contained in the submittal titled “California Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities,” dated December 4, 2018, as adopted March 23, 2017 and submitted on December 11, 2018.

(ii) [Reserved]

(5) Ventura County Air Pollution Control District.

(i) RACT Determinations for the source category Control Techniques Guidelines for the Oil and Natural Gas Industry (EPA-453/B-16-001) for the 2008 and 2015 ozone NAAQS, as contained in the submittal titled “California Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities,” dated December 4, 2018, as adopted March 23, 2017 and submitted on December 11, 2018.

(ii) [Reserved]

(6) Yolo-Solano Air Quality Management District.

(i) RACT Determinations for the source category Control Techniques Guidelines for the Oil and Natural Gas Industry (EPA-453/B-16-001) for the 2008 and 2015 ozone NAAQS, as contained in the submittal titled “California Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities,” dated December 4, 2018, as adopted March 23, 2017 and submitted on December 11, 2018.

(ii) [Reserved]

[FR Doc. 2022-20870 Filed 9-29-22; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2022-0092; FRL-10017-02-R4]**

**Air Plan Approval; Kentucky; Emissions Inventory Requirements for the 2015 8-Hour Ozone Standard**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing approval of a State Implementation Plan (SIP) revision submitted by the

Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet (Cabinet) on December 22, 2021, to address the base year emissions inventory requirements for the 2015 8-hour ozone national ambient air quality standard (NAAQS) for Kentucky counties in the Cincinnati, Ohio-Kentucky 2015 8-hour ozone NAAQS nonattainment area (hereinafter referred to as the Cincinnati, OH-KY Area), and for Kentucky counties in the Louisville, Kentucky-Indiana 2015 8-hour NAAQS nonattainment area (hereinafter referred to as the Louisville, KY-IN Area). Specifically, EPA is finalizing approval of Kentucky’s SIP revision addressing the emissions inventory requirements for the 2015 8-hour ozone nonattainment areas for the portions of Boone, Campbell, and Kenton Counties in the Cincinnati, OH-KY Area, and Bullitt, Jefferson, and Oldham Counties in the Louisville, KY-IN Area. These requirements apply to all ozone nonattainment areas. This action is pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule is effective October 31, 2022.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2022-0092. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation