II. Description of the Proposed Amendment

By letter dated August 19, 2011, Montana sent us a proposed amendment to its program (Administrative Record No. MT–31–01) under SMCRA (30 U.S.C. 1201 *et seq.*). Montana sent the amendment in response to Senate Bill 292, which was passed by the 2011 Montana Legislature. Senate Bill 292 amended both the Montana Strip and Underground Mine Reclamation Act (MSUMRA) and the Montana Water Quality Act.

Specifically, Montana proposes to revise the Montana Code Annotated (MCA) Section 82–4–203, Definitions, by adding a reference to the definition of hydrologic balance within the definition of (4) ''Approximate original contour,'' and by adding definitions of (27) ''In situ coal gasification,'' and (44) ''Recovery fluid.'' Other changes are non-substantive recodifications. OSM does not have jurisdiction over proposed changes to Montana's Water Quality Act (Title 75, Chapter 5 of MCA). The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Montana program.

Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed above (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available in the electronic docket for this rulemaking at *http://www.regulations.gov.* While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., m.s.t. on December 21, 2011. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public; if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 26, 2011.

Allen D. Klein,

Director, Western Region.

[FR Doc. 2011–31293 Filed 12–5–11; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0881; FRL–9499–3]

Approval and Promulgation of Implementation Plans, State of California, San Joaquin Valley Unified Air Pollution Control District, New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the San Joaquin Valley Air Pollution Control District portion of the California State Implementation Plan (SIP) submitted by the California Air Resources Board. These revisions concern pre-construction review of new and modified stationary sources (''new source review'' or NSR) within the District. The revisions are intended to remedy deficiencies we identified when granting limited approval and limited disapproval to the rules in 2010, and to add NSR requirements for new major sources of fine particulate matter ($PM_{2.5}$) and major modifications at existing major $PM_{2.5}$ sources as required by the Clean Air Act. We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by January 5, 2012.

ADDRESSES: Submit comments, identified by docket number EPA–R09–

OAR–2011–0881, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.
- *Email: R9airpermits@epa.gov.*
- *Mail or deliver:* Gerardo Rios (Air-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or email. *http://www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Laura Yannayon, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 972–3534, *yannayon.laura@epa.gov.*

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

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I. Regulatory Context

On May 11, 2010 (75 FR 26102), we finalized a limited approval and limited disapproval of San Joaquin Valley Unified Air Pollution Control District (''SJVUAPCD'' or ''District'') Rules 2020 (Exemptions) and 2201 (New and Modified Stationary Source Review Rule), which were submitted to EPA by the California Air Resources Board (CARB) to satisfy certain applicable requirements under the Clean Air Act (CAA or ''Act''). These rules strengthened the SIP, but contained deficiencies in enforceability that prevented full approval. Both rules contained references to California Health and Safety Code (CH&SC) under circumstances where the State law has not been submitted to EPA for approval into the SIP and thereby unacceptably ambiguous.

In our May 11, 2010 final rule, we explained that the District could remedy these deficiencies by replacing the references to the CH&SC with an unambiguous description of the agricultural sources covered by the permitting exemption in Rule 2020 and the applicability of the offset requirement to agricultural sources in Rule 2201, or by submitting the State law provisions as a SIP revision. See 75 FR at 26106 (May 11, 2010). EPA is now proposing action on CARB's submittal of new versions of Rules 2020 and 2201, which the District amended to resolve the deficiencies we identified in our May 11, 2010 final rule.

In a separate interim final action, published in the Rules section in today's **Federal Register,** we are deferring sanctions that would otherwise apply to the SJVUAPCD based on EPA's May 11, 2010 limited approval and limited disapproval action on previous versions of District Rules 2020 and 2201.

In addition to addressing these deficiencies, we are also proposing to approve revisions to Rule 2201 that address the 1997 p.m.$_{2.5}$ standard. These revisions ensure that new major sources of $PM_{2.5}$, and major modifications at existing major $PM_{2.5}$ sources, will undergo pre-construction review that requires permit applicants to apply Lowest Achievable Emission Rate (LAER) and provide emission offsets.

II. The State's Submittals of Revised District Rules

A. What rules did the State submit?

Table 1 lists the rules on which we are proposing action with the dates that they were revised by the District and submitted to EPA by CARB.

TABLE 1—SUBMITTED RULES

Local agency	Rule #	Rule title	Amended	Submitted
SJVUAPCD	2020	Exemptions	8/18/11	9/28/11
SJVUAPCD	2201	New and Modified Stationary Source Review Rule	4/21/11	05/19/11

On October 25, 2011, we found that the submittal of District Rule 2020 and Rule 2201 met 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?

As discussed above, we approved versions of Rule 2020 and Rule 2201 into the SIP on May 11, 2010 (75 FR 26102). The amended versions of Rule 2020, adopted by the District on August 18, 2011 and submitted to us by CARB on September 28, 2011, and of Rule 2201, adopted by the District on April 21, 2011 and submitted to us by CARB on May 19, 2011, are the only revisions to the rule that the District has adopted since our 2010 limited approval.

C. What are the purposes for revisions to these rules?

Section 110(a) of the CAA requires states to submit regulations that control volatile organic compounds, nitrogen oxides, particulate matter, and other air pollutants which harm human health and the environment. Permitting rules were developed as part of the local air district's programs to control these pollutants.

The purpose of District Rule 2020 (''Exemptions'') is to specify emission units that are not required to obtain an Authority to Construct or Permit to Operate. Rule 2020 also specifies the recordkeeping requirements to verify such exemptions and outlines the compliance schedule for emission units that lose the exemption.

The purpose of District Rule 2201 (''New and Modified Stationary Source Review Rule'') is to provide for the review of new and modified stationary sources of air pollution and to provide mechanisms including control technology requirements and emission trade-offs by which Authorities to Construct such sources may be granted, without interfering with the attainment or maintenance of ambient air quality standards. District Rule 2201 is also intended to provide for no net increase in emissions above specified thresholds from new and modified stationary sources of all nonattainment pollutants and their precursors.

III. EPA's Evaluation and Action on the Revised Rules

A. How is EPA evaluating the rules?

The rules that are the subject of this proposed action amend rules on which EPA has previously taken limited approval and limited disapproval action. EPA previously took limited approval/limited disapproval action on the rules because, while they met most of the statutory and regulatory requirements for SIPs regarding minor NSR, major nonattainment NSR, and enforceability of permit conditions, they also contained certain unacceptably ambiguous provisions which prevented full approval. Therefore, we have focused our review on the changes in the rules that the District adopted to remedy the deficiencies that we identified as well as those that the District has newly introduced into the rules.

The relevant statutory provisions for our review of the submitted rules include CAA sections 110(a), 110(l), 172(c)(5) and 40 CFR 51.160–165. Section 110(a) requires that SIP rules be enforceable, while section 110(l) precludes EPA approval of SIP revisions that would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Act. Section 172(c)(5) requires SIPs with nonattainment areas to require permits for the construction and operation of new or modified major stationary sources in accordance with section 173, which establishes, among other requirements, a control technology requirement of ''lowest achievable emission rate'' (LAER) and an emissions offset requirement for such new or modified stationary sources.

Title 40, part 51, section 165 of title 40 of the Code of Federal Regulations (40 CFR 51.165) establishes more specific requirements for NSR SIPs to satisfy the requirements of sections 172(c)(5) and 173. With respect to $PM_{2.5}$ and its precursors, those requirements, among others, include a new ''major source'' threshold of 100 tons per year, ''major modification'' thresholds of 10 tons per year (direct $PM_{2.5}$) or 40 tons per year for precursors NO_X and SO_2, and an offset ratio of at least 1:1. See 73 FR 28321 (May 16, 2008).

B. Do the rules meet the evaluation criteria?

EPA found Rule 2020 deficient because the permitting exemption for agricultural sources relied on a cross-reference to CH&SC Section 42301.16, which is not approved in the SIP and allows permitting authorities to expand the universe of exempted sources if certain findings are made in a public hearing, which would change the permit exemption threshold without requiring SIP approval. To address this deficiency, the District revised Rule 2020 by replacing the statutory reference to CH&SC section 42301.16 with a clear description of the sources covered by the exemption.

In addition to resolving the deficiency, the District also added an exemption for wind machines, and a definition of ''wind machine,'' to Rule 2020. A wind machine consists of a large fan mounted on a tower and powered by an internal combustion engine and used only on the coldest winter nights to provide frost protection for certain type of crops (like citrus) when temperatures are forecast to drop below 28° F. Annual usage varies naturally with the frequency and duration of cold spells in the San Joaquin Valley during any given winter; however, the District estimates average annual use of any given wind machine at 35 hours per year. Emissions per unit vary depending upon the size of the engine used to power the fans and the fuel used to power the engine, among other factors, but can reasonably be estimated at approximately 15 pounds per day of NO_X.[1]

We recognize that, when the applicable frost warnings occur, the number of wind machines that operate all night long in certain parts of the valley can number in the thousands, and that NO_X emissions during those particular nights are not necessarily insignificant from the standpoint of PM_{10} and $PM_{2.5}$ formation, particularly in the San Joaquin Valley. Nonetheless, we conclude that the permitting exemption for the wind machines is acceptable because wind machines are not subject to any prohibitory District rule,[2] because no controls would approach any reasonable threshold of cost-effectiveness given the very limited use of the machines and the low emissions per unit, and because neither the EPA-approved San Joaquin Valley PM_{10} maintenance plan nor the EPA-approved $PM_{2.5}$ attainment plan relies on emissions reductions from this particular episodic source of emissions.

EPA found Rule 2201 deficient because the offset exemption for minor agricultural sources was ambiguous because it relied on a cross-reference to the CH&SC, rather than explicitly delineating the exemption within the rule itself. The District remedied this deficiency by replacing the CH&SC references with a clear description of the applicability of the offset requirement to agricultural sources.

The District also added requirements to Rule 2201 to address the 1997 p.m.$_{2.5}$ standard. We have reviewed the $PM_{2.5}$ provisions of the rule, including permitting thresholds, Best Available Control Technology (which in California is the same as Federal LAER), and emission offset requirements (including ratios based on distance from the new or modified emission unit), and found that they satisfy the CAA requirements for NSR for new and modified major stationary sources of $PM_{2.5}$.[3]

CAA section 110(l) precludes EPA from approving SIP revisions that would interfere with any applicable

[1] Most engines are fired on propane, although some are fired on diesel. Some engines are electric, and have no emissions. Based on a NO_X emission factor for uncontrolled propane and use of a 100-horsepower engine at 65% load from 8 p.m. to 7 a.m.: 100 hp × 10 g NO_X/bhp-hr × 0.65 × 11 hours/day/454 g/lb = 15.8 pounds per day per unit.

[2] See District Rule 4702 (''Internal Combustion Engines—Phase 2''), most recently approved by EPA at 73 FR 1819 (January 10, 2008).

[3] While we believe that the District is appropriately accounting for condensable particulate matter in regulating $PM_{2.5}$ from stationary sources, we recommend that District rules be amended to be explicit regarding the inclusion of the condensable portion of particulate matter in the definition of $PM_{2.5}$. See 40 CFR 165(a)(1)(xxxvii)(D). For example, the District should amend the definition of ''$PM_{2.5}$'' in Rule 2201, as has been done for the definition of ''PM_{10}'' in Rule 2201 to refer to Rule 1020 (''Definitions''), and then add a definition of ''$PM_{2.5}$'' in Rule 1020, as has been done for ''PM_{10},'' that refers to applicable state and federal test methods. Lastly, corresponding changes should also then be made to section 5.0 (''Test Methods'') in District Rule 1081 (''Source Sampling'') for $PM_{2.5}$ in a similar manner as the District has already done for PM_{10}.

requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the Act. EPA has evaluated amended Rules 2020 and 2201 and concluded that they would not interfere with attainment and RFP for any of the NAAQS, and would not interfere with any other applicable requirement of the Act. First, amended Rule 2201 does not relax the SIP in any aspect; rather, the amended rule strengthens the SIP by applying NSR requirements to new or modified major sources of $PM_{2.5}$. Second, while amended Rule 2020 contains a new exemption for wind machines, this exemption would not lead to an increase in emissions because, as explained above, wind machines would not be subject to any particular controls under the NSR rule even if no such exemption were in effect because no control device would be considered cost-effective. Lastly, as noted above, neither the EPA-approved San Joaquin Valley PM_{10} maintenance plan nor the EPA-approved $PM_{2.5}$ attainment plan relies on emissions reductions from this particular episodic source of emissions. Thus, we find the SIP revisions acceptable under CAA section 110(l).

EPA's technical support document (TSD) for this rulemaking has more information about these rules, including our evaluation and recommendation to approve them into the SIP.

C. Public Comment and Final Action

Because EPA believes the submitted rules fulfill all relevant requirements, we are proposing to fully approve them as revisions to the SIP pursuant to section 110(k)(3) of the Act. Specifically, we are proposing to approve SJVUAPCD Rule 2020 (''Exemptions''), as amended by the District on August 18, 2011 and submitted by CARB on September 28, 2011; and SJVUAPCD Rule 2201 (''New and Modified Stationary Source Review Rule''), as amended by the District on April 21, 2011 and submitted by CARB on May 19, 2011, as revisions to the California SIP. In so doing, we conclude that the District has remedied deficiencies that EPA had identified in previous versions of the rules and that other changes made by the District to the rules meet the applicable NSR requirements of the Act and our regulations.

We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rule(s) into the federally enforceable SIP.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address 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, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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.

Dated: November 22, 2011.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2011–31183 Filed 12–5–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0900; FRL–9499–2]

Revisions to the California State Implementation Plan, Feather River Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the Feather River Air Quality Management District (FRAQMD) portion of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO_X) emissions from internal combustion engines. We are proposing action on a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by January 5, 2012.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2011–0900, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that