Coordination of Prior Notice Timeframes'' (69 FR 19765).

To be timely, interested persons must submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the prior notice IFR by July 13, 2004. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

This regulation was effective on December 12, 2003. We will address comments received during the entire reopened comment period and the previous comment period that closed on December 24, 2003, and will confirm or amend the IFR in a final rule. We, however, will not address any comments that have been previously considered during this rulemaking.

Dated: May 12, 2004.

William K. Hubbard,

Associate Commissioner for Policy and Planning.

[FR Doc. 04–11247 Filed 5–13–04; 4:27 pm]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA269–0452; FRL–7659–8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on February 12, 2004, and concern oxides of nitrogen (NO_X) emissions from boilers, steam generators, and process heaters; stationary internal combustion engines; and stationary gas turbines. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

EFFECTIVE DATE: This rule is effective on June 17, 2004.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours by appointment. You can inspect copies of the submitted SIP revisions by appointment at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–102, 1301 Constitution Avenue, NW. (Mail Code 6102T), 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 E. Gettysburg Avenue, Fresno, CA 93726.

A copy of the rule may also be available via the Internet at *http://www.arb.ca.gov/drdb/drdbltxt.htm.* Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Thomas C. Canaday, EPA Region IX, (415) 947–4121, *canaday.tom@epa.gov.*

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

I. Proposed Action

On February 12, 2004 (69 FR 7098), EPA proposed to approve the following rules into the California SIP.

TABLE 1.—SUBMITTED RULE

Local agency	Rule #	Rule title	Adopted	Submitted
SJVUAPCD	4351	Boilers, Steam Generators, and Process Heaters—Phase 1	08/21/03	09/29/03
SJVUAPCD	4305	Boilers, Steam Generators, and Process Heaters—Phase 2	08/21/03	09/29/03
SJVUAPCD	4306	Boilers, Steam Generators, and Process Heaters—Phase 3	09/18/03	09/29/03
SJVUAPCD	4701	Internal Combustion Engines—Phase 1	08/21/03	10/09/03
SJVUAPCD	4702	Internal Combustion Engines—Phase 2	08/21/03	10/09/03
SJVUAPCD	4703	Stationary Gas Turbines	04/25/02	06/18/02

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

II. Public Comment and EPA Response

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from the following party.

1. David R. Farabee, Pillsbury Winthrop L.L.P. (comments submitted on behalf of the Western States Petroleum Association); letter dated and hand-delivered March 12, 2004.

The comment and our response are summarized below.

Comment #1: The commenter requests clarification of the following statement we made in the proposed rule in connection with the Westside exemption: ''In any event, the past issue of whether the Westside exemption was inconsistent with both ozone and PM–10 planning requirements or simply PM–10 (and not ozone) planning requirements has become moot in light of the need for additional NO_X emissions reductions *throughout* San Joaquin Valley for both PM–10 and ozone planning purposes'' (emphasis added). See 69 FR 7098, at 7100, column 1 (February 12, 2004).

Response #1: By the above statement, we simply intended to restate our conclusion that a regional exemption from NO_X emission control requirements, such as the Westside exemption, was not approvable under the Act. We did not intend to prejudge future SIP submittals that provide for additional emissions reductions in San Joaquin Valley that are needed to attain the ozone and PM–10 NAAQS.

III. EPA Action

No comments were submitted that change our assessment that the submitted rules comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the

Act, EPA is fully approving these rules into the California SIP.

IV. Statutory and Executive Order Reviews

Under 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 state rules implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. 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 Clean Air Act. 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 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.*).

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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 19, 2004. 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: April 28, 2004.

Deborah Jordan,

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)(300) (i)(D)(*1*), (c)(325), and (c)(326) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(300) * * *

(i) * * *

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

(*1*) Rule 4703 adopted on April 25, 2002.

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(325) Amended regulations for the following APCD were submitted on September 29, 2003, by the Governor's Designee.

(i) Incorporation by reference.

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

(*1*) Rules 4305 and 4351 adopted on August 21, 2003, and Rule 4306 adopted on September 18, 2003.

(326) Amended regulations for the following APCD were submitted on October 9, 2003, by the Governor's Designee.

(i) Incorporation by reference.

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

(*1*) Rules 4701 and 4702 adopted on August 21, 2003.

[FR Doc. 04–11114 Filed 5–17–04; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 25 and 101

[ET Docket No. 98–206; RM–9147; RM–9245; FCC 02–116]

Order To Permit Operation of NGSO FSS Systems Co-Frequency With GSO and Terrestrial Systems in the Ku-Band Frequency Range; Authorize Subsidiary Terrestrial Use of the 12.2–12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates; and in Re Applications of Broadwave USA, PDC Broadband Corporation, and Satellite Receivers, Ltd. in the 12.2–12.7 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.