ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52


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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC), oxides of nitrogen (NOx), and particulate matter (PM) emissions from flares. We are approving 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 September 22, 2011.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2011–0601, by one of the following methods:

2. E-mail: 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 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 www.regulations.gov or e-mail. 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 e-mail directly to EPA, your e-mail 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: Generally, documents in the docket for this action are available electronically at 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 at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), 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.

FOR FURTHER INFORMATION CONTACT:
Nicole Law, EPA Region IX, (415) 947–4126, Law.Nicole@epa.gov.

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

Table of Contents

I. The State’s Submittal
A. What rule did the State submit?
B. Are there other versions of this rule?
C. What is the purpose of the submitted rule revisions?

II. EPA’s Evaluation and Action
A. How is EPA evaluating the rule?
B. Does the rule meet the evaluation criteria?
C. EPA Recommendations To Further Improve the Rule
D. Public Comment and Final Action

III. Statutory and Executive Order Reviews

I. The State’s Submittal

A. What rule did the State submit?

B. Are there other versions of this rule?

On February 4, 2010, EPA determined that the submittal for SJVUAPCD Rule 4311 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

We approved an earlier version of Rule 4311 into the SIP on February 26,
Section 110(a) of the CAA requires including premature mortality, human health and the environment, contributes to effects that are harmful to rule revisions?

C. What is the purpose of the submitted previous submittals.

We reviewed materials provided with recently submitted version, we have on December 29, 2006 and January 10, 2009 and CARB submitted them to us 2003 (68 FR 8835). The SJVUAPCD Rule 4311 minimizes flaring events by requiring flare minimization plans (FMPs), monitoring of flare activity and emissions, and related recordkeeping. EPA’s technical support document (TSD) has more information about this rule.

II. EPA’s Evaluation and Action

A. How is EPA evaluating the rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see sections 182(a)(2) and (b)(2)), must not interfere with any applicable requirements concerning attainment and reasonable further progress (RFP), and must not relax existing requirements (see sections 110(l) and 193). Section 172(c)(1) of the Act also requires implementation of all reasonably available control measures (RACM) as expeditiously as practicable in nonattainment areas. The SJVUAPCD regulates an ozone nonattainment area (see 40 CFR part 81), so Rule 4311 must fulfill RACT. Additionally, the RACM requirement in CAA section 172(c)(1) applies to this area.

Guidance and policy documents that we use to evaluate enforceability and RACT and RACM requirements consistently include the following:


5. “Preamble, Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard” 70 FR 71612; Nov. 29, 2005.


B. Does the rule meet the evaluation criteria?

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

C. EPA Recommendations To Further Improve the Rule

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies the rule but are not currently the basis for rule disapproval.

D. Public Comment and Final Action

Because EPA believes the submitted rule fulfills all relevant requirements, we are proposing to fully approve it as described in section 110(k)(3) of the Act. 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 this rule into the federally enforceable SIP.

III. 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 action merely improves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

• Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive 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 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: August 8, 2011.

Jared Blumenfeld,
Regional Administrator, Region IX.

[FR Doc. 2011–21368 Filed 8–22–11; 8:45 am]