Billing Code: 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2011-0881; FRL-9916-06-Region 9]

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: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action under the Clean Air Act to approve revisions to the San Joaquin Valley Unified Air Pollution Control District portion of the California State Implementation Plan submitted by the California Air Resources Board. These revisions concern pre-construction review of new and modified stationary sources located within the District. The revisions are intended to remedy deficiencies the EPA identified when granting limited approval and limited disapproval to the rules in 2010, and to add requirements for pre-construction review of new and modified sources of fine particulate matter ($PM_{2.5}$).

DATES: This rule is effective on [**Insert date 30 days from the date of publication in the Federal Register**].

ADDRESSES: EPA has established docket number EPA-R09-OAR-2011-0881 for this action. The index to the docket is 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 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.

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 the EPA.

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I. Background and Proposed Action

On December 6, 2011 (76 FR 76112), under section 110(k) of

the Clean Air Act (CAA or "Act"), we proposed to approve two amended rules adopted by the San Joaquin Valley Unified Air Pollution Control District (District or SJVUAPCD) and submitted to EPA by the California Air Resources Board (CARB) as a revision to the California state implementation plan (SIP). The two amended rules include District Rule 2020 ("Exemptions")[1] and District Rule 2201 ("New and Modified Stationary Source Review Rule").[2] These rules concern pre-construction review of new and modified stationary sources ("new source review" or NSR) within the District. Collectively, we refer to District Rules 2020 and 2201 herein as the "District NSR rules." Table 1 below shows the relevant amendment and submittal dates for this SIP revision.

TABLE 1—AMENDED SAN JOAQUIN VALLEY NSR 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

[1] 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.

[2] 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 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.

In our December 6, 2011 proposed rule, we indicated that, in May 2010, 75 FR 26102 (May 11, 2010), we took a limited approval and limited disapproval action on previous versions of District Rules 2020 and 2201 because, although we found that the rules strengthened the SIP, they contained deficiencies in enforceability that prevented full approval. Specifically, in our May 2010 final rule, we indicated that both rules contained references to California Health and Safety Code (CH&SC) that were unacceptably ambiguous because the State law cited therein had not been submitted to EPA for approval into the SIP.

In the year following our May 2010 limited approval and limited disapproval action, the District amended the NSR rules to address the deficiencies that EPA had identified in the previous version of the District NSR rules. In addition to addressing the deficiencies, the District amended the NSR rules in 2011 to address the 1997 $PM_{2.5}$ standards to 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. The District NSR rules, as amended in 2011, are the subject of our December 6, 2011 proposed rule.

In our December 6, 2011 proposed rule, we proposed approval

of District Rule 2020 ("Exemptions") because the rule, as amended, replaced a cross-reference to CH&SC section 42301.16, which is not approved in the SIP, with a clear description of the agricultural sources covered by the exemption based on the language from the corresponding CH&SC section. We also proposed to approve a new permitting exemption in District Rule 2020 for wind machines because wind machines are not subject to any prohibitory District rule, 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.

With respect to District Rule 2201 ("New and Modified Stationary Source Review Rule"), we proposed approval because the rule, as amended, replaced references to CH&SC sections not approved into the SIP with a clear description of the applicability of the offset requirement to agricultural sources based on the language from the corresponding CH&SC sections. We also proposed approval of the revisions to District Rule 2201 that added requirements to address the 1997 $PM_{2.5}$ standard, including permitting thresholds, Best Available Control

Technology (which in California is the same as Federal LAER), and emission offset requirements, because we found that they satisfy the CAA requirements for NSR for new and modified major stationary sources of $PM_{2.5}$.[3]

Lastly, in our December 6, 2011 proposed rule, we found that approval of amended Rules 2020 and 2201 would not interfere with attainment and reasonable further progress for any of the national ambient air quality standards (NAAQS or standards), and would not interfere with any other applicable requirement of the Act, and thus was acceptable under section 110(l) of the CAA. We based this finding on the following considerations:

- Amended Rule 2201 does not relax the SIP in any aspect; rather, the amended rule strengthens the SIP by applying NSR requirements to new major stationary sources and major

[3] On January 4, 2013, in *Natural Resources Defense Council (NRDC) v. EPA*, 706 F.3d 428 (D.C. Cir. 2013), the D.C. Circuit Court remanded to EPA the implementation rules, including the NSR implementation rule, promulgated by EPA at 73 FR 28321 (May 16, 2008) to implement the 1997 $PM_{2.5}$ standards. The Court found that the EPA erred in implementing the 1997 $PM_{2.5}$ standards pursuant solely to the general implementation provisions of subpart 1 of Part D of Title I of the CAA, without also considering the particulate matter-specific provisions of subpart 4 of Part D. In the wake of the decision in *NRDC v. EPA*, EPA has classified a number of areas, including the San Joaquin Valley, under subpart 4 as "moderate" nonattainment areas for the 1997 and 2006 $PM_{2.5}$ standards and has established a deadline of December 31, 2014 for submittal of SIP revisions necessary to meet subpart 4 requirements for the $PM_{2.5}$ standards, including any necessary revisions to the District NSR rules. 79 FR 31566 (June 2, 2014). In today's final rule, we are taking final action to approve the District NSR rules, as amended in 2011 to meet the NSR requirements for $PM_{2.5}$ under subpart 1, because they address previously-identified deficiencies and strengthen the existing SIP by meeting subpart 1 NSR requirements for $PM_{2.5}$, but we also recognize that further amendments may be necessary to the $PM_{2.5}$-related portions of the District NSR rules to meet the applicable NSR requirements under subpart 4.

modifications of $PM_{2.5}$.[4]

- 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.
- 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 (i.e., wind machines).

Please see our December 6, 2011 proposed rule and related technical support document (TSD) for a more detailed discussion of the background for this action and our rationale for proposing approval of the amended District NSR rules.[5]

II. Public Comments and EPA's Responses

Our December 6, 2011 proposed rule provided for a 30-day

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[4] Consistent with EPA's 2008 NSR implementation rule for $PM_{2.5}$ as developed consistent with subpart 1 of the CAA, District NSR rules currently regulate direct $PM_{2.5}$ but only NO_x and SO_x as $PM_{2.5}$ precursors. To meet the requirements of subpart 4, the District's NSR rules may need to be revised to include VOCs or ammonia or both as additional $PM_{2.5}$ precursors. As noted in the previous footnote, any changes to District NSR rules necessary to meet the requirements of subpart 4 with respect to $PM_{2.5}$ must be submitted to EPA by December 31, 2014.

[5] Our proposed approval of the 2011 amended versions of District Rules 2020 and 2201 provided us with the basis to issue an interim final rule (76 FR 76046, December 6, 2011) deferring imposition of sanctions under CAA section 179 resulting from the limited disapproval of the rules on May 11, 2010 at 75 FR 26102.

comment period. During that period, we received one comment letter from Earthjustice (dated January 5, 2012), containing four comments. In the following paragraphs, we summarize the comments and provide our responses.

Earthjustice Comment #1: Earthjustice asserts that District Rule 2201 is not fully approvable under 40 CFR 51.165 until it is revised to include condensable emissions in the definition of $PM_{2.5}$. Earthjustice argues that EPA is simply assuming this defect away, because it has pointed to no District permitting decision or any statement by the District providing evidence to support EPA's belief that the District is appropriately accounting for condensable emissions.

Response to Earthjustice Comment #1: To appropriately account for condensable particulate matter in regulating $PM_{2.5}$ from stationary sources, we agree that District rules should be amended to be explicit regarding the inclusion of the condensable portion of particulate matter in the definition of $PM_{2.5}$, and indicated as much in our proposed rule at 76 FR 76112, at 76114, footnote 3. The commenter is correct that we did not refer to any specific District permitting decision or District statement in support of our stated belief that, notwithstanding the absence of explicit rule language, the District is appropriately accounting for condensable particulate matter in

regulating $PM_{2.5}$.

Thus, in response to this comment, we have requested, and the District has responded with, a letter clarifying how the District treats the condensable portion of particulate matter for NSR purposes. In a letter dated June 26, 2014, from David Warner, Deputy Air Pollution Control Officer, San Joaquin Valley Unified Air Pollution Control District, to Gerardo C. Rios, EPA Region IX, the District explains that it interprets its current regulations to require consideration of condensable particulate matter for $PM_{2.5}$ NSR purposes based on the definitions for "$PM_{2.5}$" and "particulate matter" in District Rules 2201 and 1020, respectively. The former term is defined in terms of "particulate matter," and the latter term is defined in terms of "any material except uncombined water, which exists in a finely divided form as a liquid or solid at standard conditions." As such, the condensable portion of particulate matter is treated as a part of total $PM_{2.5}$ emissions under existing District NSR rules.

Nonetheless, in its letter, the District indicates that it will amend its rules to eliminate any confusion about the inclusion of condensable particulate matter as part of $PM_{2.5}$ when it considers further $PM_{2.5}$-related amendments to District NSR rules. CARB must submit to EPA, no later than December 31, 2014,

any revisions to District NSR rules that are necessary to address subpart 4. See 79 FR 31566 (June 2, 2014).

Earthjustice Comment #2: Earthjustice asserts that District Rule 2201 does not ensure $PM_{2.5}$ offsets will be surplus at time of use and must do so in order to be approved as meeting NSR requirements. Earthjustice notes that, unlike the District's NSR requirements for ozone and PM_{10}, $PM_{2.5}$ offsets are not required of minor sources or at more stringent ratios, and thus no demonstration can be made to show that the District's NSR program, in the aggregate, achieves $PM_{2.5}$ offsets equivalent to those that would be required if all major sources were required to provide offsets that are surplus at the time of use.

Response to Earthjustice Comment #2: As the commenter notes, EPA has previously approved versions of District Rule 2201 that allow the District to demonstrate that an equal number of "surplus" emission reductions are provided by District Rule 2201 as would be required if all major sources, including $PM_{2.5}$ major sources, were required to provide offsets that are surplus at the time of use. The offset equivalency provisions provided in section 7 ("Annual Offset Equivalency Demonstration and Pre-baseline ERC Cap Tracking System") of District Rule 2201 require the District to submit an annual report demonstrating that the amount of "surplus" emission reductions required by the CAA are

provided by the sources that surrendered the emission reduction credits or by additional or "extra" emission reductions (in the form of offsets) not otherwise required by the CAA.

EPA recognizes that District Rule 2201 does not require new or modified minor $PM_{2.5}$ sources to offset their emissions with surplus emission reductions nor does District Rule 2201 impose a more stringent $PM_{2.5}$ ratio to compensate for the absence of a requirement that all offsets must be surplus at the time of use. However, the District can still provide an equivalency demonstration for $PM_{2.5}$ under the provisions of section 7 of District Rule 2201 because the District holds a large quantity of PM_{10} offsets that can be speciated to determine the portion of the offset that is made up of $PM_{2.5}$ emissions. Thus, if an applicant surrenders $PM_{2.5}$ offsets that are not considered surplus at the time of use, then the provisions of section 7 would apply, and the District could supply the necessary $PM_{2.5}$ offsets by speciating existing PM_{10} offsets that it holds. Thus, EPA finds that District Rule 2201 does provide an appropriate mechanism to ensure that either (1) all $PM_{2.5}$ credits surrendered are surplus at time of use or (2) the District provides the necessary quantity of surplus $PM_{2.5}$ offsets by speciating PM_{10} offsets into their $PM_{2.5}$ fraction. Lastly, we note that the District has yet to issue a permit for a new major $PM_{2.5}$ source

or a major modification of an existing major $PM_{2.5}$ source, and thus, while the mechanism exists for showing equivalency, it has yet to be relied upon by the District in practice.[6]

Earthjustice Comment #3: Earthjustice requests that EPA clarify that no sources will ever qualify for the offset exemption in section 4.6.9 in District Rule 2201 because any source that emits criteria pollutants is capable of generating real, permanent, quantifiable and enforceable emission reductions. Earthjustice states that it is not a question of "if" emissions reductions from agricultural sources would meet the criteria in section 4.6.9 but how the emission reductions are demonstrated and enshrined. Earthjustice further requests that EPA reiterate that the ability of a source to generate creditable emissions reductions does not depend on whether an agency chooses to adopt protocols allowing such credits.

Response to Earthjustice Comment #3: The District adopted the offset exemption in section 4.6.9 of District Rule 2201 to explicitly align District NSR rules with State law regarding District regulation of agricultural sources. We first approved the offset exemption in section 4.6.9 of Rule 2201 as part of the California SIP in our limited approval and limited

[6] See email from Arnaud Marjollet, Director of Permit Services, SJVUAPCD, to Laura Yannayon, EPA Region IX, July 24, 2014.

disapproval action published in May 2010. See 75 FR 26102 (May 11, 2010).

As approved in May 2010, section 4.6.9 provides that emissions offsets shall not be required for: "Agricultural sources, to the extent provided by California Health and Safety Code, section 42301.18(c), except that nothing in this section shall circumvent the requirements of section 42301.16(a)." California Health & Safety Code (CH&SC) section 42301.18(c) provides that: "A district may not require an agricultural source to obtain emissions offsets for criteria pollutants for that source if emissions reductions from that source would not meet the criteria for real, permanent, quantifiable, and enforceable emissions reductions." CH&SC section 42301.16(a) in turn provides that: "In addition to complying with the requirements of this chapter, a permit system established by a district pursuant to Section 42300 shall ensure that any agricultural source that is required to obtain a permit pursuant to Title I... or Title V... of the federal Clean Air Act is required by district regulation to obtain a permit in manner that is consistent with the federal requirements." Our action in May 2010 was a limited approval and limited disapproval action because, while strengthening the SIP and meeting most applicable requirements, District Rule 2201 contained unacceptably

ambiguous provisions in section 4.6.9 because the statutory provisions cited therein are not approved as part of the California SIP. In our May 2010 final rule, we understood the offset exemption to apply to all new minor agricultural sources and minor modifications to agricultural sources and determined that the exemption was consistent with Federal NSR requirements and would not interfere with attainment or maintenance of the NAAQS in San Joaquin Valley. 75 FR at 26105 (May 11, 2010).

In response to our limited approval and limited disapproval action in May 2010, the District amended section 4.6.9 of Rule 2201 to provide that emissions offsets shall not be required for: "Agricultural Sources, for criteria pollutants for that source if emissions reductions from that source would not meet the criteria for real, permanent, quantifiable and enforceable emissions reductions." The District also added a new subsection 4.6.9.1 that reads: "In no case shall the offset exemption in section 4.6.9 apply to an agricultural source that is also a major stationary source for the pollutant for which the offset exemption is sought." As such, the District merely replaced the statutory reference to CH&SC section 42301.18(c) with text mirroring the language from the code section itself and added language limiting the exemption to give effect to CH&SC section 42301.16(a). EPA's proposed approval of District Rule 2201, as

amended in 2011, recognizes that the District amended the rule in such a way as to eliminate the deficiency that we had identified in May 2010. In today's action, we are taking final action to approve the amended version of District Rule 2201, including the amendment to section 4.6.9 as a revision to the California SIP.

The commenter does not object to the District's amendment to section 4.6.9 to address the deficiency identified by EPA in our May 2010 final action, nor does it object to our determination that the amendment has resolved the identified deficiency. Rather, the comment seeks EPA agreement on a factual statement that derives logically from the commenter's interpretation of the language of the underlying state law provision. As noted above, in our May 2010 final action, in contrast to the commenter's interpretation, we understood the offset exemption to apply to all new minor agricultural sources and to all minor modifications to agricultural sources. Notwithstanding the breadth of application of the exemption to minor agricultural sources, we determined in our May 2010 final action that the exemption was consistent with Federal NSR requirements and would not interfere with attainment or maintenance of the NAAQS. If, as commenter contends, the exemption applies to no minor agricultural sources or

modifications to minor agricultural sources, our determination as to whether the exemption is acceptable would remain the same.

Nonetheless, we note that the commenter's opinion that section 4.6.9 of District Rule 2201 does not in fact exempt any new or modified agricultural source from the offset exemption is not shared by EPA or the State of California. In a detailed response to a comment in a separate final rule, we explain that, while we agree that the criteria in CH&SC section 42301.18(c) allowing districts to require emissions offsets for new or modified agricultural sources does not depend upon the district's adoption of a specific protocol or rule allowing offsets from such sources to be generated, some determination is necessary. See at 78 FR 46504, at 46509 (August 1, 2013). More specifically, in our August 2013 final rule, at 46509, we explain:

> "However, whether emissions reductions from a given agricultural source meet the relevant criteria is not self-evident or self-implementing. Some determination is necessary. For instance, the District is the agency responsible for allowing the emissions reductions from a given agricultural source to be banked or used for the purpose of offsetting emissions increases from new or modified stationary sources that are subject to the offset

> requirement under an approved NSR program. If the District allowed emission reductions to be banked or used for offsetting emission increases, then the District would thereby be determining that the emissions reductions are "real, permanent, quantifiable, and enforceable" since those are the basic criteria for judging the creditability of emission reductions for use as NSR offsets. The District's authority to impose the offset requirement on new or modified minor agricultural sources would vest as to those agricultural sources for which it has allowed banking or use of emission reductions for NSR offset purposes. Thus, while no protocol or District rule specifically directed at agricultural sources need be adopted for the offset authority to vest, some determination is necessary."

Moreover, by letter dated March 18, 2013, the California Attorney General's office states, in connection with CH&SC section 42301.18(c): "It is our understanding that currently emissions reductions from minor agricultural sources do not meet the criteria for real, permanent, quantifiable and enforceable emission reductions. On these facts, the plain language of subdivision (c) of the statute serves to suspend the duty of a minor agricultural source to offset emissions from that source."[7]

[7] Letter and attachment from Robert W. Byrne, Senior Assistant Attorney

As such, given the direct connection between CH&SC section 42301.18(c) and section 4.6.9 in District Rule 2201, it is clear that new minor agricultural sources and minor modifications to existing agricultural sources have qualified for the offset exemption in section 4.6.9 of District Rule 2201.

Earthjustice Comment #4: Earthjustice asserts that EPA should finalize a limited approval/limited disapproval and maintain sanctions until the defects in District Rule 2201, including the condensable emissions issue and the offsets issue, discussed in comments #1 and #2, above, are adequately addressed.

Response to Earthjustice Comment #4: For the reasons given in the proposed rule, and in responses to comments, we conclude that amended District Rules 2020 and 2201, as submitted on September 28, 2011 and May 19, 2011, respectively, adequately address deficiencies in the previous version of the District NSR rules and provide for review of new and modified sources of $PM_{2.5}$, including the requirements for LAER and emissions offsets for new major $PM_{2.5}$ sources and major modifications to existing major $PM_{2.5}$ sources, consistent with the requirements under subpart 1 of part D. In addition, under an EPA rule published in June 2014 (79 FR 31566, June 2, 2014), CARB must submit a SIP revision containing further amendments to District NSR rules no

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General, to Jared Blumenfeld, Regional Administrator, EPA Region IX, March 18, 2013.

later than the end of 2014 as necessary to address $PM_{2.5}$-related requirements under subpart 4 of part D. Thus, while the District NSR rules, amended in 2011, may not yet meet all of the requirements for $PM_{2.5}$ (i.e., those under subpart 4), we believe that full approval, rather than limited approval, of the 2011 amended District NSR rules is the appropriate action to take at this time given the SIP strengthening aspects of the amended rules. EPA will consider whether District NSR rules meet all applicable $PM_{2.5}$ requirements under subpart 4 in a separate rulemaking after submittal by CARB of any necessary SIP revisions.

III. Final Action

After due consideration of the comments submitted on our proposed action, and for the reasons provided in our proposed rule and summarized above, we are taking final action under CAA section 110(k)(3) to approve District Rule 2020 ("Exemptions"), as amended by the San Joaquin Valley Unified Air Pollution Control District on August 18, 2011 and submitted by CARB on September 28, 2011; and District 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.[8] In so doing, we conclude that

[8] Upon the effective date of this final rule, District Rules 2020 and 2201, as

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 strengthen the SIP. Further $PM_{2.5}$-related amendments in the District's NSR rules as necessary to address subpart 4 of part D are due for submittal to EPA by the end of 2014.

Upon the effective date of today's final approval, all sanctions and sanctions clocks that were triggered upon our final limited disapproval at 75 FR 26102 (May 11, 2010) of previous versions of District Rules 2020 and 2201, and deferred upon our interim final rule at 76 FR 76046 (December 6, 2011), are permanently terminated.

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 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 action:

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approved herein, will supersede District Rules 2020 and 2201 as approved on May 11, 2010 (75 FR 26102) in the applicable California SIP.

- 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 (Public Law 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.

The Congressional Review Act, 5 U.S.C. section 801 *et seq*., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register.

A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. section 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 [**insert date 60 days from date of publication of this document in the Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 11, 2014.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—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 52.220 is amended by adding paragraphs(c)(400)(i) and (c)(400)(ii)(C), and (c)(440), to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

(400) * * *

(i) Incorporation by reference.

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

(*1*) Rule 2201, "New and Modified Stationary Source Review Rule," amended on April 21, 2011.

(ii) * * *

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

(*1*) Letter from David Warner, Deputy Air Pollution Control Officer, San Joaquin Valley Unified Air Pollution Control District, to Gerardo C. Rios, Chief, Air Permits Office, EPA Region IX, dated June 26, 2014.

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(440) Amended regulations were submitted by the Governor's designee on September 28, 2011.

(i) Incorporation by reference.

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

(*1*) Rule 2020, "Exemptions," amended on August 18, 2011.

[FR Doc. 2014-22019 Filed 09/16/2014 at 8:45 am; Publication Date: 09/17/2014]