

secondary seal, resilient toroid or liquid mounted seals and secondary seals, terminal loading, bulk plant loading, transport vessels, switch loading operating practices, and storage tank cleaning. YSAQMD's June 12, 2002 amendments to Rule 2.21 listed below included these significant changes to the 1995 SIP version.

- YSAQMD deleted exemptions for low volume loading facilities, small gasoline storage containers, containers serviced by exempted delivery vessels, and implements of husbandry. Also, special circumstance exemptions for terminals were deleted.

- Thirty new definitions were added.
- A requirement was added that for storage tanks greater than 40,000 gallons using internal and external floating roofs that all new or replacement primary seal installations be a mechanical shoe or liquid mounted. Several other requirements were added for these tanks at sections 301.1–301.5.

- A lower explosive limit monitoring requirement was added for internal floating roof tanks.

- Deck fitting requirements were added for internal and external floating roof tanks.

- Annual emission testing requirements were added for external floating roof tanks, bulk plants and terminals.

- Periodic maintenance, monitoring, reporting, and record keeping requirements were added to storage tanks, bulk plants, and terminals.

The subject TSD has more information about these rules and their amendments.

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 major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). Both the SJVUAPCD and the YSAQMD regulate an ozone nonattainment area (see 40 CFR part 81), so both SJVUAPCD Rule 4623 and Rule YSAQMD Rule 2.21 must fulfill RACT.

Guidance and policy documents that we used to help evaluate specific enforceability and RACT requirements consistently include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987;

2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook);

3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook);

4. "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks," EPA-450/2-78-047, USEPA, December 1978;

5. "Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks," EPA-450/2-77-036, USEPA, December 1977; and,

6. "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems," EPA-450/2-78-051, USEPA, December 1978.

B. Do the Rules Meet the Evaluation Criteria?

Both SJVUAPCD Rule 4623 and YSAQMD 2.21 improve the SIP by establishing more stringent emission limits and monitoring and maintenance requirements, and eliminating exemptions. Each rule is largely consistent with the relevant policy and guidance regarding enforceability, RACT and SIP relaxations. However, within each rule there are provisions which do not meet the evaluation criteria. These provisions are summarized below and discussed further in the TSD.

C. What Are the Rule Deficiencies?

Within SJVUAPCD Rule 4623, the provisions discussed below conflict with section 110 of the Act and raise enforceability issues preventing EPA's full approval of the SIP revision.

- Section 5.6.1 is unclear on two points. First, it references requirements in section 6.4.6; these requirements are unclear in how they apply to section 5.6.1. For example, no VOC control requirement is clearly specified. Second, a typographical error exists in how section 5.6.1 references either section 6.4.6 or section 6.4.7.

- Section 7.1 has a missing compliance date and conflicting dates in its last sentence.

Within YSAQMD 2.21, the provisions discussed below conflict with section 110 of the Act and raise rule enforceability issues preventing EPA's full approval of the SIP revision. In part, Rule 2.21's deficiencies relate to an EPA policy described within a memorandum dated September 20, 1999, entitled "State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Start-up, and Shutdown" (the Excess Emissions Policy).

Taken together Section 111 and Section 501 are inconsistent with the

EPA policy on exemptions for excess emissions during malfunctions, start-up and shutdown. Furthermore, the Air Pollution Control Officer (APCO) discretion within section 111 for approving maintenance plans is a case of unbounded "director's discretion" as there are no criteria delimiting the APCO's authority for approving maintenance plans. These provisions violate EPA requirements concerning enforceability and rule relaxations.

D. EPA Recommendations To Further Improve the Rules

SJVUAPCD added an exemption to Rule 4623 for tanks used in wine fermentation and for storage of resulting products, by-products, and spirits. Formerly, these tanks were not subject to the SIP rule given the TVP of ethanol is less than 1.5 psia under the storage conditions assumed by the rule. Now, given the amendment of the rule to include tanks with a TVP of 0.5 psia, wine and spirit industry storage tanks may be subject to the rule depending upon their size. However, an examination of our guidance and the rule's regulatory history shows that Rule 4623 has been and is intended to regulate storage tanks containing organic liquids derived primarily from petroleum extraction, refining, and storage. Consequently, we have not listed the exemption for winery and spirit industry storage tanks as a rule deficiency.

What remains at issue is whether or not winery and spirit industry storage tanks represent a significant source of VOC emissions that must be reduced if the San Joaquin Valley is to meet CAA RACT and NAAQS requirements. Recently, the SJVUAPCD listed a winery rule as a potential control measure in their Reasonable Further Progress Planning Document. They estimated potential VOC emissions from the wine and spirit industries at 8.5 tons per day (page 4–11, Table 4–3: Tier II Control Measures, "Proposed 2003 and 2005 Rate of Progress Plan," 7/24/02).

We believe this level of VOC emissions to be significant and deserving of further study and analysis. SJVUAPCD should determine whether a regulation reducing VOC emissions from the winery and spirits industry in the San Joaquin Valley should be developed to meet CAA RACT and NAAQS attainment requirements. This determination should be done as part of demonstrating that their attainment plan to meet the ozone NAAQS contains all reasonably available control measures per section 172(c)(1) of the CAA.