

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[CA255-0385; FRL-7448-1]

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 both a conditional approval and a limited approval and limited disapproval of revisions to the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on April 1, 2002, and concerns fugitive dust and particulate matter less than 10 microns in diameter (PM-10). The conditional approval is with respect to enforceability and reasonably available control measures (RACM), and the limited approval and limited disapproval is with respect to best available control measures (BACM). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves local rules that regulate these emissions and directs California to correct rule deficiencies.

EFFECTIVE DATE: This rule is effective on March 28, 2003.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions 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 East
Gettysburg, Fresno, CA 93726.

A copy of the rules 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 rules that were submitted to EPA.

FOR FURTHER INFORMATION CONTACT:
Karen Irwin, EPA Region IX, (415) 947-4116.

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

I. Proposed Action

On April 1, 2002 (67 FR 15345), EPA proposed a limited approval and limited disapproval of the following SJVUAPCD rules that were adopted on November 15, 2001 and submitted for incorporation into the California SIP on December 6, 2001.

Rule #	Rule title
8011	General Requirements.
8021	Construction, Demolition, Excavation, Extraction and Other Earthmoving Activities.
8031	Bulk Materials.
8041	Carryout and Trackout.
8051	Open Areas.
8061	Paved and Unpaved Roads.
8071	Unpaved Vehicle/Equipment Traffic Areas.
8081	Agricultural Sources.

These rules are part of SJVUAPCD's Regulation VIII. We proposed a limited approval of these rules because we determined that they improve the SIP and are largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because we found that the submittal does not adequately fulfill the CAA section 189(b) requirement for a BACM demonstration, nor include any upgrades or revisions to the control measures that are required as a result of the BACM demonstration. Specifically, the State has not demonstrated that thresholds of source coverage within the rules (e.g., minimum size of sources subject to rule requirements) fulfill BACM. Such thresholds include: (1) Rule 8061 and 8081 unpaved road trip count thresholds; (2) Rule 8071 and 8081 unpaved vehicle/equipment traffic area trip count thresholds; (3) Rule 8071 and 8081 unpaved vehicle/equipment traffic area size threshold; (4) Rule 8081 unpaved road and unpaved vehicle/equipment traffic area exclusion of implements of husbandry in the trip count; (5) Rule 8051 disturbed open areas threshold; (6) Rule 8041 threshold for when trackout control devices must be employed; (7) Rule 8041 trackout cleanup requirements as they apply to rural areas; (8) Rule 8031 and 8081 bulk materials thresholds; (9) Rule 8021 Dust Control Plan requirement thresholds; and (10) other control measures for paved road PM-10 emissions including

preventing/mitigating trackout attributed to agricultural sources, stabilizing unpaved shoulders, frequent street sweeping and use of PM-10 efficient street sweepers.

We also proposed a conditional approval of all the submitted rules listed above except for Rule 8051. We proposed the conditional approval because we believe that the submittal resolves the prior enforceability and RACM deficiencies identified in the March 8, 2000 final action, subject to one condition. The condition is for SJVUAPCD to adequately demonstrate that it has applied RACM to the significant source categories that are subject to Regulation VIII. By letter dated March 5, 2002, SJVUAPCD committed to adopt and submit this demonstration within one year of EPA's publication of this final rule. This demonstration includes the following: (1) A complete list of candidate RACM for the following Regulation VIII significant sources: unpaved roads, unpaved vehicle/equipment traffic areas, paved roads and earthmoving sources, including bulk materials storage/handling; (2) a reasoned justification for any candidate measures that the District did not adopt for these sources, including descriptions of measures for these source categories that the District is implementing outside the context of Regulation VIII; and (3) information that supports the reasonableness of the Regulation VIII coverage.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

II. Public Comments and EPA Responses

EPA's proposed action provided a 60-day public comment period. During this period, we received comments from the following parties.

1. Brent J. Newell, Center on Race, Poverty & Environment, on behalf of the Association of Irrigated Residents and El Comité para el Bienestar de Earlimart, letters dated May 30, 2002.
2. Anne C. Harper, Earthjustice, on behalf of the Sierra Club, letter dated May 31, 2002.

The comments and EPA responses are summarized below.

Comment 1: The version of Regulation VIII adopted by SJVUAPCD was inappropriately negotiated between EPA and the regulated industry weeks after the local public comment period expired. It does not fulfill the relevant public process requirements as significant changes were made at the