

accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public. If possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 1, 2011.

William L. Joseph,

Acting Regional Director, Mid-Continent Region.

[FR Doc. 2011–17297 Filed 7–8–11; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0544; FRL–9434–9]

Approval and Promulgation of Implementation Plans; California Air Resources Board—In-Use Heavy-Duty Diesel-Fueled Truck and Bus Regulation, Drayage Truck Regulation and Ocean-Going Vessels Clean Fuels Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) that EPA expects to be submitted by the California Air Resources Board (CARB or Board). These revisions concern three regulations that reduce emissions of diesel particulate matter (PM), oxides of nitrogen (NO_x), sulfur dioxide (SO₂) and other pollutants from in-use, heavy-duty diesel-fueled trucks and buses and from ocean-going vessels (OGV) operating within California jurisdiction. This proposed approval is based on proposed regulations submitted by CARB and an accompanying request to proceed with SIP review while the State completes its public review and agency adoption process. EPA will not take final action on the regulations until California submits the final adopted versions to EPA as a revision to the California SIP. Final EPA approval of the regulations and incorporation of them into the California SIP would make them federally enforceable. We are providing a 30-day comment period for today's proposal.

DATES: Any comments must arrive by August 10, 2011.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2011–0544, by one of the following methods:

1. *Federal eRulemaking Portal:* www.regulations.gov. Follow the on-line instructions.
2. *E-mail:* R9truck_dray_OGVcomments

3. *Mail or deliver:* Roxanne Johnson (Air 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: The index to the docket for this action 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: Roxanne Johnson, EPA Region IX, (415) 947–4150, johnson.roxanne@epa.gov.

SUPPLEMENTARY INFORMATION:

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

Table of Contents

- I. The State's Submittal
 - A. What regulations did the State submit?
 - B. Are there other versions of these regulations?
 - C. What is the purpose of the submitted regulations?
 - D. What requirements do the regulations establish?
- II. EPA's Evaluation and Proposed Action
 - A. How is EPA evaluating the regulations?
 - B. CARB Regulations Meeting CAA SIP Evaluation Criteria
 1. Did the State provide adequate public notification and comment periods?
 2. Does the State have adequate legal authority to implement the regulations?
 3. Are the regulations enforceable as required under CAA section 110(a)(2)?

4. Do the regulations interfere with reasonable further progress and attainment or any other applicable requirement of the Act?
 5. Will the State have adequate personnel and funding for the regulations?
 6. EPA's Regulation Evaluation Conclusion
 - C. Proposed Action, Public Comment and Final Action
- III. Statutory and Executive Order Reviews

I. The State's Submittal

A. What regulations did the State submit?

By letters dated May 11 and May 19, 2011, CARB submitted to EPA three proposed regulations, with requests for parallel processing.^{1, 2} See May 11, and May 19, 2011 letters to Jared Blumenfeld, Regional Administrator, EPA Region 9, from James N. Goldstene, Executive Officer, CARB.

Table 1 below, lists the regulations addressed by this proposal. These

regulations include: (1) Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants, from In-Use Heavy-Duty Diesel-Fueled Vehicles ("Truck and Bus Regulation"); (2) In-Use On-road Diesel-Fueled Heavy-Duty Drayage Trucks ("Drayage Truck Regulation"); and (3) Fuel Sulfur and Other Operational Requirements for Ocean-Going Vessels within California Waters and 24 Nautical Miles of the California Baseline ("OGV Clean Fuels Regulation").

TABLE 1—REGULATIONS SUBMITTED BY CALIFORNIA FOR PARALLEL PROCESSING

California Code of Regulations (CCR), title 13, section No.	Regulation title
Section 2025	Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants, from In-Use Heavy-Duty Diesel-Fueled Vehicles.
Section 2027	In-Use On-road Diesel-Fueled Heavy-Duty Drayage Trucks.
Section 2299.2 ³	Fuel Sulfur and Other Operational Requirements for Ocean-Going Vessels within California Waters and 24 Nautical Miles of the California Baseline.

CARB's May 11, 2011 parallel processing request includes the CARB notice of public hearing, held on June 23, 2011 and the CARB Staff Report, "Initial Statement of Reasons for Proposed Rulemaking: Proposed Amendments to the Regulations 'Fuel Sulfur and Other Operational Requirements for Ocean-Going Vessels within California Waters and 24 Nautical Miles of the California Baseline,'" May 2011. The proposed OGV Clean Fuels Regulation was submitted as appendix A to the CARB Staff Report, but since the version in appendix A only includes the subsections of the regulation that are proposed for amendment, and not the unchanged subsections, we have also reviewed the original regulation approved in 2008 together with the proposed amendments.

CARB's May 19, 2011 parallel processing request includes CARB's notice of public availability of the proposed Truck and Bus Regulation and proposed Drayage Truck Regulation and the initiation of a 15-day comment period. CARB's 15-day notice refers to two attachments, one of which shows

the most recent modifications to the Truck and Bus Regulation and the second of which shows the most recent modifications to the Drayage Truck Regulation. Herein, we refer to these versions of the regulations as "proposed regulations." The versions of the regulations referred to in the 15-day notice as "attachment 1" and "attachment 2" are the versions of the regulations that we have evaluated herein. CARB's May 19, 2011 request also includes: Two resolutions dated December 17, 2010 through which CARB approved amendments [to the Truck and Bus Regulation and Drayage Truck Regulation] for adoption by the CARB Executive Officer (EO) once he makes further modifications to the regulations consistent with the resolutions, and the CARB staff report, "Initial Statement of Reasons for Proposed Rulemaking: Proposed Amendments to the Truck and Bus Regulations, the Drayage Truck Regulation, the Tractor-Trailer Greenhouse Gas Regulation," October 2010.

EPA is granting CARB's request that EPA "parallel process" our review and

propose action on the three regulations. All of the relevant documents are available for review in the docket for today's proposed rulemaking.

B. Are there other versions of these regulations?

The Truck and Bus Regulation was initially approved by CARB in December 2008 and became effective (for State law purposes) in January 2010. In December 2010, CARB adopted Resolution 10-44 after considering amendments to the Truck and Bus Regulation as initially proposed by CARB staff and covered by the Notice of Public Hearing ("45-day Public Notice") and Staff Report, which were initially published on October 19, 2010, and staff's suggested modifications to the proposed amendments, which were made in response to comments received before the CARB public hearing regarding staff's initial proposal. CARB directed staff to modify the initially proposed amendments consistent with the suggested modifications and CARB's findings as set forth in the resolution. Resolution 10-44 further directed the CARB EO to make the modifications to

¹ Under EPA's "parallel processing" procedure, EPA proposes rulemaking action concurrently with the State's proposed rulemaking. If the State's proposed rule is changed, EPA will evaluate that subsequent change and may publish another notice of proposed rulemaking. If no significant change is made, EPA will publish a final rulemaking on the rule after responding to any submitted comments. Final rulemaking action by EPA will occur only after the rule has been fully adopted by California and submitted formally to EPA for incorporation into the SIP. See 40 CFR part 51, appendix V.

² Technically, the versions of the regulations submitted to EPA by CARB for parallel processing,

and evaluated herein, represent proposed modifications and amendments to regulations previously adopted by CARB, but because the previously-adopted regulations were not submitted for incorporation into the SIP, i.e., the regulations would be new to the SIP, we refer to them as "proposed regulations" rather than "proposed amendments" or "proposed modifications" in this document. To be clear, the versions of the truck, bus, and drayage truck regulations that we have evaluated herein are the versions released for public comment on May 19, 2011, and the version of the ocean-going vessel regulation that we have

evaluated herein is the version released for public comment on April 26, 2011.

³ In addition to the proposed version of 13 CCR section 2299.2, CARB also submitted the proposed version of 17 CCR section 93118.2. The two regulations are fundamentally identical and reflect the authorities granted to CARB in the California Health and Safety Code to regulate marine vessel emissions (section 2299.2, title 13, CCR) and to regulate sources of toxic air contaminants (section 93118.2, title 17, CCR). We see no need for both regulations to be approved into the SIP and propose to approve only the title 13 regulation into the California SIP.

the initially proposed amendments to the Truck and Bus Regulation available for public comment for a period of 15 days, and to take final action to adopt the proposed amendments, as modified in the publicly noticed 15-day changes, or return to the CARB Board for further consideration. The version of the regulation that is subject to CARB's 15-day notice is the one we evaluate herein for eventual approval into the California SIP. CARB's 15-day public comment period ended June 3, 2011.

The Drayage Truck Regulation was initially approved by CARB in December 2007 and became effective (for State law purposes) in December 2008. In December 2010, CARB adopted Resolution 10–45 after considering amendments to the Drayage Truck Regulation initially proposed by CARB staff and covered by the 45-Day Public Notice and Staff Report, and directed that the proposed amendments be modified consistent with the CARB Board's findings therein and following the process outlined above for final adoption of amendments to the Truck and Bus Regulation. The version of the regulation that is subject to CARB's 15-day notice, which covers both the Truck and Bus Regulation and the Drayage Truck Regulation, is the one we evaluate herein for eventual approval into the California SIP.

The OGV Clean Fuels Regulation was initially approved by CARB in July 2008 and became effective (for State law purposes) in July 2009. On May 4, 2011, CARB published a 45-day notice opening a public comment period and making available proposed amendments to the regulation. A public hearing for the CARB Board to consider adoption of the amendments was held on June 23, 2011. Following the public hearing on June 23, 2011, the CARB Board adopted a resolution that directs the CARB Executive Officer to take final action to adopt the amendments that were the subject of the 45-day notice in a manner consistent with the requirements of the California Environmental Quality Act, and to further modify the OGV Clean Fuels Regulation to reduce the "Phase 1" sulfur content limit for marine gas oil from 1.5% to 1.0% beginning on August 1, 2012, subject to an additional 15-day notice to allow for public comment on the further modifications. The original regulation, along with the proposed amendments that was the subject of CARB's 45-day notice, is the version we evaluate herein for eventual approval into the California SIP. For evaluative purposes herein, we also recognize the CARB Board's action on June 23, 2011 to direct the CARB Executive Officer to modify the regulation to reduce the

"Phase 1" sulfur content limit for marine gas oil from 1.5% to 1.0% beginning on August 1, 2012, as set forth in attachment B to CARB's proposed Resolution 11–25 dated June 23, 2011.

As described above, there are previous versions of the three regulations, but none of the previous versions were submitted to EPA for incorporation into the SIP. For a more detailed discussion of CARB's adoption process for these regulations and a discussion of the previous versions of these regulations adopted by the State but not submitted to EPA, please see the documentation submitted by CARB, included in the docket for today's rulemaking.

C. What is the purpose of the submitted regulations?

The purpose of the three regulations is to reduce NO_x, SO₂ and PM emissions from in-use heavy-duty diesel-fueled trucks and buses, drayage trucks, ocean-going vessels (OGV), and to meet CAA requirements. NO_x is a precursor responsible for the formation of ozone, and NO_x and SO₂ are precursors for fine particulate matter (PM_{2.5}).⁴ At elevated levels, ozone and PM_{2.5} harm human health and the environment by contributing to premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems.

California has a number of nonattainment areas for the National Ambient Air Quality Standards (NAAQS) for ozone and PM_{2.5}, and the CAA requires states to submit SIP revisions that ensure reasonable further progress and that demonstrate attainment of the NAAQS within such areas. *See, generally*, part D of title I of the CAA. Reductions from these regulations play a critical role in assuring that areas such as the South Coast Air Basin and the San Joaquin Valley Air Basin meet the NAAQS for ozone and PM_{2.5}.

D. What requirements do the regulations establish?

Truck and Bus Regulation

CARB's Truck and Bus Regulation (i.e., 13 CCR section 2025) requires fleet (defined as one or more vehicles) owners to upgrade their vehicles to meet

specific performance standards for NO_x and PM. The regulation applies to diesel-fueled trucks and buses that are privately owned, federally owned, and to publicly and privately owned school buses, that have a manufacturer's gross vehicle weight rating (GVWR) greater than 14,000 pounds (lbs). (Local and state government owned diesel-fueled trucks are already subject to other CARB regulations.) Nearly all of the vehicles affected by the regulation are on-road vehicles, but the regulation also applies to yard trucks with off-road engines used for agricultural operations and two-engine street sweepers with such engines. The regulation exempts certain categories of trucks and buses, many of which, such as drayage trucks, are subject to different CARB regulations.

Key concepts used in the Truck and Bus Regulation include "2010 Model Year Emissions Equivalent Engine," "PM BACT," and "Verified Diesel Emission Control Strategy" (VDECS). As set forth in 13 CCR section 2025(d)(3), "2010 Model Year Emissions Equivalent Engine" means emissions from: (A) An engine certified to the 2004 through 2006 model year (MY) heavy-duty diesel engine emissions standard that is equipped with the highest level VDECS and that reduces NO_x emissions by at least 85%; (B) An engine that was built to the 2004 engine emission standard and was not used in any manufacturer's averaging, banking, or trading program that is equipped with the highest level VDECS and that reduces NO_x exhaust emissions by at least 85%; (C) An engine certified to the 2007 MY heavy-duty diesel engine emissions standard that meets PM BACT and that reduces NO_x exhaust emissions by more than 70%; (D) An engine certified to the 2010 MY or newer heavy-duty certified to the 2010 MY or newer heavy-duty diesel engine emissions standard that meets PM BACT; (E) A heavy-duty engine certified to 0.2 grams per brake-horsepower-hour (g/bhp-hr) or less NO_x emissions level and 0.01 g/bhp-hr or less PM emissions level; or (F) An off-road engine certified Tier 4 engine emissions standard.

"PM BACT" means the technology employed on the highest level VDECS for PM or an engine that is equipped with an original equipment manufacturer (OEM) diesel particulate filter and certified to meet the 0.01 g/bhp-hr certification standard. See 13 CCR section 2025(d)(48). "Verified Diesel Emission Control Strategy" (VDECS) means an emission control strategy, designed primarily for the reduction of diesel PM emissions, which has been verified pursuant to the Verification Procedures. VDECS can be

⁴ SO₂ belongs to a family of compounds referred to as sulfur oxide (SO_x). PM_{2.5} precursors include SO₂, NO_x, volatile organic compounds, and ammonia. See 40 CFR 51.1000. CARB generally uses the term, sulfur oxides (SO_x); herein, we use SO₂ to refer to the same pollutant type.

verified to achieve Level 1 diesel PM reductions (25%), Level 2 diesel PM reduction (50%), or Level 3 diesel PM reductions (85%). VDECS may also be verified to achieve NO_x reductions. See 13 CCR section 2025(d) (60).

The basic requirements of the regulation are set forth in subsections (e), (f), and (g). Under these subsections,

different sets of requirements are established for subject vehicles with a GVWR 26,000 lbs or less [subsection (f)] and subject vehicles with a GVWR greater than 26,000 lbs [subsection (g)]. Under subsection (f), with certain exceptions, subject vehicles with a GVWR 26,000 lbs or less must, starting January 1, 2015, be equipped with a

“2010 model year emissions equivalent engine” pursuant to the schedule shown in table 2. School buses, that otherwise would be subject to subsection (f), are subject to a different set of requirements in subsection (k). Under subsection (k), with certain exceptions, all school buses must comply with PM BACT by 2014.

TABLE 2—COMPLIANCE SCHEDULE UNDER SECTION 2025(f) BY ENGINE MODEL YEAR FOR LIGHTER HEAVY-DUTY TRUCKS

Existing engine model year	Compliance date as of January 1	Requirement
1995 and older	2015	2010 model year emission equivalent.
1996	2016	
1997	2017	
1998	2018	
1999	2019	
2003 and older	2020	
2004–2006	2021	
All engines	2023	

Under subsection (g), with certain exceptions, subject vehicles with a GVWR more than 26,000 lbs must, starting January 1, 2012, meet the PM Best Available Control Technology (BACT) requirement and must upgrade

to a 2010 MY emissions equivalent engine pursuant to the schedule shown in table 3. Fleets with vehicles otherwise subject to subsection (g) may opt for a different phase-in compliance schedule for PM BACT but must comply

with section 2025(g) by 2023. See 13 CCR section 2025, subsections (h) (“Small Fleet Compliance Option”) and (i) (“Phase-in Option”).

TABLE 3—COMPLIANCE SCHEDULE UNDER SECTION 2025(g) BY ENGINE MODEL YEAR FOR HEAVIER HEAVY-DUTY TRUCKS

Engine model year	Compliance date install PM filter by January 1	Compliance date 2010 engine by January 1
1993 and older	No Requirement	2015
1994–1995	No Requirement	2016
1996–1999	2012	2020
2000–2004	2013	2021
2005–2006	2014	2022
2007 or newer	2014 if not OEM equipped	2023

Section 2025(j) allows credits for early PM retrofits, fleets that have downsized, early addition of newer vehicles, hybrid vehicles, alternative fueled vehicles and vehicles with heavy-duty pilot ignition engines that can allow delayed requirements for other heavier trucks in the fleet. Fleet owners are required to meet the reporting and record keeping requirements of subsections (r) and (s). Credits are not transferrable except with appropriate documentation of a change of business form approved by the EO.

Subsection (l) provides requirements for drayage trucks and utility vehicles. Drayage trucks subject to the Drayage Truck Regulation may be included in the fleet to comply with the requirements of the Truck and Bus Regulation only if all drayage trucks are included. Starting January 1, 2023, all drayage truck owners must comply with the requirements summarized above in

tables 2 and 3. Drayage trucks may not utilize any of the credits in subsection (j) or exemptions and extensions in subsection (p). Starting January 1, 2021, all private utility vehicle owners must comply with the requirements summarized above in tables 2 and 3.

Subsection (m) provides exemptions for agricultural fleets that meet the conditions of this subsection and remain below annual mileage limits specified therein. Starting January 1, 2017, all agricultural vehicles that have exceeded 10,000 miles in any calendar year since January 1, 2011, must comply with the requirements summarized above in tables 2 and 3. This subsection includes a provision, which allows the CARB EO to exempt vehicles as specialty agricultural vehicles as long as the vehicles meet the requirements of the subsection and the EO does not exceed the caps for the number of such

vehicles in the San Joaquin Valley and Statewide. This section also provides an optional phase-in for log trucks. Starting January 1, 2014, 10 percent of the total log truck fleet must comply with 2010 MY emissions or equivalent, and by January 1, 2023, 100 percent of the fleet must be 2010 MY emissions equivalent.

Subsection (p) provides for exemptions, delays, and extensions. The categories of vehicles that may qualify for relief under subsection (p) include vehicles used exclusively in NO_x exempt areas (which include no counties within the South Coast Air Basin or San Joaquin Valley), low-mileage construction trucks, unique vehicles, low-use vehicles, vehicles operating with a three-day pass, vehicles awaiting sale, and vehicles used solely on San Nicholas or San Clemente Islands. Extensions in compliance deadlines are also provided

for in subsection (p) for emission control device manufacturer delays or unavailability of highest level VDECS.

Subsection (r) includes detailed reporting requirements. Generally, the reporting requirements apply to owners who have elected to use the compliance options or credits provided for in the regulation or who rely on the special provisions in the regulation, such as those for agricultural provisions, street sweeper provisions, NO_x exempt areas, and low-mileage construction trucks. Subsection (s) sets forth the record keeping requirements of the regulation, subsection (t) requires vehicle owners to make records available to CARB, and subsection (u) establishes record retention requirements.

Subsections (v) through (z) include provisions that support compliance and enforcement of the regulation by, for example, establishing a right of entry for CARB agents [subsection (v)] and by requiring sellers to provide a specific disclosure concerning the regulation to buyers [subsection (w)]. Subsection (z) establishes the penalties for non-compliance. Under this subsection, any person who fails to comply with the Truck and Bus Regulation may be subject to civil or criminal penalties under the California Health and Safety Code sections 39674, 39675, 42400, 42400.1, 42400.2, 42402.2, and 43016.

Drayage Truck Regulation

CARB's Drayage Truck Regulation (13 CCR section 2027) applies to owners and operators of certain in-use, on-road, diesel-fueled, heavy-duty drayage vehicles with a GVWR greater than 26,000 pounds defined as "drayage trucks." Drayage trucks are those that are used for transporting cargo, such as containerized, bulk, or break-bulk goods and that operate on or transgress through port or intermodal rail yard property for the purpose of loading, unloading or transporting cargo, including transporting empty containers and chassis; or that operate off port or intermodal railyard property transporting cargo or empty containers or chassis that originated from or is destined to a port or intermodal rail yard property. The regulation also applies to owner and operators of motor carriers that dispatch drayage trucks that operate in California, marine or port terminals, intermodal rail yards, and rail yard and port authorities. Owners and operators are subject to the Drayage Truck Regulation through December 31, 2022. Starting January 1, 2023, drayage trucks will be subject to the Truck and Bus Regulation.

Section 2027(d) of the Drayage Truck Regulation includes the requirements

and compliance deadlines, grouped into two phases. Phase 1 of the regulation [section 2027(d)(1)] required that, by December 31, 2009, all drayage trucks with a GVWR greater than 33,000 pounds to be equipped with a 1994–2003 MY engine certified standards to California or federal emission standards and a level 3 VDECS for PM emissions; or, 2004 or newer MY engine certified to California or federal emission standards. Drayage trucks with GVWR greater than 33,000 pounds but with 2004 or 2005 engines are allowed extra time to be equipped with a level 3 VDECS (by January 1, 2012 for subject vehicles with MY 2004 engines and by January 1, 2013 for vehicles with MY 2005 engines). Under Phase 1, by January 1, 2012, all drayage trucks with a GVWR of 26,001 lbs to 33,000 pounds must be equipped with a level 3 VDECS for PM emissions. Phase 2 [section 2027(d)(2)] requires all drayage trucks to be equipped with a 1994 or newer MY engine that meets or exceeds 2007 MY California or federal emissions standards.

Drayage truck owners must register with the CARB Drayage Truck Registry, a database that contains information on all trucks that conduct business at California ports and intermodal rail yards. See section 2027(e). Sections 2027(d)(3), (4), (5) and (6) include additional requirements for drayage truck owners, drayage truck operators, motor carriers and marine or port terminals and intermodal rail yards, to ensure that the various parties coordinate their activities to ensure compliance with the emissions standards and compliance deadlines in Phases 1 and 2.

The Drayage Truck Regulation provides for the same types of penalties for non-compliance as described above for the Truck and Bus Regulation. Sections 2027(h) ("Right of Entry") and 2027(i) ("Enforcement") authorize and support efforts by CARB and other officials to ensure compliance with the regulation. Section 2023(j) is a sunset clause that provides that, starting January 2, 2023, drayage truck would no longer be subject to the provisions of the Drayage Truck Regulation but rather would be subject to the provisions of the Truck and Bus Regulation in 13 CCR section 2025.

OGV Clean Fuels Regulation

CARB's OGV Clean Fuels Regulation (13 CCR section 2299.2) requires the use of low sulfur marine distillate fuels (instead of heavy fuel oil) to reduce PM, NO_x, and SO₂ emissions from the use of auxiliary diesel and diesel-electric engines, main propulsion engines, and

auxiliary boilers on ocean-going vessels (OGVs). The regulation applies to owners and operators of OGVs that operate in any of the Regulated California Waters, which are defined in the regulation to include, among other areas, all waters within 24 miles of the California baseline (except a specific area off Point Conception. Unless specifically exempted, the regulation applies to both U.S.-flagged and foreign-flagged OGVs. Exemptions in the regulation include, among other vessels, OGVs that pass through Regulated California Waters but do not enter California internal or estuarine waters or call at a port, roadstead⁵ or terminal facility; OGVs owned or operated by any governmental entity (unless used for commercial purposes); and OGVs when compliance with the regulation is reasonably determined by the master of the vessel to endanger the safety of the vessel, its crew, its cargo or its passengers because of severe weather conditions, equipment failure, fuel contamination or other extraordinary reasons beyond the master's reasonable control. See 13 CCR 2299.2(c)(1), (3) and (5).

Section 2299.2(e)(1) specifies allowable fuels and fuel sulfur content limits for auxiliary diesel engines, main engines and auxiliary boilers that must be met while the OGV is operating in Regulated California Waters. In the first phase, beginning July 1, 2009, auxiliary diesel engines, main engines and auxiliary boilers on subject OGVs must use either marine gas oil (MGO), with a maximum of 1.5 percent sulfur by weight, or marine diesel oil (MDO), with a maximum of 0.5 percent sulfur by weight. The "Phase 1" sulfur content limit for MGO would be reduced from 1.5% to 1.0% beginning on August 1, 2012. Phase 2, beginning January 1, 2014, requires use of either MGO with a maximum of 0.1% sulfur by weight or MDO with a maximum of 0.1% sulfur by weight. As such, the OGV Clean Fuels Regulation establishes more stringent requirements than otherwise required under Federal law, at least until January 1, 2015.⁶

⁵ "Roadstead" means any facility that is used for the loading, unloading, and anchoring of ships. See 13 CCR section 2299.2(d)(31).

⁶ In 2008, the International Maritime Organization (IMO) adopted amendments to MARPOL Annex VI (International Convention for the Prevention of Air Pollution From Ships) to further reduce air emissions from ships. Among other provisions, the 2008 amendments to MARPOL Annex VI allowed for the creation of Emission Control Areas (ECA) by member states allowing them to implement more stringent requirements than otherwise provided for in Annex VI upon approval by the IMO. In 2010, the IMO approved a joint application by the U.S. and Canada for the creation of an ECA, referred to

Section 2299.2(e)(2) establishes recordkeeping, reporting, and monitoring requirements including the requirement to retain and maintain records that document vessel entry to and departure from Regulated California Waters, completion of any fuel switching procedures used to comply with the regulations, and types and sulfur content of fuel used in each auxiliary engine, main engine, and auxiliary boiler operated in Regulated California Waters. Under subsection (e) (2), any person subject to the regulation must provide CARB with access to the OGV for the purpose of determining compliance with the regulation.

Under section 2299.2(f), the OGV Clean Fuels Regulation provides for the same types of penalties for non-compliance as described above for the Truck and Bus Regulation.

Section 2299.2(g) allows the EO to exempt, in whole or in part, vessels from compliance with the fuel and fuel sulfur content requirements in subsection (e) based on the need for essential modifications. Essential modifications refer to the addition of new equipment, or the replacement of existing components with modified components, that can be demonstrated to be necessary to comply with the regulation. See 13 CCR 2299.2(d)(10). Eligibility for relief under subsection (g) is generally cleared in advance by CARB through approval of an Essential Modification Report that demonstrates the need for essential modification and that is submitted by the vessel owner or operator to CARB 45 days prior to entry into Regulated California Waters.

Section 2299.2(h) allows CARB, under certain circumstances, to permit an owner or operator of an OGV to pay noncompliance fees in lieu of meeting the fuel and fuel sulfur content requirements in subsection (e) if specific notification requirements are met under subsection (h)(1). CARB may consider noncompliance fees in lieu of compliance for any owner or operator of an OGV that demonstrates that noncompliance is beyond the person's reasonable control under circumstances where the OGV was, while en route

as the North American ECA. Under the North American ECA, OGVs traveling within a 200 nautical mile zone of the North American coastline are required to use fuels with no more than 1% sulfur beginning in August 2012 and no more than 0.1% sulfur beginning in January 2015. EPA is implementing the provisions of MARPOL Annex VI through its ocean-going vessel rule (75 FR 22895). Under these regulations, both U.S.- and foreign-flagged ships subject to the engine and fuel standards of MARPOL Annex VI must comply with the applicable Annex VI provisions when they enter U.S. ports or operate in most internal U.S. waters including the Great Lakes, excluding steamships.

from its last port of call, redirected to a California port, where the supply of complying fuel is inadequate, or where the person made an inadvertent purchase of defective fuel. In-lieu fees may also be assessed for noncompliance by OGVs to be taken out of service for modifications or based on infrequent visits and need for vessel modifications. Applicable noncompliance (in-lieu) fees are shown below in Table 4.

TABLE 4—NONCOMPLIANCE FEE SCHEDULE UNDER THE OGC CLEAN FUELS REGULATION, PER VESSEL

Port visit	Per-port visit fee
1st Port Visited	\$45,500
2nd Port Visited	45,500
3rd Port Visited	91,000
4th Port Visited	136,500
5th or more Port Visited	182,000

Under subsection (h), CARB assesses the fees at the time of the port visit, and the fees must be paid prior to leaving the California port or by a later date approved by CARB. Section 2299.2(h)(5)(D) allows CARB to enter into enforceable agreements with each port that will receive the fees. Fees must be used by the ports only to fund projects reducing PM, NO_x, and SO₂ within two miles of port boundaries, or OGVs operated in Regulated California Waters.

Section 2299.2(i) establishes the test methods that must be used to determine compliance with 13 CCR section 2299.2. Subsection (i) allows the CARB EO to approve alternative test methods if they are demonstrated to be equally or more accurate than the listed methods.

Lastly, under section 2299.2(j), the requirements of OGV Clean Fuels Regulation will cease to apply if and when the CARB EO issues written findings that Federal requirements are in place that will achieve equivalent emissions reductions within the Regulated California Waters and are being enforced within the Regulated California Waters.

II. EPA's Evaluation and Proposed Action

A. How is EPA evaluating the regulations?

EPA has evaluated the three regulations described in the previous section of this document against the applicable procedural and substantive requirements of the Clean Air Act for SIPs and SIP revisions and has concluded that they meet all of the applicable requirements. Generally, SIPs must include enforceable emission

limitations and other control measures, means, or techniques, as well as schedules and timetables for compliance, as may be necessary to meet the requirements of the Act [see CAA section 110(a)(2)(A)]; must provide necessary assurances that the State will have adequate personnel, funding, and authority under State law to carry out such SIP (and is not prohibited by any provision of Federal to State law from carrying out such SIP) [see CAA section 110(a)(2)(E)]; must be adopted by a State after reasonable notice and public hearing [see CAA section 110(l)], and must not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act [see CAA section 110(l)].⁷

B. CARB Regulations Meeting CAA SIP Evaluation Criteria

1. Did the State provide adequate public notice and comment periods?

Under CAA section 110(l), SIP revisions must be adopted by the State, and the State must provide for reasonable public notice and hearing prior to adoption. In 40 CFR 51.102(d), we specify that reasonable public notice in this context refers to at least 30 days. As described previously, the three subject regulations were submitted to EPA by California with requests to "parallel process" them pending final adoption (of the most recent amendments) by CARB. We recognize the extensive public process that CARB conducted prior to the adoption of the original versions of the three regulations and the extensive public process that CARB conducted for the recent amendments and modifications and expect to determine that CARB will have met the applicable procedural requirements for SIP revisions upon submittal by CARB of the final adopted regulations as a SIP revision with the necessary public process documentation.⁸

⁷ CAA section 193, which prohibits any pre-1990 SIP control requirement relating to nonattainment pollutants in nonattainment areas from being modified unless the SIP is revised to insure equivalent or greater emission reductions of such air pollutants, does not apply to these regulations because they do not represent pre-1990 SIP control requirements.

⁸ For example, all three regulations were originally developed through a series of public workshops and adopted following 45-day public comment periods. The significant amendments to the Truck and Bus Regulation and the Drayage Truck Regulation proposed in October 2010 followed a similar process as have the 2011 amendments to the OGV Clean Fuels Regulation. The modifications to the 2010 amendments proposed in 2011 for the Truck and Bus Regulation

2. Does the State have adequate legal authority to implement the regulations?

CARB has been granted both general and specific authority under the California Health and Safety Code (H&SC) to adopt and implement these regulations. California H&SC sections 39600 (“Acts required”) and 39601 (“Adoption of regulation; Conformance to federal law”) confer on CARB the general authority and obligation to adopt regulations and measures necessary to execute CARB’s powers and duties imposed by State law. California H&SC sections 43013(a) and 43018 provide broad authority to achieve the maximum feasible and cost-effective emission reductions from all mobile source categories, including both on-road and off-road diesel engines. Regarding in-use motor vehicles, California H&SC sections 43600 and 43701(b), respectively, grant CARB authority to adopt emission standards and emission control equipment requirements. Further, California H&SC section 39666 gives CARB authority to adopt airborne toxic control measures to reduce emissions of toxic air contaminants from new and in-use nonvehicular sources, including marine vessels.

Moreover, we know of no obstacle under Federal or State law in CARB’s ability to implement the regulations. As a general matter, the CAA assigns mobile source regulation to EPA through title II of the Act and assigns stationary source regulation and SIP development responsibilities to the States through title I of the Act. In so doing, the CAA preempts various types of State regulation of mobile sources as set forth in section 209(a) (preemption of State emissions standards for new motor vehicles and engines), section 209(e) (preemption of State emissions standards for nonroad vehicles and engines) and section 211(c)(4)(A) [preemption of State fuel requirements for motor vehicles, i.e., other than California’s motor vehicle fuel requirements—see section 211(c)(4)(B)]. For certain types of mobile source standards, the State of California may request a waiver or authorization for state emissions standards. See CAA sections 209(b) (new motor vehicles) and 209(e)(2) (most categories of new and non-new nonroad vehicles).

Notwithstanding the preemption provisions of the CAA, however, we do not believe that preemption represents an obstacle to implementation by California with respect to these three particular regulations. First, the Truck

and Bus Regulation and Drayage Truck Regulation establish emissions standards for in-use trucks and buses. Because the requirements do not apply to new motor vehicles or engines and because the burden for retrofits or replacements does not fall on original equipment manufacturers, we believe that the preemption under CAA section 209(a) does not apply and California need not secure a waiver to enforce the Truck and Bus Regulation or the Drayage Truck Regulation. See *Allway Taxi Inc. v. City of New York*, 340 F. Supp. 1120 (S.D.N.Y.) (interpreting CAA section 209(a) motor vehicle preemption), *aff’d*, 468 F.2d 624 (2d Cir. 1972).

To the extent that the Truck and Bus Regulation affects nonroad vehicles or engines, we take note of CARB’s authorization request under CAA section 209(e)(2) for CARB’s emissions standards for in-use off-road diesel-fueled equipment with engines 25 horsepower and greater and EPA’s related notice of opportunity for public hearing and comment concerning CARB’s request. See 75 FR 11880 (March 12, 2010) for the most recent related EPA announcement concerning CARB’s authorization request for the relevant in-use nonroad emissions standards. Assuming that EPA issues the relevant authorization requested by CARB, there will be no obstacle to CARB’s enforcement of the provisions of the Truck and Bus Regulation that apply to nonroad vehicles and engines.

With respect to the OGV Clean Fuels Regulation, we first note that State-adopted fuel requirements for nonroad vehicles are generally not preempted under the CAA. However, there are provisions of Federal law, other than the CAA, that might be relied upon to challenge State fuel requirements as preempted. In this instance, we recognize that the Ninth Circuit Court of Appeals recently issued an opinion in which the court upheld CARB’s OGV Clean Fuels Regulation against a challenge grounded in preemption principles. See *Pacific Merchant Shipping Ass’n v. Goldstene*, No. 09–17765 (9th Cir. March 28, 2011). The petitioners in the *Pacific Merchant* case may yet appeal the decision to the U.S. Supreme Court, but at this time, we have no reason to believe that the case will ultimately be resolved in a manner that takes away CARB’s ability to implement and enforce the OGV Clean Fuels Regulation.

3. Are the regulations enforceable as required under CAA section 110(a)(2)?

We have evaluated the enforceability of the three subject proposed regulations

with respect to applicability and exemptions; standard of conduct and compliance dates; sunset provisions; discretionary provisions; and test methods, recordkeeping and reporting,⁹ and have concluded for the reasons given below that the proposed regulations would be enforceable for the purposes of CAA section 110(a)(2).

First, with respect to applicability, we find the proposed regulations would be sufficiently clear as to which persons and which vehicles or engines are affected by the regulations. For instance, with respect to the Truck and Bus Regulation, subsections (b) define the scope and applicability of the regulation in terms of, among other parameters, type of fuel used and manufacturer’s GVWR. Subsection (c) of the Truck and Bus Regulation clearly identifies categories of vehicles that are exempt from the regulation, and subsection (d) provides additional detail on the types of owners and operators and vehicles covered by the regulation by defining key terms including “person” and “agricultural operations,” among others. Similar types of provisions are also found in the Drayage Truck Regulation [see 13 CCR section 2027(b) and (c)] and the OGV Clean Fuels Regulation [see 13 CCR sections 2299.2(b), (c), and (d)].

Second, we find that the proposed regulations would be sufficiently specific so that the persons affected by the regulations would be fairly on notice as to what the requirements and related compliance dates are. To a large extent, we have already described the substantive requirements and compliance dates set forth in the proposed regulations in section I.D of this document. We recognize that CARB intends to extend certain compliance dates in the latest amendments to the original regulations but, as discussed in section II.B.4 of this document, we find that extending the compliance dates would not interfere reasonable further progress and attainment requirements for California nonattainment areas with respect to the 1997 PM_{2.5} and ozone NAAQS. See section II.B.4 of this document. No compliance date in any of the regulations extends past January 1, 2023, which is consistent with the attainment needs for California with respect to the attainment deadline for the South Coast and San Joaquin Valley “extreme” nonattainment areas for the 1997 ozone NAAQS.

⁹ These concepts are discussed in detail in an EPA memorandum from J. Craig Potter, EPA Assistant Administrator for Air and Radiation, *et al.*, titled “Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency,” dated September 23, 1987.

and Drayage Truck Regulation were subject to a supplemental 15-day public comment period.

Third, both the Drayage Truck Regulation and OGV Clean Fuels Regulation contain sunset provisions. In the case of the Drayage Truck Regulation, the regulation would sunset on December 31, 2022, but after that date, the requirements of the Truck and Bus Regulation would apply. See 13 CCR section 2027(j). Thus, regulation of drayage trucks would continue indefinitely under the terms of the Truck and Bus Regulation. Under subsection (j) of the OGV Clean Fuels Regulation, once the CARB EO makes a finding that federal requirements are in place that will achieve equivalent emissions reduction within California Regulated Waters and that are being enforced within California Regulated Waters, the regulation would no longer be in effect. The CARB EO is expected to make the necessary finding under subsection (j) sometime after January 1, 2015 when the 0.1% marine fuel sulfur content limit (applicable within the North American ECA) will become enforceable by EPA and the U.S. Coast Guard. Given that the 0.1% marine fuel sulfur content limit will continue to be federally enforceable after the CARB EO invokes the sunset clause, we find the sunset clause in the OGC Clean Fuels Regulation to be acceptable.

Fourth, all three regulations would contain provisions that allow for discretion on the part of CARB's EO. Such "director's discretion" provisions can undermine enforceability of a SIP regulation, and thus prevent full approval by EPA, but in the instances of "director's discretion" in the three subject regulations, the discretion that can be exercised by the CARB EO is limited both in scope and application. As such, we do not find that the "director's discretion" provisions in the proposed regulations would preclude our approval of them for the purposes of the SIP.

Lastly, each of the proposed regulations identifies appropriate test methods and includes adequate recordkeeping and reporting requirements sufficient to ensure compliance with the applicable requirements.

4. Do the regulations interfere with reasonable further progress and attainment or any other applicable requirement of the Act?

The State's 2007 State Strategy to attain the 1997 PM_{2.5} and ozone NAAQS relies on these three regulations to help achieve needed emissions reductions in various nonattainment areas in California, particularly the South Coast Air Basin and San Joaquin Valley. A summary of the latest emissions

reductions estimates from these rules in the South Coast and San Joaquin Valley 1997 PM_{2.5} and ozone attainment plans can be found in the State's 2007 State Strategy, the 2009 Status Report on the State Strategy and the "Progress Report on Implementation of PM_{2.5} State Implementation Plans (SIP) for the South Coast and San Joaquin Valley Air Basins and Proposed SIP revisions," dated March 29, 2011. In separate rulemakings, EPA is evaluating the approvability of the reasonable further progress (RFP) and attainment demonstrations (and other provisions) for areas that rely on these three regulations. In general, these rules provide much needed NO_x, direct PM and SO₂ reductions, however, the attainment plans do not require specific reductions from any particular rule. Thus, EPA believes that the approval of these three regulations, which have never been approved into the SIP, does not interfere with RFP, attainment or any other applicable requirement of the Act.

5. Will the State have adequate personnel and funding for the regulations?

Chapter XIII of CARB's "Initial Statement of Reasons for Proposed Rulemaking, Proposed Amendments to the Truck and Bus Regulation, the Drayage Truck Regulation and the Tractor-Trailer Greenhouse Gas Regulation," dated October 2010, addresses implementation and enforcement of the regulations. As described therein, CARB intends to conduct enforcement of the Truck and Bus Regulation and Drayage Truck Regulation similarly to enforcement of CARB's commercial vehicle and school bus idling regulations. CARB's enforcement staff intends to use the inspection and audit methods that they have developed during the many years of experience enforcing the Heavy-Duty Vehicle Inspection Program (adopted into law in 1988) and the Periodic Smoke Inspection Program (adopted into law in 1990).

CARB indicates that enforcement activities will include inspections at border crossings, California Highway Patrol (CHP) weigh stations, fleet facilities, and randomly selected roadside locations and audits of records. See appendix H to CARB's initial statement of reasons for proposed rulemaking, dated October 2010, cited above. These activities could result in corrective actions and substantial civil penalties for non-compliance with the regulations. CARB's enforcement activities are summarized in annual

reports. See, e.g., CARB's 2009 Annual Enforcement Report (August 2010).

We recognize the general effectiveness of CARB's motor vehicle enforcement program and expect CARB's approach to enforcement of the Truck and Bus and Drayage Truck regulations, as described above, to be equally effective; however, none of the information we have received or were able to download from CARB's Web site has identified the specific additional resources and personnel that CARB has allocated to the Truck and Bus Regulation. We expect such information to be submitted to EPA as part of the SIP submittal package contained the final adopted versions of the regulations.

Since the original OGV Clean Fuels Regulation became effective, CARB enforcement staff has conducted over 450 vessel inspections and the compliance rate, as determined by CARB enforcement staff, is approximately 95%. See page ES-2 of CARB's Initial Statement of Reasons for Proposed Rulemaking, Proposed Amendments to the Regulations "Fuel Sulfur and Other Operational Requirements for Ocean-Going Vessels within California Waters and 24 Nautical Miles of the California Baseline," dated May 2011. Based on CARB's enforcement activities since the effective date of the original OGV Clean Fuels Regulation, we believe that CARB has allocated adequate funding and personnel for the regulation.

6. EPA's Regulation Evaluation Conclusion

Based on the above discussion, we believe these regulations are consistent with the relevant CAA requirements, policies and guidance.

C. Proposed Action, Public Comment and Final Action

For the reasons given above, we believe CARB's Truck and Bus Regulation, Drayage Truck Regulation, and OGV Clean Fuels Regulation fulfill all relevant requirements, and thus, EPA is proposing to approve these regulations under section 110(k)(3) of the CAA once we receive the final adopted versions as a revision to the California SIP. If the State substantially revises these submitted regulations from the versions proposed by the State and submitted for "parallel processing," this will result in the need for additional proposed rulemaking on these regulations.

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 these regulations 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 proposed 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 proposed 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, Sulfur dioxide.

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

Dated: June 29, 2011.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2011-17232 Filed 7-8-11; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2011-0547; FRL-9435-2]

Revisions to the California State Implementation Plan, San Joaquin Valley Air Pollution Control District (SJVUAPCD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the San Joaquin Valley Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) and oxides of nitrogen (NO_x), and particulate matter (PM) emissions from open burning. 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 August 10, 2011.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2011-0547, by one of the following methods:

1. Federal eRulemaking Portal: www.regulations.gov. Follow the on-line instructions.

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: Joanne Wells, EPA Region IX, (415) 947-4118, wells.joanne@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 and 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
- III. Proposed Action
- IV. Statutory and Executive Order Reviews

I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule and portion of District Staff Report addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).