



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R09-OAR-2019-0655; FRL-10009-73-Region 9]**

### **Air Plan Approval; California; San Joaquin Valley Unified Air Pollution Control District and Feather River Air Quality Management District**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD or District) and the Feather River Air Quality Management District (FRAQMD) portions of the California State Implementation Plan (SIP) under the Clean Air Act (CAA or Act). For the SJVUAPCD, these revisions concern a rule intended to track information related to emissions of volatile organic compounds (VOCs) and particulate matter (PM) from commercial charbroilers, and an administrative rule for the registration of certain emission units historically exempted from the SJVUAPCD's permit requirements. We are proposing to approve into the California SIP amendments to a SJVUAPCD local rule, which require owners and operators of commercial underfired charbroilers to submit a one-time information report and which subject certain underfired charbroilers to registration and weekly recordkeeping requirements. We are also proposing to approve a SJVUAPCD rule addressing registration requirements for these and certain other emission units. For the FRAQMD, these revisions concern a negative declaration for the Control Techniques Guidelines (CTG) for the Oil and Natural Gas Industry. We are

proposing to approve the negative declaration into the California SIP. We are taking comments on this proposal to approve the two SJVUAPCD rules and the FRAQMD negative declaration. We plan to follow with a final action.

**DATES:** Any comments must arrive by [**Insert date 30 days after date of publication in the Federal Register**].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2019-0655 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI and multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Stanley Tong, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4122 or by email at [tong.stanley@epa.gov](mailto:tong.stanley@epa.gov).

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

**Table of Contents**

- I. The State’s Submittal
  - A. What documents did the State submit?
  - B. Are there other versions of these documents?
  - C. What is the purpose of the submitted rules and negative declaration?
- II. The EPA’s Evaluation and Action
  - A. How is the EPA evaluating the rules and negative declaration?
  - B. Do the rules and negative declaration meet the evaluation criteria?
  - C. Public comment and proposed action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

**I. The State’s Submittal**

- A. *What documents did the State submit?*

Table 1 lists the documents addressed by this proposal with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED DOCUMENTS

Local Agency	Rule or Document	Adopted/ Amended	Submitted
SJVUAPCD	Rule 2250 – Permit-Exempt Equipment Registration	Adopted 10/19/2006	4/30/2020 <sup>1</sup>
SJVUAPCD	Rule 4692 – Commercial Charbroiling	Amended 06/21/2018	11/21/2018 <sup>2</sup>
FRAQMD	Reasonably Available Control Technology (RACT) State	Adopted 08/06/2018	12/07/2018 <sup>3</sup>

1 This submittal was transmitted to the EPA by a letter from CARB dated April 30, 2020.

2 This submittal was transmitted to the EPA by a letter from CARB dated November 16, 2018.

3 This submittal was transmitted to the EPA by a letter from CARB dated December 2, 2018.

Local Agency	Rule or Document	Adopted/ Amended	Submitted
	Implementation Plan (SIP) Revision for the South Sutter County Portion of the Sacramento Metropolitan Nonattainment Area for 8-Hour ozone – Negative Declaration for Control Techniques Guidelines for the Oil and Natural Gas Industry		

We find that the submittal for SJVUAPCD Rule 2250 meets the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review. On May 21, 2019, the submittal for SJVUAPCD Rule 4692 was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V. On June 7, 2019, the submittal for the FRAQMD negative declaration for the Control Techniques Guidelines for the Oil and Natural Gas Industry, EPA 453/B-16-001, (Oil and Natural Gas CTG) was deemed by operation of law to meet the aforementioned completeness criteria.

B. *Are there other versions of these documents?*

We approved an earlier version of SJVUAPCD Rule 4692 into the California SIP on November 3, 2011 (76 FR 68103). There is no previous version of SJVUAPCD Rule 2250 or the FRAQMD negative declaration for the Oil and Natural Gas CTG in the California SIP.

C. *What is the purpose of the submitted rules and negative declaration?*

Emissions of VOCs contribute to the production of ground-level ozone, smog and PM, which harm human health and the environment. Emissions of PM, including PM equal to or less than 2.5 microns in diameter (PM<sub>2.5</sub>) and PM equal to or less than 10 microns in diameter

(PM<sub>10</sub>),<sup>4</sup> contribute to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires states to submit regulations that control VOC and PM emissions.

SJVUAPCD Rule 4692, Commercial Charbroiling, is designed to limit VOC and PM<sub>10</sub> emissions from commercial charbroiling operations. Rule 4692 requires commercial cooking operations with chain-driven charbroilers that cook 400 pounds or more of meat per week to be equipped and operated with a catalytic oxidizer control device to minimize VOC and PM<sub>10</sub> emissions. The rule requires the catalytic oxidizer to have a control efficiency of at least 83% for PM<sub>10</sub> and at least 86% for VOC emissions. The June 21, 2018 amendments to Rule 4692 expand the rule to require that owners or operators of commercial cooking operations with underfired charbroilers submit a one-time report to the SJVUAPCD by January 1, 2019, and that owners of such operations with underfired charbroilers that cook quantities of meat above a specified threshold register these units pursuant to District Rule 2250 and keep weekly records of the total pounds and type of meat cooked on each such underfired charbroiler. The SJVUAPCD explains that as a first step to enable the District to implement a PM control measure for underfired charbroilers “...in a cost-effective and expeditious manner ...the District must initiate registration of affected operations...and a one-time information report from owners and operators of commercial cooking operations with underfired charbroilers...”<sup>5</sup>

---

<sup>4</sup> PM<sub>10</sub> includes particles that have aerodynamic diameters less than or equal to 10 micrometers (µm), approximately equal to one-seventh the diameter of human hair. PM<sub>2.5</sub> is a subset of PM<sub>10</sub> particles that have aerodynamic diameters less than or equal to 2.5 µm.

<sup>5</sup> Letter dated June 21, 2018, from Seyed Sadredin, Executive Director, SJVUAPCD, to SJVUAPCD Governing Board, “RE: ITEM NUMBER 9: ADOPT PROPOSED AMENDMENTS TO DISTRICT RULE 4692

SJVUAPCD Rule 2250, Permit-Exempt Equipment Registration, was adopted by the District on October 19, 2006, as an alternative to its traditional permitting process. This rule is intended to apply to certain internal combustion engines, small boilers, and more recently, certain underfired charboilers, which have been traditionally exempted from the District's permit program. Rule 2250 provides the necessary administrative mechanisms to determine compliance of certain permit-exempt equipment with applicable rules and regulations. As stated above, the District's commercial charbroiler rule relies on Rule 2250 for registration requirements. Rule 4692 states that "[t]he owner of an underfired charbroiler subject to this rule shall register such underfired charbroiler pursuant to Rule 2250 (Permit-Exempt Equipment Registration), in lieu of permitting under the requirements of Rule 2010 (Permits Required)."

CAA section 182(b)(2) requires states to submit SIP revisions to implement RACT for each category of VOC sources in the nonattainment area covered by a CTG. On October 27, 2016, (81 FR 74798), the EPA announced the availability of the Oil and Natural Gas CTG. In lieu of adopting local regulations to implement the CTG, air agencies may adopt a negative declaration if the nonattainment area has no sources covered by the 2016 Oil and Natural Gas CTG.<sup>6</sup> The FRAQMD's negative declaration submittal is its certification that there are no sources covered by the 2016 Oil and Natural Gas CTG in the south Sutter County portion of the Sacramento Metropolitan ozone nonattainment area.<sup>7</sup>

---

(COMMERCIAL CHARBROILING)."

<sup>6</sup>Memorandum dated October 20, 2016, from Anna Marie Wood, Director, Air Quality Policy Division, U.S. EPA, to Regional Air Division Directors 1-10, Subject: "Implementing Reasonably Available Control Technology Requirements for Sources Covered by the 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry," Question #8.

<sup>7</sup>The Feather River AQMD is subject CAA section 182(b)(2) RACT because its jurisdiction includes Sutter County, the southern portion of which is in an ozone nonattainment area that is classified as Severe nonattainment for the 2008 ozone NAAQS.

The EPA's technical support documents (TSDs) for this action have more information about SJVUAPCD Rules 2250 and 4692, the FRAQMD's negative declaration, and the EPA's evaluation thereof.

## **II. The EPA's Evaluation and Action**

### *A. How is the EPA evaluating the rules and negative declaration?*

Generally, CAA section 110(a)(2)(A) requires SIPs to "include enforceable emission limitations and other control measures, means, or techniques ... as may be necessary or appropriate to meet the applicable requirements of [the CAA]," and SIPs must be consistent with the requirements of CAA sections 110(l) and 193.

SIPs must also require RACT for each category of sources covered by a CTG document as well as each major source in ozone nonattainment areas classified as Moderate or above (see CAA sections 182(b)(2) and (f)).<sup>8</sup> States relying on negative declarations for CTG source categories for which the states have not adopted CTG-based regulations because they have no sources above the CTG-recommended applicability threshold must submit them for SIP approval, regardless of whether such negative declarations were made for an earlier SIP.<sup>9</sup> To do so, the submittal should provide reasonable assurance that no sources subject to the CTG's requirements currently exist in the relevant ozone nonattainment area.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include

---

<sup>8</sup> The specific ozone RACT requirement in CAA section 182(b)(2) does not apply to Rule 4692 because there are no CTG documents for this source category and no major sources of ozone precursors subject to this rule in the SJV area. Nor does the CAA section 182(b)(2) RACT requirement apply to Rule 2250, which is largely an administrative rule, the purpose of which is to provide the District with a mechanism to determine compliance with other District regulations by certain emission units historically exempted from the District's permit requirements.

<sup>9</sup> 57 FR 13498, 13512 (April 16, 1992).

the following:

1. “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. EPA Office of Air Quality Planning and Standards, “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” May 25, 1988, (the Bluebook, revised January 11, 1990).
3. EPA Region IX, “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” August 21, 2001 (the Little Bluebook).
4. “State Implementation Plans for Serious PM-10 Nonattainment Areas, and Attainment Date Waivers for PM-10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 59 FR 41998 (August 16, 1994).
5. EPA 453/B-16-001, Control Techniques Guidelines for the Oil and Natural Gas Industry.

B. *Do the rules and negative declaration meet the evaluation criteria?*

SJVUAPCD Rule 2250 is largely an administrative rule. We find that the rule requirements and applicability are sufficiently clear to ensure that affected sources and regulators can evaluate and determine compliance with Rule 2250 consistently. Currently, the registration requirements in Rule 2250 appear to serve simply as a means to ensure the enforceability of certain requirements imposed by other District rules for emission units historically exempted from District permit requirements, and there are no emission control requirements contained in Rule 2250. We find that Rule 2250 does not relax the SJVUAPCD’s SIP-approved permit



program, meets the applicable CAA requirements and guidance regarding enforceability and SIP revisions, and is approvable as a SIP-strengthening action. Our TSD for Rule 2250 has more information concerning our evaluation of the rule.

As discussed above, the 2018 amendments to SJVUAPCD Rule 4692 are largely administrative. The rule amendments require owners or operators of commercial cooking operations with underfired charbroilers to submit a one-time information report, and require owners of underfired charbroilers subject to the rule to register their units under Rule 2250 and to comply with certain weekly recordkeeping requirements. We believe Rule 4692 meets the applicable CAA requirements and guidance regarding enforceability and SIP revisions. Our TSD for Rule 4692 has more information on our evaluation of the rule.

With respect to the FRAQMD's negative declaration for the Oil and Natural Gas CTG, the FRAQMD's submittal contains the FRAQMD's certification that it has no sources in the south Sutter County portion of the Sacramento Metropolitan ozone nonattainment area subject to the Oil and Natural Gas CTG for the 2008 8-hour ozone NAAQS. The FRAQMD based its certification on a review of its permit files, a search of California's Division of Oil, Gas & Geothermal Resources (DOGGR) Well Finder website, and correspondence with current permit holders for natural gas production facilities. We accessed the DOGGR website, CARB's pollution mapping tool, and a map of the California Natural Gas Pipelines and did not find indications of operations that would be subject to the Oil and Natural Gas CTG in the south Sutter County ozone nonattainment area. Based on our review, we agree with the FRAQMD's negative declaration for the Oil and Natural Gas CTG. Our TSD for the FRAQMD negative declaration has more information on our evaluation.

C. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted SJVUAPCD Rules 2250 and 4692, and the FRAQMD negative declaration for the Oil and Natural Gas CTG, because they fulfill the relevant requirements in CAA sections 110(a), 110(l), 182(b)(2), and 193. We will accept comments from the public on this proposal until **[Insert date 30 days after date of publication in the Federal Register]**. If we take final action to approve the submitted documents, our final action will incorporate these documents into the federally enforceable SIP.

**III. Incorporation by Reference**

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the SJVUAPCD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section of this preamble for more information).

**IV. Statutory and Executive Order Reviews**

Under the CAA, 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, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely

proposes to approve 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 the 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, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### **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, Volatile organic compounds.

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

Dated: May 18, 2020.

John Busterud,  
Regional Administrator,  
Region IX.

[FR Doc. 2020-11261 Filed: 5/28/2020 8:45 am; Publication Date: 5/29/2020]