

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R09-OAR-2009-0350; FRL-9097-1]

Revisions to the California State Implementation Plan, San Joaquin Valley Air Pollution Control District**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: EPA is finalizing approval of revisions to the San Joaquin Valley Air Pollution Control District portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on June 16, 2009 and concern volatile organic compound (VOC) emissions from coating of metal

parts, large appliances, metal furniture, motor vehicles, mobile equipment, cans, coils, organic solvent cleaning, and storage and disposal related to such operations. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: *Effective Date:* This rule is effective on February 18, 2010.

ADDRESSES: EPA has established docket number [EPA-R09-OAR-2009-0350] for this action. The index to the docket is available electronically at <http://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: Nicole Law, EPA Region IX, (415) 947-4126, law.nicole@epa.gov.

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

Table of Contents

- I. Proposed Action
- II. Public Comments and EPA Responses
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. Proposed Action

On June 16, 2009 (74 FR 28467), EPA proposed to approve the following rules into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVAPCD	4603	Surface Coating of Metal Parts and Products	10/16/08	12/23/08
SJVAPCD	4604	Can and Coil Coating Operations	09/20/07	03/07/08
SJVAPCD	4612	Motor Vehicle and Mobile Equipment Coating Operations	09/20/07	03/07/08

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

EPA’s proposed action provided a 30-day public comment period. During this period, we received comments from the following party.

1. Sarah Jackson, Earthjustice; letter dated July 15, 2009 and received July 15, 2009.

After the close of the comment period, we also received comments from the following party.

2. Jim Sell, National Paint & Coatings Association; letter dated July 17, 2009 and received July 17, 2009.

The comments and our responses are summarized below. Although we are not obligated to address comments

submitted after the close of the comment period, we are addressing below the comments from both parties.

Comment #1: Earthjustice stated that Rule 4603 does not meet Reasonable Available Control Technology (RACT) requirements because it is not as stringent as EPA’s 2008 Control Techniques Guidelines (CTG) for Miscellaneous Metal and Plastic Parts Coatings. The commenter noted that the limit for baked extreme performance coatings in the rule is less stringent than the limit in the CTG and that the rule exempts repair and touch-up operations, while the CTG recommends limits for those operations. The commenter stated that unavailability of the CTG during the period of rule development is “not an excuse for approving a rule that everyone acknowledges does not meet the minimum level of control currently considered for RACT.” The commenter further stated that SJVAPCD adopted

Rule 4603 one month after EPA released the CTG.

Response #1: EPA’s 2008 CTG for Miscellaneous Metal and Plastic Parts Coatings (2008 CTG) generally defines presumptive RACT for this activity nationwide. All requirements in Rule 4603 are equivalent to or more stringent than the recommendations in the 2008 CTG, except the VOC limit for baked extreme performance coatings and the exemption for repair and touch-up operations. As to the emission limit for baked extreme performance coatings, the VOC limit in Rule 4603 is 420 grams/liter (g/L) and the 2008 CTG recommends a VOC level of 360 g/L. We note that the difference between the two limits for this particular baked coating operation is relatively small, and that the rule contains VOC limits for four other coating categories that are more restrictive than the CTG recommendations for those operations, as shown below.

VOC CONTENT LIMITS FOR SPECIALTY COATINGS, EXCEPT FOR LARGE APPLIANCE PARTS OR PRODUCTS, AND METAL FURNITURE—IN G/L
[lbs/gallon]

Coating type	Rule 4603 VOC limit for baked coatings	CTG VOC limit for baked coatings	Rule 4603 VOC limit for air-dried coatings	CTG VOC limit for air-dried coatings
Camouflage	360 (3.0)	420 (3.5)	420 (3.5)	420 (3.5)
Extreme Performance	420 (3.5)	360 (3.0)	420 (3.5)	420 (3.5)
High Performance Architectural	420 (3.5)	740 (6.2)	420 (3.5)	740 (6.2)
Metallic Coating	360 (3.0)	420 (3.5)	420 (3.5)	420 (3.5)

At EPA's request, SJVAPCD staff examined recent inspection reports and notified us that only one facility in the SJV area uses extreme performance coatings. That facility operates by air drying and not baking.¹ As such, we are not aware of any baked coating operations in SJVAPCD that use extreme performance coatings. Additionally, SJVAPCD's RACT SIP analysis indicates that operators do not use special coatings for touch-up and repair operations. The same VOC-compliant coatings that are used in the fabrication process are used for touch-up and repair operations. As such, the emissions limit in Rule 4603 for baked extreme performance coatings and the exemption for repair and touch-up operations have no emissions impacts in the San Joaquin Valley (SJV) area.

EPA policy provides that SIP VOC rules may exceed the levels recommended in a CTG or contain limited exemptions if the total emissions in the area allowed under the SIP rule exceed the total emissions allowed by EPA's recommended emission levels by less than 5 percent.² In the absence of any extreme performance baked coating operations or special coatings for touch-up and repair operations in the SJV area, the total emissions allowed in the area under Rule 4603 are not greater than the total emissions allowed under the CTG levels and are permissible.

The commenter has provided no additional information about reasonably available control methods for these operations. Given that the VOC limits in Rule 4603 for this source category are generally more stringent than EPA's

CTG recommendations, and given the *de minimis* emission impacts of those rule elements that are less stringent than the CTG recommendations, we do not believe these elements of Rule 4603 constitute RACT deficiencies. *See NRDC v. EPA*, 571 F. 3d 1245, 1254 (DC Cir. 2009) (upholding EPA's case-by-case approach to RACT determinations).

Finally, regarding the comment that the 2008 CTG was released one month before SJVAPCD adopted the subject version of 4603, we note that SJVAPCD: (1) Was already far along in an extensive local process to develop this rule revision; (2) is allowed a year following EPA's issuance of the CTG to submit a rule that reflects current-day RACT for this source category; and (3) has since adopted a new version of Rule 4603 that contains emission limits for baked extreme performance coating and repair and touch-up operations consistent with the limits recommended in the 2008 CTG. We expect this version will be submitted to EPA for inclusion in the SIP in the near future.

Comment #2: Earthjustice further stated that Rule 4603 does not meet RACT requirements because it is not as stringent as other California district rules. Specifically, the commenter stated that the South Coast Air Quality Management District's (SCAQMD) rule has more stringent VOC limits for extreme high gloss coatings and does not exempt repair and touch-up coatings; that the Bay Area Air Quality Management District's (BAAQMD) rule has a more stringent VOC limit for baked metallic topcoats; and that Ventura County Air Pollution Control District's (VCAPCD) rule has more

stringent VOC limits for all air-dried coatings, baked extreme performance coatings, and baked and air-dried pretreatment wash primers. Earthjustice stated that the District "justifies the lack of stringency by claiming that other more stringent limits in its rule make up for the weaker limits," and that this assertion "has no factual or technical support." The commenter further stated the appropriate test is whether the limits in the rule represent reasonably available control technology, and that neither SJVAPCD nor EPA has explained why the more protective limits are not reasonable in SJVAPCD.

Response #2: State and local agencies rely heavily on CTGs to help define RACT when they are issued. When a CTG has not been issued for a category for many years, it is reasonable to consider whether RACT has evolved over time by examining analogous control requirements in other areas. For this source category, however, we have no information indicating that new control methods have become reasonably available since issuance of EPA's 2008 CTG. As such, we believe that the levels recommended in the 2008 CTG continue to reflect RACT level controls. Even upon an evaluation of the VOC limits in the other rules cited by the commenter, we have not identified any widely available and significantly more stringent requirements that compel us to reevaluate the limits in Rule 4603. The following table summarizes the more stringent requirements identified by the commenter.

Coating category	SJVAPCD VOC limit (g/L)	BAAQMD VOC limit (g/L)	SCAQMD VOC limit (g/L)	VCAPCD VOC limit (g/L)
Extreme high gloss (Air-dried)	420	420	340	420
Large appliance metallic topcoat (baked)	420	360	No limit	No limit.
Pretreatment wash primer (baked/air-dried)	420/420	420/420	420/420	275/340

In each case, the more stringent limit exists in only one other district, and we are not aware of the same limit having been adopted in any other area. We also note that extreme high gloss coatings, large appliance metallic topcoats, and pretreatment wash primers are relatively small source categories in the District. To our knowledge, the District has identified only one permitted facility that uses metallic surface coatings on

large appliances, but this facility uses powdered metallic coatings, which are not subject to the limits in Rule 4603.³

Comment #3: Earthjustice stated that Rule 4604 does not meet RACT because it is not as stringent as other California district rules. Specifically, the commenter stated that neither the BAAQMD's nor Sacramento Metro AQMD's (SMAQMD) rules exempt facilities using fewer than 55 gallons per

year, while Rule 4604 exempts these sources. Also, Earthjustice stated that Rule 4604 exempts necker lubricants, stripping of cured materials, and cleaning solvent for lab and research, while SCAQMD's rule has limits for these categories, and that the District has provided no analysis to support its claim that these categories are insignificant. Lastly, the commenter stated that SMAQMD's rule has more

¹ See e-mail correspondence dated July 23, 2009, between Nicole Law (EPA) and Joven Nazareno (SJVAPCD).

² See *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations*, EPA Office

of Air Quality Planning and Standards, May 25, 1988, at 2–2 and Attachment 2; Memorandum from Andrew Steckel, Rulemaking Office Chief, to Rulemaking Office, EPA Region IX, "Screening

Analysis for 5% De Minimis Determinations for Coating Rules," December 4, 2002.

³ See phone conversation dated August 4, 2009, between Nicole Law (EPA) and Joven Nazareno (SJVAPCD).

stringent limits for the cleaning of 3-piece can sheet coaters. In sum, Earthjustice stated that EPA should disapprove and require the District to revise Rule 4604.

Response #3: First, EPA's long-standing national policy allows for exemptions from RACT limits for "low-use" coatings at sources that use small quantities for intermittent or specialty-type operations.⁴ The policy states that an exemption based on a plantwide cutoff of 55 gallons per rolling 12-month period for all low-use coatings in the aggregate used at a facility is reasonable, and may be approved into a SIP, provided the 55-gallon plantwide limit is accompanied by good recordkeeping requirements and is federally enforceable. The exemption in section 4.1 of Rule 4604 for stationary sources that use 55 gallons or less in the aggregate of coatings and cleaning solvent per rolling 12-month period, together with the recordkeeping requirements of the rule (*see* section 6.1), are consistent with this policy.

Second, as to the commenter's objection to the exemptions in Rule 4604 for necker lubricants, stripping of certain cured materials, and cleaning in laboratory tests and analyses, we note that EPA's 2006 CTG for Industrial Cleaning Solvents (2006 CTG) specifically identifies "stripping of cured inks, coatings, and adhesives" and "research and development laboratories" among the categories that State and local agencies may consider for exclusion from RACT requirements.⁵ Moreover, contrary to the commenter's assertion, SCAQMD's RACT rule for this source category exempts the use of cleaning solvents for stripping of cured materials and for cleaning in laboratory tests and analyses.⁶ Specifically, SCAQMD's Rule 1125 (Metal Container, Closure, and Coil Coating Operations) requires that all solvent cleaning operations be carried out pursuant to Rule 1171 (Solvent Cleaning Operations), which in turn exempts solvent cleaning in research and development laboratory tests from the VOC limits of the rule, and exempts solvent cleaning for "stripping of cured coatings, cured ink, or cured adhesives"

from all requirements of the rule.⁷ These exemptions are consistent with the recommendation provided in EPA's 2006 CTG.⁸ The commenter has provided no additional information about reasonably available control methods for these operations and we are not aware of more stringent RACT measures for them.

Finally, as to the commenter's assertion that SMAQMD's rule for this source category has more stringent VOC limits for cleaning of 3-piece can sheet coaters, we note first that it is not clear which VOC limit(s) the commenter is referring to. In the absence of more specific information, we assume the commenter based its assertion on the information provided in SJVAPCD's 2009 RACT SIP, which indicates that SMAQMD's Rule 452 contains a 25 g/L limit for 3-piece can sheet coaters.⁹ Specifically, however, SMAQMD's Rule 452 prohibits the use of solvents that contain more than 25 g/L VOCs for "cleanup of container assembly equipment, including slitters, bodymakers, beadlers, end seamers, flangers, and testers, excluding side seam spray application equipment."¹⁰ It is not clear that this language includes 3-piece can sheet coaters. Nonetheless, to the extent the commenter intended to assert that a 25 g/L VOC limit should apply to cleaning of 3-piece can sheet coating operations in the SJV area, we disagree.

According to the SJVAPCD staff report for Rule 4604, currently there are no effective cleaning solvents for can sheet coaters that meet a 25 g/L VOC content limit. The SJVAPCD staff report notes that SCAQMD's Rule 1177 contains a 25 g/L VOC limit for cleaning of 3-piece can sheet coaters but that this 25 g/L limit is not achieved in practice because all operations in SCAQMD that are required to comply with the limit use VOC capture and control systems.¹¹ Given the commenter has provided no information to support its assertion that lower-VOC solvents for cleaning of 3-piece can sheet coaters are reasonably available and we are not otherwise aware of such information, we conclude that the VOC limits for this activity in Rule 4604 represent RACT.

Comment #4: Earthjustice stated that Rule 4612 does not meet RACT because

it is not as stringent as other California district rules. The commenter asserted generally that Rule 4612 "has limits on precoat and topcoat-metallic iridescent coatings that are less stringent than Bay Area, South Coast, and Sacramento rules," and that neither the District's RACT SIP nor EPA's technical support document explains the significance of these sources or whether the more protective limits are reasonable in SJVAPCD. The commenter concluded by stating that "[w]ithout this analysis, EPA has no rational basis for approving this rule as satisfying the RACT requirement."

Response #4: We note initially that the commenter's assertion is stated only generally and does not specify which more stringent limits it is referring to. In the absence of more specific information, we assume the commenter based its assertions on the information provided in SJVAPCD's 2009 RACT SIP, which indicates that VOC limits in BAAQMD's Rule 8–45 and SMAQMD's Rule 459 for "precoat" coatings are more stringent than corresponding limits in Rule 4612, and that a VOC limit in SCAQMD's Rule 1151 for "topcoat-metallic/iridescent" coatings is more stringent than the corresponding limit in Rule 4612.¹² Our review of the specific limits in these rules indicates that this information is not correct.

First, Rule 4612 does not contain VOC limits specific to "precoat" coatings. The rule does, however, contain a VOC limit of 250 g/L for "primer" coatings and a limit of 660 g/L for "pretreatment" coatings.¹³ We note that the definition of "primer" in Rule 4612 is identical to the definition in the California Air Resources Board's 2005 Suggested Control Measures for Automotive Coatings (CARB 2005 SCM), which includes "precoat" coatings in the "primer" category.¹⁴ The 2005 CARB SCM recommends a VOC limit of 250 g/L for primer coatings.¹⁵ It defines "pretreatments" coatings separately.¹⁶

¹² See 2009 RACT SIP, SJVAPCD, April 16, 2009, at pp. 4–242.

¹³ See SJVAPCD Rule 4612, section 5.1.

¹⁴ Rule 4612 defines "primer" as follows: "any coating, which is labeled and formulated for application to a substrate to provide a bond between the substrate and subsequent coats, corrosion resistance, a smooth substrate surface, or resistance to penetration of subsequent coats, and on which a subsequent coating is applied. Primers may be pigmented." Rule 4612 at section 3.29.

¹⁵ See *Suggested Control Measure for Automotive Coatings*, CARB, October 2005 (CARB 2005 SCM), Appendix D at D–5.

¹⁶ See CARB 2005 SCM at section 4.1 (Coating Limits).

¹⁷ The CARB 2005 SCM defines "pretreatment coating" as "any coating that contains a minimum of one-half (0.5) percent acid by weight and not more than 16 percent solids by weight necessary to

⁴ See Memorandum from G.T. Helms, Chief, EPA Ozone/Carbon Monoxide Programs Branch, to Air Branch Chiefs, Regions I–X, "Exemption for Low-Use Coatings," August 10, 1990.

⁵ See *Control Techniques Guidelines: Industrial Cleaning Solvents*, EPA Office of Air Quality Planning and Standards, September 2006, EPA–HQ–OAR–2006–0535, at pp. 8–9.

⁶ See SCAQMD Rule 1125 at section (c)(5) (referencing SCAQMD Rule 1171 for solvent cleaning operations); SCAQMD Rule 1171 at sections (g)(2)(G) and (g)(3)(B).

⁷ *Ibid.*

⁸ See footnote 5, *supra*.

⁹ See *Reasonably Available Control Technology (RACT) Demonstration for Ozone State Implementation Plans (SIP)*, SJVAPCD, April 16, 2009 (2009 RACT SIP), at pp. 4–194.

¹⁰ See SMAQMD Rule 452 at section 303.2.

¹¹ See SJVAPCD Final Staff Report for Rules 4603–4607, 4612, 4653, 4661, 4662, 4663, 4684, September 20, 2007, at pp. 10–11.

and recommends a VOC limit of 660 g/L for these coatings.¹⁸ In its 2009 RACT SIP submittal, however, SJVAPCD compared the VOC limit in Rule 4612 for “pretreatment” coatings (660 g/L) to the VOC limits in BAAQMD’s and SMAQMD’s rules for “precoat” coatings (580 g/L and 600 g/L, respectively), suggesting that BAAQMD’s and SMAQMD’s rules contain more stringent VOC limits for the same coating activities.¹⁹

We believe this comparison was inaccurate. A more appropriate evaluation would have been to compare the VOC limits for primer coatings in SJVAPCD’s Rule 4612 to the corresponding limits for primer coatings in BAAQMD’s and SMAQMD’s rules, and to also compare the VOC limits for pretreatment coatings among the same rules. The limit for primer coatings in SJVAPCD’s Rule 4612 (250 g/L) is equivalent to the limits for primer coatings in BAAQMD’s Rule 8–45 and SMAQMD’s Rule 459, and to the recommended limit in the CARB 2005 SCM for Automotive Coatings.²⁰ The limit for pretreatment coatings in Rule 4612 (660 g/L) is equivalent to the limits for pretreatment coatings in BAAQMD’s Rule 8–45 and to the recommended limit in CARB’s 2005 SCM for Automotive Coatings, and is more stringent than the limit for “pretreatment wash primers” in SMAQMD’s Rule 459 (780 g/L).²¹ To the extent that the limit for “primer” coatings in SJVAPCD Rule 4612 covers “precoat” coating activities, consistent with the CARB 2005 SCM recommendations, SJVAPCD’s Rule 4612 is more stringent than many other district rules that provide a separate, higher VOC limit for precoat coatings.²² As such, we disagree with the commenter’s assertion that BAAQMD’s and SMAQMD’s rules contain more stringent VOC limits for precoat coatings than SJVAPCD’s Rule 4612.

Similarly, Rule 4612 does not contain VOC limits specific to “topcoat-metallic/iridescent” coatings. It does, however,

contain a limit of 420 g/L for “color coating,”²³ which is defined to include metallic/iridescent color coatings.²⁴ The definition of “color coating” in Rule 4612 is identical to the definition in the CARB 2005 SCM, which also includes metallic/iridescent color coatings.²⁵ The CARB 2005 SCM recommends a VOC limit of 420 g/L for color coatings.²⁶

In its 2009 RACT SIP, SJVAPCD erroneously compared the limit in Rule 4612 for both color coatings and topcoat-metallic/iridescent coatings (420 g/L) with a 340 g/L limit in SCAQMD’s Rule 1151 for the same coating activities.²⁷ SCAQMD’s Rule 1151 contains a 340 g/L VOC limit for metallic-iridescent topcoats for certain vehicles that was effective between December 12, 1998 and July 1, 2008.²⁸ This requirement, however, expired as of July 1, 2008, at which time the requirements of Rule 1151, Appendix A became effective.²⁹ These currently-effective provisions establish a 420 g/L VOC limit for “color coating,” which is now essentially defined identically to the definition in SJVAPCD’s Rule 4612 and in the CARB 2005 SCM.³⁰

As such, to the extent the commenter intended to argue that the limit for topcoat-metallic/iridescent coatings in SJVAPCD’s Rule 4612 is less stringent than the corresponding limit in SCAQMD’s Rule 1151, we disagree. The VOC limit for topcoat-metallic/iridescent coatings, which are included in “color coatings,” in SJVAPCD’s Rule 4612 is equivalent to both the corresponding limit in SCAQMD’s Rule 1151 and to the recommended limit in the CARB 2005 SCM.

The commenter has provided no information to support its assertion that lower-VOC coatings for primer, pretreatment, and/or color coating (including topcoat-metallic/iridescent coating) activities are reasonably available in the SJV area and we are otherwise aware of no such information. Accordingly, we conclude that the limits in Rule 4612 represent RACT levels of control.

Comment #5: The National Paint & Coatings Association (NPCA) stated that the revisions to Rule 4603 that EPA proposed to approve have not been adopted by the District and that the VOC limits for two subcategories in the Pleasure Craft Coatings category are too low to allow for effective coatings. NPCA also stated that the VOC limits for pleasure craft coatings that ultimately appeared in EPA’s 2008 CTG on Miscellaneous Metal and Plastic Parts Coatings were not mentioned in EPA’s proposed CTG, and that the regulated communities were, therefore, not given the opportunity to comment and make recommendations on these limits. NPCA recognized that CTGs are not formal rulemakings and thus are not governed by notice and comment rulemaking requirements, but nonetheless stated that EPA should reevaluate the efficacy of the CTG recommendations in this case, given the absence of thorough public review and comment.

Lastly, NPCA noted that USEPA is conducting a comprehensive technology review of pleasure craft coatings for purposes of setting NESHAP emission limits and stated that the resulting data will provide a more current and thorough understanding of RACT for these coating operations. NPCA requested that EPA “not approve the pleasure craft coating aspects of SJVAPCD’s SIP” during the pendency of this rulemaking process.

Response #5: NPCA’s comments address revisions to Rule 4603 that have not yet been submitted for approval into the SIP. As such, NPCA’s comments are not relevant to this action. Our action today is limited to the version of Rule 4603 that the District adopted and submitted to EPA for SIP approval on December 23, 2008. This version of Rule 4603 does not contain the VOC limits for pleasure craft coatings recommended in the 2008 CTG.

III. EPA Action

No comments were submitted that change our assessment that the submitted rules comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving these rules into the California SIP.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve State choices, provided that they meet

provide surface etching and is labeled and formulated for application directly to bare metal surfaces to provide corrosion resistance and adhesion.” CARB 2005 SCM at section 3.23.

¹⁸ See CARB 2005 SCM at section 4.1 (Coating Limits).

¹⁹ See 2009 RACT SIP, SJVAPCD, April 16, 2009 at pp. 4–242.

²⁰ See SJVAPCD Rule 4612 at section 5.1; BAAQMD Rule 8–45–301; SMAQMD Rule 459 at section 301; CARB 2005 SCM at section 4.1 (Coating Limits).

²¹ See SMAQMD Rule 459 at section 301.1.

²² See e.g., SMAQMD Rule 459 at section 301.1, which establishes a 250 g/L VOC limit for primer coatings and a separate 600 g/L VOC limit for precoat coatings; see also CARB 2005 SCM at Appendix D, D–4 and D–5.

²³ See SJVAPCD Rule 4612 at section 5.1.

²⁴ See SJVAPCD Rule 4612 defines “color coating” as follows: “any pigmented coating, excluding adhesion promoters, primers, and multi-color coatings, that requires a subsequent clear coating and which is applied over a primer, adhesion promoter, or color coating. Color coatings include metallic/iridescent color coatings.” Section 3.15.

²⁵ See CARB 2005 SCM at section 3.12.

²⁶ See CARB 2005 SCM at section 4.1 (Coating Limits).

²⁷ See 2009 RACT SIP, SJVAPCD, April 16, 2009, at pp. 4–242.

²⁸ See SCAQMD Rule 1151 at section (c)(1)(A), Table 1.

²⁹ See SCAQMD Rule 1151, Appendix A.

³⁰ See SCAQMD Rule 1151, Appendix A, sections (c)(12) and (d)(1), Table A.

the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. *For that reason, this action:*

- 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, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 22, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (*see* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 3, 2009.

Laura Yoshii,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

- 1. The authority citation for Part 52 continues to read as follows:

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

Subpart F—California

- 2. Section 52.220 is amended by adding paragraphs (c)(354) (i)(E)(9) and (10) and (c)(364)(i)(A)(3) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(354) * * *

(i) * * *

(E) * * *

(9) Rule 4604, “Can and Coil Coating Operations,” adopted on September 20, 2007.

(10) Rule 4612, “Motor Vehicle and Mobile Equipment Coating Operations-

Phase II,” adopted on September 20, 2007.

* * * * *

(364) * * *

(i) * * *

(A) * * *

(3) Rule 4603, “Surface Coating of Metal Parts and Products,” adopted on October 16, 2008.

* * * * *

[FR Doc. 2010–747 Filed 1–15–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2005–0051]

44 CFR Part 206

RIN 1660–AA44

Special Community Disaster Loans Program

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) is amending its Special Community Disaster Loan Program regulations to establish loan cancellation provisions. The Special Community Disaster Loan Program, and these cancellation provisions, apply to communities in the Gulf Coast region who received Special Community Disaster Loans following Hurricanes Katrina and Rita. The period for new Special Community Disaster Loan eligibility closed at the end of fiscal year 2006. This final rule establishes procedures and requirements for Special Community Disaster Loan recipients to apply for cancellation of their loan as authorized by the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007. This final rule does not cancel all Special Community Disaster Loans, nor does it apply to loans made under FEMA’s Community Disaster Loan program which is governed under separate regulations. This rule also finalizes the 2005 Special Community Disaster Loan Program interim rule.

DATES: This final rule is effective March 22, 2010.

ADDRESSES: Copies of this final rule, the 2005 interim Rule, the 2009 notice of proposed rulemaking, all public comments received, and supplementary information (if any) are available electronically on the Federal