

Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6005 Class E airspace areas extending from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Washington, IA [Revised]

Washington Municipal Airport, IA.
(Lat. 41°16'34"N, long. 91°40'25"W)

That airspace extending upward from 700 feet above the surface within 7-mile radius of the Washington Municipal airport and within 3.5 miles each side of the 191° bearing from the airport extending from the 7-mile radius to 13 miles south of the airport.

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Herman J. Lyons, Jr.,

Acting Manager, Air Traffic Division, Central Region.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 144–4–6973a; FL–5194–5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from bakery ovens and the coating of metal parts and products.

The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with

the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this notice of proposed (NPRM) will incorporate these rules into the federally approved SIP. In addition, final action on one of these rules (South Coast Air Quality Management District's Rule 1153) will serve as a final determination that a deficiency in the rule has been corrected and that any sanctions or Federal Implementation Plan (FIP) obligations are permanently stopped. An Interim Final Determination published in today's **Federal Register** will defer the imposition of sanctions until EPA takes final rulemaking action on this rule. EPA has evaluated each of these rules and is proposing to approve them under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: Comments must be received on or before May 19, 1995.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Rulemaking Section [A–5–3], Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

California Air Resources Board,
Stationary Source Division, Rule
Evaluation Section, 2020 "L" Street,
Sacramento, CA 95814.
South Coast Air Quality Management
District, 21865 E. Copley Drive,
Diamond Bar, CA 91765–4182.
Ventura County Air Pollution Control
District, 669 County Square Drive,
Second Floor, Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT:
Christine Vineyard, Rulemaking Section [A–5–3], Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1197.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being proposed for approval into the California SIP include: South Coast Air Quality Management District (SCAQMD) Rule 1153, Commercial Bakery Ovens; and Ventura County Air Pollution Control District (VCAPCD) Rule 74.12, Surface Coatings of Metal Parts and Products. These rules were submitted by the California Air

Resources Board to EPA on February 24, 1995.

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act), that included the Los Angeles-South Coast Air Basin (LA Basin) and the Ventura County Area. 43 FR 8964; 40 CFR 81.305. Because these areas were unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987. 40 CFR 52.222. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the above districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.¹ EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The LA Basin is classified as extreme and the Ventura County Area is classified as severe;² therefore, these areas were subject to the RACT fix-up

¹ Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 *Federal Register* Notice" (Blue Book) (notice of availability was published in the *Federal Register* on May 25, 1988); and the existing control technique guidelines (CTGs).

² The LA Basin and the Ventura County Area retained their designations of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on February 24, 1995, including the rules being acted on in this document. This document addresses EPA's proposed action for SCAQMD Rule 1153, Commercial Bakery Ovens; and VCAPCD Rule 74.12, Surface Coating of Metal Parts and Products. The SCAQMD adopted Rule 1153 on January 13, 1995 and the VCAPCD adopted Rule 74.12 on January 10, 1995. These submitted rules were found to be complete on March 10, 1995 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V³ and are being proposed for approval into the SIP.

SCAQMD Rule 1153 controls VOC emissions from commercial bakery ovens; and VCAPCD Rule 74.12 controls VOC emissions from facilities that apply coatings to metal parts or products. VOCs contribute to the production of ground-level ozone and smog. SCAQMD Rule 1153 and VCAPCD Rule 74.12 were adopted as part of each district's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for these rules.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT

for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTG applicable to VCAPCD Rule 74.12 is entitled, "Control of Volatile Organic Emissions from Existing Stationary Sources—Surface Coating of Miscellaneous Metal Parts and Products", EPA-450/2-78-0-015, June 1978. For some source categories, such as commercial bakery ovens (SCAQMD Rule 1153), EPA did not publish a CTG. In these cases, the district may determine what controls are required by reviewing the operation of facilities subject to the regulation and evaluating regulations for similar sources in other areas. EPA did publish an Alternative Control Technology Document (ACT) entitled, "Alternative Control Technology Document for Bakery Oven Emissions", EPA 453/R-92-017, December 1972 as guidance for states when developing rules controlling VOC emissions from bakeries. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SCAQMD's submitted Rule 1153, Commercial Bakery Ovens, includes the following significant changes from the current SIP:

- Executive Officer discretion in specifying test methods was eliminated.
- The "exempt compounds" definition was updated.

VCAPCD submitted Rule 74.12, Surface Coating of Metal Parts and Products is a new rule and includes:

- Limits for the ROC content of metal surface coatings and solvents used to clean coating application equipment and metal surfaces prior to coating.
- The use of add-on equipment to control emissions of ROCs if noncompliant coatings are used.
- Requirements for monthly records of complying coatings and daily records of noncompliant coating applied.
- Test methods are included to determine compliance.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, SCAQMD Rule 1153, Commercial Bakery Ovens; and VCAPCD Rule 74.12, Surface Coating of Metal Parts and Products are being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D.

Nothing in this action should be construed as permitting or allowing or

establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The OMB has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Authority: 42 U.S.C. 7401-7671q.

Dated: April 12, 1995.

John C. Wise,

Acting Regional Administrator.

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³ EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).