

securities or commodities acquired on or after March 1, 1999.

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

[FR Doc. 99-1787 Filed 1-27-99; 8:45 am]

Billing Code 4830-01-U

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[TX-71-1-7311B; FRL-6222-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Texas

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

**ACTION:** Proposed rule.

**SUMMARY:** This action proposes to approve the State Implementation Plan (SIP) revisions to 30 TAC Chapter 101, Section 101.2(b) concerning Multiple Air Contaminant Sources. The SIP revisions were submitted by the Governor to EPA on January 10, 1996. The approval of these Texas SIP revisions make the revisions federally enforceable.

In the Rules and Regulation section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the agency views this as a noncontroversial revision and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated in relation to the rule. If EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received during the 30-day comment period set forth below will be addressed in a subsequent final rule based on this proposed rule. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by March 29, 1999.

**ADDRESSES:** Written comments on this action should be addressed to Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), at the EPA Region 6 Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), Multimedia Planning and Permitting

Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kenneth Boyce of the EPA Region 6 Air Planning Section at (214) 665-7259 at the address above.

**SUPPLEMENTARY INFORMATION:** For additional information, see the information provided in the direct final action of the same title which is published in the Rules and Regulations section of this **Federal Register**.

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

Dated: December 22, 1998.

**Jerry Clifford,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 99-1913 Filed 1-27-99; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[FRL-6222-8]

#### Approval of Section 112(l) Authority for Hazardous Air Pollutants; Perchloroethylene Air Emission Standards for Dry Cleaning Facilities; State of California; Yolo-Solano Air Quality Management District

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to section 112(l) of the Clean Air Act (CAA) and through the California Air Resources Board, Yolo-Solano Air Quality Management District (YSAQMD) requested approval to implement and enforce its "Rule 9.7: Perchloroethylene Dry Cleaning Operations" (Rule 9.7) in place of the "National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities" (dry cleaning NESHAP) for area sources under YSAQMD's jurisdiction. In the Rules section of this **Federal Register**, EPA is granting YSAQMD the authority to implement and enforce Rule 9.7 in place of the dry cleaning NESHAP for area sources under YSAQMD's jurisdiction as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule

will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

**DATES:** Written comments must be received by March 1, 1999.

**ADDRESSES:** Comments should be addressed to: Andrew Steckel, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the submitted request are available for public inspection at EPA's Region IX office during normal business hours.

**FOR FURTHER INFORMATION CONTACT:** Mae Wang, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1200.

**SUPPLEMENTARY INFORMATION:** This document concerns YSAQMD Rule 9.7, Perchloroethylene Dry Cleaning Operations, revised on November 13, 1998. For further information, please see the information provided in the direct final action which is located in the Rules section of this **Federal Register**.

**Authority:** This action is issued under the authority of Section 112 of the Clean Air Act, as amended, 42 U.S.C. Section 7412.

Dated: January 11, 1999.

**Felicia Marcus,**

*Regional Administrator, Region IX.*

[FR Doc. 99-1911 Filed 1-27-99; 8:45 am]

BILLING CODE 6560-50-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 239

[FRL-6226-2]

RIN 2050-AD03

#### Subtitle D Regulated Facilities; State Permit Program Determination of Adequacy; State Implementation Rule—Amendments and Technical Corrections

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to modify the State Implementation Rule ("SIR rule"). This modification changes the withdrawal of state permit programs provision in § 239.13 of the SIR rule so that Agency

withdrawals of an approved state municipal solid waste landfill (MSWLF) or conditionally exempt small quantity generator (CESQG) permit program would only apply to the entire approved program.

The SIR, which was published on October 23, 1998, set forth a flexible framework for modifications of approved programs, established procedures for withdrawal of approvals (including withdrawal of a part or parts of a state program), and confirmed the process for future program approvals so that standards that safeguard human health and the environment are maintained (63 FR 57026). Withdrawal of a part or parts of a state program will no longer apply.

EPA is also making some technical corrections to the withdrawal provision of the SIR rule.

Elsewhere in the Final Rule Section of today's **Federal Register**, EPA is taking direct final action to modify the SIR rule. This direct final rule will make these amendments and technical corrections effective in sixty (60) days unless relevant adverse comment is received on this rule within thirty (30) days. We are taking this direct final action because we view this amendment and the corrections to the SIR rule as being non-controversial. Thus, we anticipate no adverse comments. A detailed rationale for the changes to the withdrawal provisions of the SIR rule are provided in the preamble to the direct final rule.

If no relevant adverse comment is received in response to this rule, no further activity is contemplated regarding this proposal. If EPA receives relevant adverse comment, EPA will withdraw the direct final rule and address comments in a subsequent final rule. EPA will not provide additional opportunities for comment. If we receive relevant adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect. If we receive relevant adverse comment on any amendment, paragraph, or section of this rule, only those amendments, paragraphs, or sections of the rule will be withdrawn; all other amendments, paragraphs, and sections of the direct final rule will go into effect within the time frame specified in that direct final rule notice (sixty (60) days).

**DATES:** Comments must be submitted on or before March 1, 1999.

**ADDRESSES:** Commenters must send an original and two copies of their comments referencing the docket identification number F-1999-ST2F-FFFFF to the RCRA Information Center

(RIC), Office of Solid Waste (5305G), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the RIC at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. Comments may also be submitted electronically by sending electronic mail through the Internet to: rcradocket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F-1999-ST2F-FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703-603-9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost \$0.15 per page.

**FOR FURTHER INFORMATION CONTACT:** For general information contact the RCRA Hotline, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460; 800-424-9346; TDD 800-553-7672 (hearing impaired); in the Washington, DC metropolitan area, the number is 703-412-9810; TDD 703-486-3323.

For more detailed information on specific aspects of this rulemaking, contact Karen Rudek, Office of Solid Waste (5306W), U.S. Environmental Protection Agency Headquarters, 401 M Street SW, Washington, DC 20460; 703-308-1682,

rudek.karen@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

#### **I. Authority**

The U.S. Environmental Protection Agency (EPA or the Agency) is proposing these amendments to the SIR rule under the authority of sections 2002(a)(1) and 4005(c) of the Resource Conservation and Recovery Act of 1976 (RCRA or the Act), as amended by the Hazardous and Solid Waste Amendments of 1984.

Subtitle D of RCRA, at section 4005(c)(1)(B), requires each state to develop and implement a permit program or other system of prior approval to ensure that facilities that

receive household hazardous waste or conditionally exempt small quantity generator (CESQG) hazardous waste are in compliance with the federal revised criteria promulgated under section 4010(c) of Subtitle D of RCRA. Section 4005(c)(1)(C) further directs EPA to determine whether state permit programs are adequate to ensure compliance with the revised federal criteria. Section 2002(a)(1) of RCRA authorizes EPA to promulgate regulations necessary to carry out its functions under the Act.

#### **II. Regulated Entities**

Regulated entities include state governments requesting full or partial approvals of permit programs or other systems of prior approval, or revisions to existing fully or partially approved programs.

#### **III. Background**

The background of the RCRA Subtitle D federal revised criteria and the SIR rule are set forth elsewhere in the Final Rule Section of today's **Federal Register**. This proposed rule incorporates that background and historical information.

#### **IV. Proposed Changes to the SIR Rule**

##### *A. Partial Withdrawal of State Permit Programs*

EPA is proposing to amend the SIR rule so that section 239.13, which pertains to the withdrawal of state permit programs, would only apply to the entire approved program and not to part or parts of a state program. The reasons for this change are set forth in the preamble of the direct final rule published elsewhere in the Final Rules Section of today's **Federal Register**. Those reasons are hereby incorporated into this proposed rule.

##### *B. Technical Corrections*

In addition to this amendment to the SIR rule, we are proposing two technical corrections to errors which the Agency discovered in the language of § 239.13. First, in § 239.13(g)(3), both the proposed and final rule had stated that the Regional Administrator would hold a public hearing on a tentative withdrawal determination if such a hearing would "clarify issues involved in the tentative adequacy determination" (63 FR 57044, Oct. 23, 1998; 61 FR 2605, Jan. 26, 1996). As reflected in both the title of this section of the SIR rule ("Criteria and procedures for withdrawal of determination of adequacy") and in the preamble to the proposed rule (61 FR 2509), it is clear that the Agency intended this language in § 239.13(g)(3) to allow the Regional

Administrator to hold a public hearing to clarify issues involved in the tentative "withdrawal" determination and not the tentative "adequacy" determination. The Agency is proposing to modify the SIR rule to reflect this intention.

Second, in the first sentence of both § 239.13(f) and (g), we propose inserting the word "the" in the phrase "withdrawal of determination of adequacy" to read "withdrawal of the determination of adequacy." We believe that these corrections will merely clarify the language without altering the intent of the two provisions.

## V. Regulatory Assessments

### A. Executive Order 12866: Assessment of Potential Costs and Benefits

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether any proposed or final regulatory action is "significant," and, therefore, subject to OMB review and the requirements of the Executive Order. The order defines "significant regulatory action" as one that is likely to result in a rule that may:

(a) Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;

(b) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(c) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(d) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this proposed rule is not a "significant regulatory action." Thus, EPA has not submitted this action to OMB for review under E.O. 12866.

### B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, no regulatory

flexibility analysis is required if the head of an agency certifies the rule will not have a significant adverse economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. The following discussion explains EPA's determination.

The Agency has determined that today's proposed rule will not have a significant economic impact on a substantial number of small entities, since the rule has direct effects only on state agencies. Therefore, no regulatory flexibility analysis has been prepared. Based on the foregoing discussion, I hereby certify that this proposed rule will not have a significant adverse economic impact on a substantial number of small entities.

### C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 ("UMRA"), Pub. L. 104-4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under "202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "federal mandates" that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, "205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of UMRA "205 do not apply when they are inconsistent with applicable law. Moreover, UMRA "205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative, if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed, under "203 of UMRA, a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in

the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this proposed rule does not contain a federal mandate (under the regulatory provisions of Title II of the UMRA) that may result in expenditures of \$100 million or more for state and local governments in the aggregate, or for the private sector in any one year. Thus, there is no obligation to prepare a written statement, including a cost-benefit analysis, under "202 of UMRA. For the same reasons outlined in part V.B above, EPA has determined that this proposed rule to amend the SIR rule will not significantly or uniquely affect small governments (UMRA "203).

### D. Paperwork Reduction Act

Today's proposed rule does not add new burden as defined by the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Office of Management and Budget has previously approved the information collection in the existing regulations and has assigned OMB control number 2050-0152, (EPA ICR No. 1608.01).

### E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866.

### F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub. L. No. 104-113, § 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent

with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

#### *G. Executive Order 12898: Environmental Justice*

Under Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," as well as through EPA's April 1995, "Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report," and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities, and all people live in clean and sustainable communities. To address this goal, EPA considered the impacts of the final State Implementation Rule on low-income populations and minority populations and concluded that the SIR will potentially advance environmental justice causes (63 FR 57039, Oct. 23, 1998). Today's proposed amendments to the SIR will not affect these beneficial impacts on environmental justice causes.

#### *H. Executive Order 12875: Enhancing the Intergovernmental Partnership*

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent

of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

In developing this proposed rule, EPA consulted with various states and a state organization to enable them to provide meaningful and timely input in the development of this rule. EPA also worked closely with state governments in the development of the final SIR (63 FR 57039, Oct. 23, 1998).

Through notice, EPA sought input from small governments during the SIR rulemaking process. However, today's proposed rule to amend the SIR will not create a mandate on State, local or tribal governments. The proposed rule would not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this proposed rule.

#### *I. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments*

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's proposed rule does not significantly or uniquely affect the

communities of Indian tribal governments. There is no impact on these communities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed rule.

#### **List of Subjects in 40 CFR Part 239**

Environmental protection, Administrative practice and procedure, Municipal solid waste landfills, Non-municipal solid waste, Non-hazardous solid waste, State permit program approval, Adequacy.

Dated: January 19, 1999.

**Carol M. Browner,**  
Administrator.

[FR Doc. 99-1907 Filed 1-27-99; 8:45 am]

BILLING CODE 6560-50-P

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

#### 46 CFR Part 381

[Docket No. MARAD-99-5038]

RIN 2133-AB37

#### **Regulations To Be Followed by All Departments and Agencies Having Responsibility To Provide a Preference for U.S.-Flag Vessels in the Shipment of Cargoes on Ocean Vessels**

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Maritime Administration (MARAD) is soliciting public comment concerning whether MARAD should amend its cargo preference regulations governing the carriage of agricultural exports. Your comment is welcome on the questions listed below or on any aspect of MARAD's oversight of other governmental agencies' ocean shipping activities under the Cargo Preference Act of 1954, as amended by the Food Security Act of 1985. Such comments will be considered in any future decision by MARAD to initiate a rulemaking process applicable to the carriage of agricultural export cargoes. Present regulations and policies remain in force. This docket does not address the carriage of military cargoes.

**DATES:** You should submit your comments early enough to ensure that Docket Management receives them not later than March 29, 1999.

**ADDRESSES:** You should mention the docket number that appears at the top of this document in your comments and submit your comments in writing to: