

**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Part 52

[CA 038-100a; FRL-6334-4]

**Approval and Promulgation of
Implementation Plans; California State
Implementation Plan Revision, South
Coast Air Quality Management District**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern rules from South Coast Air Quality Management District (SCAQMD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from paper, fabric, and film coating operations; graphic arts; coatings and ink manufacturing; plastic, rubber and glass coatings; motor vehicle and mobile equipment non-assembly line coating operations; and solvent cleaning operations. Thus, EPA is finalizing the approval of these revisions into the California SIP 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: This rule is effective on July 6, 1999 without further notice, unless EPA receives adverse comments by June 3, 1999. If EPA received such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812
South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765

FOR FURTHER INFORMATION CONTACT: Andrew Steckel, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1185.

SUPPLEMENTARY INFORMATION:

I. Applicability

This **Federal Register** action for the South Coast Air Quality Management District excludes the Los Angeles portion of the Southeast Desert AQMA, otherwise known as the Antelope Valley Region in Los Angeles County, which is now under the jurisdiction of the Antelope Valley Air Pollution Control District as of July 1, 1997. The rules being approved into the California State SIP include: SCAQMD Rules 1128—Paper, Fabric, and Film Coating Operations; 1130—Graphic Arts; 1141.1—Coatings and Ink Manufacturing; 1145—Plastic, Rubber, and Glass Coatings; 1151—Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations; and 1171—Solvent Cleaning Operations. These rules were submitted by the California Air Resources Board (CARB) to EPA on July 23, 1996 (1128, 1130), September 14, 1992 (1141.1), August 1, 1997 (1145), and March 10, 1998 (1151, 1171).

II. 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 Act or pre-amended Act), that included the South Coast Air Basin. 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the above district's portions of the California SIP was 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 South Coast Air Basin is classified as extreme;² therefore, this area was subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on July 23, 1996, September 14, 1992, August 1, 1997, and March 10, 1998, including the rules being acted on in this document. This document addresses EPA's direct-final action for SCAQMD Rules 1128—Paper, Fabric, and Film Coating Operations; 1130—Graphic Arts; 1141.1—Coatings and Ink Manufacturing; 1145—Plastic, Rubber, and Glass Coatings; 1151—Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations; and 1171—Solvent Cleaning Operations. SCAQMD amended Rules 1128 and 1130 on March 8, 1996, Rule 1141.1 on March 6, 1992, Rule 1145 on February 14, 1997 and Rules 1151 and 1171 on June 13, 1997. These submitted rules were found to be complete on October 30, 1996 (1128, 1130), November 20, 1992 (1141.1), September 30, 1997 (1145), and May 21, 1998 (1151, 1171) pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V³ and is being finalized for approval into the SIP.

These Rules control emissions of VOCs from the following source categories: 1128—operations that apply coatings to paper, fabric or film

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 South Coast Air Basin retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA.

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).

substrates, 1130—graphic arts operations, 1141.1—coatings and ink manufacturing establishments, 1145—plastic, rubber, and glass coating operations, 1151—automotive refinishing operations, and 1171—solvent cleaning operations during production, repair, maintenance or servicing of parts, products, tools, machinery, equipment, or general work areas. VOCs contribute to the production of ground level ozone and smog. This rule was originally adopted as part of SCAQMD's effort 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 final action for this rule.

III. EPA Evaluation and 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 rule 1128 is entitled, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabric, Automobiles, and Light-Duty Trucks, EPA-450/2-77-008, May 1977, and the CTG applicable to Rule 1130 is entitled, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VIII: Graphic Arts, Rotogravure and Flexography, EPA-450/2-78-033, December 1978, Rules 1141.1, 1145, 1151 and 1171 control emissions from source categories for which EPA has not published a CTG. Accordingly, these

rules were evaluated for consistency with the general RACT requirements of the Clean Air Act (CAA section 110 and part D. Rule 1151 was also evaluated against subpart E of 40 CFR part 59, National Volatile Organic Compound Emission Standard for Automobile Refinish Coatings. 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.

On December 20, 1993, EPA approved into the SIP a version of Rule 1128—Paper, Fabric, and Film Coating Operations that had been adopted by SCAQMD on February 7, 1992. SCAQMD submitted Rule 1128—Paper, Fabric, and Film Coating Operations includes the following significant changes from the current SIP:

- Added definition of aerosol coating product;
- Deleted listing the exempt compounds and added wording to refer to Rule 102—Definition of Terms;
- Changed the wording of the aerosol coatings exemption to increase clarity of the rule.

On October 31, 1995, EPA approved into the SIP a version of Rule 1130—Graphic Arts that had been adopted by SCAQMD on September 8, 1995. SCAQMD submitted Rule 1130—Graphic Arts includes the following significant changes from the current SIP:

- Added definition of aerosol coating product;
- Added an exemption for aerosol coating products.

On January 24, 1985, EPA approved into the SIP a version of Rule 1141.1—Coating and Ink Manufacturing that had been adopted by SCAQMD on November 4, 1983. SCAQMD submitted Rule 1141.1—Coatings and Ink Manufacturing includes the following significant changes from the current SIP:

- Changed rule format to agree with format of current SCAQMD rules;
- Added an exempt compound listing;
- Added definition of VOC;
- Updated record keeping requirements, and extended record retention time from one to two years.

On December 20, 1993, EPA approved into the SIP a version of Rule 1145 that had been adopted by SCAQMD on January 10, 1992. SCAQMD Rule 1145—Coating and Ink Manufacturing includes the following significant changes from the current SIP:

- A lower VOC limit for electric dissipating and shock free coatings;
- Removed language used to regulate solvent cleaning activities, and added

reference to Rule 1171—Solvent Cleaning Operations.

- Changed the default transfer efficiency provision to a value of not less than 65% in place of the high-volume, low-pressure (HVLP) spray equipment standard;
- Exempted air-brush operations from transfer efficiency requirements;
- Updated compliance test methods, to reflect the most recent test methods.

On June 13, 1996, EPA approved into the SIP a version of Rule 1151—Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations that had been adopted by SCAQMD on September 9, 1994. SCAQMD submitted Rule 1151—Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations includes the following significant changes from the current SIP:

- Updated definition of aerosol coatings;
- Deleted listing of exempt compounds and added reference to Rule 102—Definition of Terms;
- Added an exemption for aerosol coatings to be consistent with amendments to State of California Health and Safety Code Section 41712.

On July 14, 1995, EPA approved into the SIP a version of Rule 1171—Solvent Cleaning Operations that had been adopted by SCAQMD on May 12, 1995. SCAQMD submitted Rule 1171—Solvent Cleaning Operations includes the following significant changes from the current SIP:

- Deleted listing of exempt compounds, and added reference to Rule 102—Definition of Terms;
- Added VOC limits for solvents to clean electrical apparatus.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, SCAQMD Rules 1128—Paper, Fabric, and Film Coating Operations; 1130—Graphic Arts; 1141.1—Coatings and Ink; 1145—Plastic, Rubber, and Glass Coatings; 1151—Motor Vehicles and Mobile Equipment Non-Assembly Line Coating Operations; and 1171—Solvent Cleaning Operations are being approved 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 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.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective July 6, 1999 without further notice unless the Agency receives relevant adverse comments by June 3, 1999.

If the EPA received such comments, then EPA will publish a timely withdrawal of the direct final rule and inform the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 6, 1999 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, 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, or EPA consults with those governments. If EPA consults with those governments, Executive Order 12875 requires EPA to 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, E.O. 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."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. 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 rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, 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, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to 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 rule does not significantly or uniquely affect the communities of

Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements

under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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 rule 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**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

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 July 6, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 21, 1999.

Felicia Marcus,

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)(189)(i)(A)(7), (c)(239)(i)(B), (c)(248)(i)(B)(3) and (c)(254)(i)(D)(2) to read as follows:

§ 52.220 Identification of plan.

- * * * * *
- (c) * * *
- (189) * * *
- (i) * * *
- (A) * * *
- (7) Rule 1141.1, adopted on November 4, 1983 and amended on March 6, 1992.
- * * * * *
- (239) * * *
- (i) * * *
- (B) South Coast Air Quality Management District.
- (1) Rule 1128, adopted on May 4, 1979 and amended on March 8, 1996, and Rule 1130, adopted on October 3, 1980 and amended on March 8, 1996.
- * * * * *
- (248) * * *
- (i) * * *
- (B) * * *
- (3) Rule 1145, adopted on July 8, 1983 and amended on February 14, 1997.
- * * * * *
- (254) * * *
- (i) * * *
- (D) * * *
- (2) Rule 1151, adopted on July 8, 1988 and amended on June 13, 1997, and Rule 1171, adopted on August 2, 1991 and amended on June 13, 1997.
- * * * * *

[FR Doc. 99-11039 Filed 5-3-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[NJ002; FRL-6333-8]

Approval of State Operating Permit, Rule Revision; New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final approval.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action on revisions to the New Jersey operating permit rule (N.J.A.C. 7:27-22.4 and 22.5) as submitted by the State of New Jersey to fulfill the requirements of Title V of the Clean Air Act. The revisions extend the deadlines for the last two waves of permit applications until February 4, 1999 and May 4, 1999, if these applications are submitted in electronic format.

DATES: This rule is effective on July 6, 1999 without further notice, unless EPA

receives adverse comment by June 3, 1999. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to: Raymond Werner, Acting Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,
Region 2 Office, 290 Broadway, 25th
Floor, New York, New York 10007-
1866.

New Jersey Department of
Environmental Protection, Air Quality
Permitting Program, Bureau of
Operating Permits, 401 E. State Street,
Trenton, New Jersey 08625-0027.

FOR FURTHER INFORMATION CONTACT:
Suilin Chan, Air Programs Branch, U.S.
Environmental Protection Agency,
Region 2 Office, 290 Broadway, 25th
Floor, New York, NY 10007-1866, (212)
637-4019.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to title V of the Clean Air Act ("the Act") and its implementing regulations codified at 40 CFR part 70, EPA granted source category-limited interim approval to the New Jersey operating permit program. See, 61 FR 24715 (May 16, 1996). New Jersey's category-limited interim program became effective on June 17, 1996 and was scheduled to expire on June 17, 1998, two years after the approval. However, EPA has recently granted extensions to all interim programs, including that of NJ's, to June 1, 2000.

The Act states that:

"any person required to have a permit shall, not later than 12 months after the date on which the source becomes subject to a permit program approved or promulgated under this title, or such earlier date as the permitting authority may establish, submit to the permitting authority a compliance plan and an application for a permit signed by a responsible official, who shall certify the accuracy of the information submitted." See, 40 CFR section 70.5.

New Jersey's operating permit rule contains application submittal deadlines established for different source categories. Under the rule, applications are submitted to the New Jersey Department of Environmental Protection ("NJDEP") at different times in seven waves as determined by the