

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2000-02-11 Boeing: Amendment 39-11530. Docket 98-NM-374-AD.

Applicability: Model 777-200 series airplanes, as listed in Boeing Service Bulletin 777-57-0033, including Appendix A, both dated March 26, 1998, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance

of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel or fuel vapors from entering the passenger and cargo compartments of the airplane in the event of a failure of the primary seal or development of a crack in the wing center section structure, accomplish the following:

Corrective Actions

(a) Within 24 months after the effective date of this AD, apply sealant to the upper surface on the wing center section under the overwing stub beams on the left and right sides of the airplane, in accordance with Boeing Service Bulletin 777-57-0033, dated March 26, 1998.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Service Bulletin 777-57-0033, dated March 26, 1998, including Appendix A, dated March 26, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle Washington, 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 2, 2000.

Issued in Renton, Washington, on January 20, 2000.

Donald L. Riggins,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00-1766 Filed 1-26-00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 022-0215; FRL-6529-1]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing disapproval of revisions to the California State Implementation Plan (SIP). EPA proposed disapproval of these revisions in the *Federal Register* on November 24, 1999 and December 10, 1999. The revisions pertain to startup and shutdown exemption provisions and to visible emission limits in the South Coast Air Quality Management District (SCAQMD). EPA is finalizing disapproval under CAA provisions regarding EPA action on SIP submittals and general rulemaking authority because these revisions are not consistent with applicable CAA requirements.

EFFECTIVE DATE: This action is effective on February 28, 2000.

ADDRESSES: Copies of the submitted rules 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 rules are also available for inspection at the following locations: Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW, Washington, DC 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: Patricia A. Bowlin, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1188.

SUPPLEMENTARY INFORMATION:

I. Applicability

EPA is disapproving SCAQMD Rule 429, Startup and Shutdown Exemption Provisions for Oxides of Nitrogen, as adopted on December 21, 1990 and SCAQMD Rule 401, Visible Emissions, as adopted on September 11, 1998. These rules were submitted by the California Air Resources Board to EPA on January 28, 1992 and January 12, 1999, respectively.

II. Background

On November 24, 1999 in 64 FR 66143, EPA proposed disapproval of SCAQMD Rule 429. On December 10, 1999 in 64 FR 69211, EPA proposed disapproval of SCAQMD Rule 401. These rules were submitted as revisions to the California SIP. A detailed discussion of the background for each rule is provided in the proposed rules (PRs) cited above.

EPA has evaluated the submitted rules for consistency with the requirements of the CAA and EPA regulations and with EPA's interpretation of these requirements as expressed in the EPA policy and guidance. EPA is finalizing the disapproval of SCAQMD Rule 429, Startup and Shutdown Exemption Provisions for Oxides of Nitrogen, as submitted on January 28, 1992 because the rule is inconsistent with the requirements of CAA sections 110(l), 172(c)(1), and 110(a)(2)(A). EPA is finalizing the disapproval of SCAQMD Rule 401, Visible Emissions, as submitted on January 12, 1999 because the rule is inconsistent with the requirements of CAA sections 193, 110(l), and 189. Detailed discussion of each submitted rule and EPA's evaluation of each rule has been provided in the PRs and in technical support documents (TSDs) available at EPA's Region IX office.

III. Response to Public Comments

A 15-day public comment period on EPA's proposed disapproval of SCAQMD Rule 429 was provided in 64 FR 66143. EPA did not receive comments on the PR.

A 15-day public comment period on EPA's proposed disapproval of SCAQMD Rule 401 was provided in 64 FR 69211. EPA did not receive comments on the PR.

IV. EPA Action

EPA is finalizing disapproval of the above-referenced rules because they do not meet applicable CAA requirements. The effect of this action is that the federal enforceable California SIP

remains unchanged.¹ Because this action maintains the stringency of the current SIP, EPA's disapproval of the submitted rules does not trigger sanctions or FIP clocks under section 179 of the CAA.

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.

V. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces E.O. 12612, Federalism, and E.O. 12875, Enhancing the Intergovernmental Partnership. E.O. 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in E.O. 13132 to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under E.O. 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

¹ The current SIP does not contain any version of SCAQMD Rule 429, Startup and Shutdown Exemption Provisions for Oxides of Nitrogen, but does contain an earlier version of SCAQMD Rule 401, Visible Emissions. On January 29, 1985, EPA approved into the federally enforceable SIP the version of SCAQMD Rule 401 adopted on March 2, 1984. This version of Rule 401 remains in the SIP.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in E.O. 13132. Thus, the requirements of section 6 of E.O. 13132 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 is does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 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, E.O. 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, E.O. 13084 requires EPA to develop an effective process permitting elected officials 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 rule will not have a significant impact on a substantial number of small entities because disapprovals of SIP revisions under section 110 and subchapter I, part D of the Clean Air Act do not affect any existing requirements applicable to small entities. Any existing Federal requirements will remain in place. Federal disapproval of the State SIP submittal will not affect State-enforceability. Moreover, EPA's disapproval of the submittal would not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

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 this disapproval action 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. The disapproval will not change existing requirements 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. 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 March 27, 2000. 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, Intergovernmental relations, Reporting and recordkeeping requirements, Particulate matter.

Dated: January 18, 2000.

Laura Yoshii,

Deputy 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 52.271 is amended by revising the section title and by adding paragraph (c) to read as follows:

§ 52.271 Malfunction, startup, and shutdown regulations.

* * * * *

(c) The following regulations are disapproved because they exempt sources from applicable emissions limitations during malfunctions and/or fail to sufficiently limit startup and shutdown exemptions to those periods where it is technically infeasible to meet emissions limitations.

(1) South Coast Air Quality Management District.

(i) Rule 429, submitted on January 28, 1992.

3. Section 52.275 is amended by adding paragraph (c) to read as follows:

§ 52.275 Particulate matter control.

* * * * *

(c) The following regulations are disapproved because they relax the control on visible emissions without any accompanying analyses demonstrating that these relaxations will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards or any other applicable requirement of the Clean Air Act.

(1) South Coast Air Quality Management District.

(i) Rule 401, submitted on January 12, 1999.

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