V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). 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 Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. 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).

C. 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 April 17, 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 approving a revision to Virginia's oxygenated gasoline regulation 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, Carbon monoxide, Incorporation by reference.

Dated: January 31, 2000.

Bradley M. Campbell,

Regional Administrator, Region III.

40 CFR part 52 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 VV—Virginia

2. Section 52. 2420 is amended by adding paragraphs (c)(136) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(136) Revisions to the Virginia Regulations, to relegate the oxygenated gasoline program to a carbon monoxide contingency measure, submitted on April 30, 1997 by the Virginia Department of Environmental Quality:

(I) Incorporation by reference.

(A) Letter of April 30, 1997 from the Virginia Department of Environmental Quality transmitting the oxygenated gasoline regulation amendments as a SIP revision.

(B) Revisions to 2 VAC 5 Chapter 480, Section 20, Applicability. These revisions became effective November 1, 1996.

(ii) Additional Material.—Remainder of April 30, 1997 submittal

[FR Doc. 00–3357 Filed 2–16–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC–84–9936(a), NC–88–9937(a); FRL–6520–4]

Approval and Promulgation of Air Quality Implementation Plans; North Carolina; Miscellaneous Revisions to the Forsyth County Local Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On January 17, 1997, and November 6, 1998, on behalf of the Forsyth County Environmental Affairs Department, the North Carolina Division of Air Quality submitted miscellaneous revisions to the Forsyth County Local Implementation Plan (LIP). These revisions adopt federally approved regulations, previously adopted into the North Carolina State Implementation Plan, into the LIP. These revisions include but are not limited to the adoption of Exclusionary Rules and the amending of multiple Volatile Organic Compounds (VOC) rules. EPA is

approving these revisions because they are consistent with the requirements set forth in the Clean Air Act as amended in 1990.

DATES: This direct final rule is effective April 17, 2000 without further notice, unless EPA receives adverse comment by March 20, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Randy Terry at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations:

North Carolina Department of Environment and Natural Resources, 2728 Capitol Boulevard, Raleigh, North Carolina 27604;

Forsyth County Environmental Affairs Department, 537 North Spruce Street, Winston Salem, North Carolina 27171–1362;

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, GA 30303;

Office of Air and Radiation, Docket and Information Center (Air Docket), EPA, 401 M Street, SW, Room M1500, Washington, DC 20460; and

Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Randy Terry at the above Region 4 address or at 404–562–9032.

SUPPLEMENTARY INFORMATION: On January 17, 1997, and November 6, 1998, on behalf of the Forsyth County Environmental Affairs Department, the North Carolina Division of Air Quality submitted miscellaneous revisions to the Forsyth County Local Implementation Plan (LIP). A brief description of each major revision follows:

Subchapter 3D—Air Pollution Control Requirements

3D.0104 Incorporation by Reference

This rule was amended to adopt by reference all references to American Society for Testing and Materials methods (ASTM).

3D.0506, Hot Mix Asphalt Plants, 3D.0507, Particulates From Chemical Fertilizer Manufacturing Plants, 3D.0508, Particulates From Pulp and Paper Mills, 3D.0509, Particulates From Mica or Feldspar Plants. 3D.515, Particulates From Miscellaneous Industrial Processes

The tables in these sections which list both the process rate in tons per hour and the maximum allowable emission rate in lbs per hour were deleted and replaced by equations which were added to be used to calculate all emission limits for the particulates.

3D.0510, Particulates From Sand, Gravel, or Crushed Stone Operations and 3D.0511, Particulates From Lightweight Aggregate Processes

These rules were amended to include language ensuring the control of process-generated emissions from crushers with wet suppression and from conveyers, screens and transfer points.

3D.0521, Control of Visible Emissions

This rule was amended to define the six minute averaging period used to determine exceedences of the visible emission limits and to delete the grandfathered source exemption.

3D.0531, Sources in Nonattainment Areas

This rule was amended to adopt paragraph (k). Paragraph (k) requires new sources and sources undergoing major modifications to use the urban airshed model (UAM) to predict the effect on the ozone level and attainment status.

3D.0535, Excess Emissions Reporting and Malfunctions

This rule was modified to include language that requires a malfunction abatement plan for all electric utility boilers and gives the Director discretion to require a malfunction abatement plan for any other source. This rule was also amended to change the reporting time period of a malfunction from 24 hours after the occurrence to no later than 9 am Eastern time of the department's next business day.

3D.0907, Compliance Schedules for Sources in Nonattainment Areas; 3D.0910, Alternative Compliance Schedules; 3D.0911 Exception From Compliance Schedules; 3D.0952, Petition for Alternative Controls; 3D.0954 Stage II Vapor Recovery

These rules were amended to extend the compliance dates.

3D.0909, Compliance Schedules for Sources in New Nonattainment Areas

This rule was amended to correct paragraph references that have changed.

3D.0914 Determination of VOC Emission Control System Efficiency This rule was amended to clarify that the capture efficiency of VOC emission control systems shall be determined using the EPA recommended capture efficiency protocols and test methods as described in the EPA document, EMTIC GD–035, ''Guidelines for Determining Capture Efficiency.''

3D.0927 Bulk Gasoline Terminals

This rule was amended to add the definition of ''contact deck'' and to delete language that allows a bulk gasoline terminal to install a vapor control system that prevents the emissions of VOC's from exceeding 80 milligrams per liter. The revised regulation requires all vapor control systems to limit the emissions of VOC's to 35 milligrams per liter.

3D.0938 Perchloroethylene Dry Cleaning System

This rule was repealed because perchloroethylene was removed from the list as a VOC.

3D.0950 Interim Standards for Certain Source Categories

This rule was amended to delete applicability of this rule to textile coating, bakeries, and Christmas ornament manufacturing because they are now covered by separate rules under 3D.0955, .0956, and .0957, respectively. A sentence has also been added to paragraph (b) which states that ''Diacetone alcohol and perchloroethylene are not considered photochemically reactive under this rule.''

3D.0953 Vapor Return Piping for Stage II Vapor Recovery

This rule has been simplified to require vapor return piping to have a diameter of at least two inches for six or fewer nozzles and at least three inches for more than six nozzles.

3Q.0101 Required Air Quality Permits, 3Q.0102 Activities Exempted From Permit Requirements, and 3Q.0301 Applicability

These rules were amended to update references from rule 3Q .0610 to 3Q .0700.

3Q.0207 Annual Emissions Reporting

This rule was amended to add title V minor facilities to the sources required to report actual emissions by June 30 of each year for the previous calender year.

3Q.0312 Application Processing Schedule, and 3Q.0607 Application Processing Schedule

These rules were amended to modify the schedules for processing applications for permits, modifications and renewals.

3Q Section .0800 Exclusionary Rules

This section was adopted to define categories of facilities that are exempted from needing a permit under section .0500, title V Procedures, of this Subchapter by redefining their potential emissions. This section effectively reduces the number of synthetic minors. The following topics are covered in the new rules:

.0801 Purpose and Scope
.0802 Gasoline Service Stations and Dispensing Facilities
.0803 Coating, Solvent Cleaning, Graphic Arts Operations
.0804 Dry Cleaning Facilities
.0805 Grain Elevators
.0806 Cotton Gins
.0807 Emergency Generators

Additional revisions to rules within Section 3Q.0800 are described below.

3Q.0805 Grain Elevators

This rule was amended to raise the exemption limits for shipping or receiving grain from 21,000 to 588,000 tons per year.

3Q.0806 Cotton Gin

This rule was amended to exempt any cotton gin that gins less than 167,000 bales of cotton per year.

3Q.0807 Emergency Generators

This rule was amended to add facilities that use associated fuel storage tanks to the list of sources that require a permit.

Final Action

EPA is approving the aforementioned changes to the State Implementation Plan (SIP) because they are consistent with the Clean Air Act and EPA requirements. These requirements can be found in the January 20, 1994, memo by John R. O'Conner. EPA feels that approving this source specific SIP revision will create no adverse effects in the surrounding attainment area.

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 April 17, 2000 without further notice unless the Agency receives relevant adverse comments by March 20, 2000.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing 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 the proposed rule. Any parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on April 17, 2000 and no further action will be taken on the proposed rule.

I. Administrative Requirements

A. Executive Order 12866

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

B. Executive Orders on Federalism

Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 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 the Executive Order 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 Executive Order 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.

This final 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 Executive Order 13132. Thus, the requirements of section 6 of the Executive Order 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 Executive Order 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 Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects 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 rule does not significantly or uniquely affect the

communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 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**. 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 April 17, 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: December 3, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Part 52 of chapter I, title 40, 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 II—North Carolina

2. Section 52.1783, is amended by adding paragraph (c)(97) to read as follows:

§ 52.1783 Identification of plan.

* * * * *

(c) * * *

(97) The miscellaneous revisions to the Forsyth County Local Implementation Plan, which were submitted on January 17, 1997 and November 6, 1998.

(i) Incorporation by reference.

(A) 3D .0104 Incorporation By Reference 3D .0531; Sources In Nonattainment Areas; 3D .0907, Compliance Schedules for Sources in Nonattainment Areas; 3D .0909, Compliance Schedules for Sources in New Nonattainment Areas; 3D .0910 Alternative Compliance Schedules; 3D .0911 Exception From Compliance Schedules; 3D .0950 Interim Standards for Certain Source Categories; 3D .0952 Petition For Alternative Controls; 3D .0954 Stage II Vapor Recovery and 3Q Section .0800 Exclusionary Rules effective on November 13, 1995.

(B) 3A .0106 Penalties for Violation of Chapter; 3A .0110 CFR Dates; and 3A .0112 ASTM Dates; 3D.0101 Definitions; 3D .0506, Particulates from Hot Mix Asphalt Plants; 3D .0507, Particulates From Chemical Fertilizer Manufacturing Plants; 3D .0508 Particulates From Pulp and Paper Mills; 3D .0509 Particulates From Mica or Feldspar Processing Plants; 3D .0510 Particulates from Sand, Gravel, or Crushed Stone Operations and 3D .0511 Particulates from Lightweight Aggregate Processes 3D .0515 Particulates From Miscellaneous Industrial Processes; 3D .0521, Control of Visible Emissions; 3D .0535, Excess

Emissions Reporting and Malfunctions; 3D .0914 Determination of VOC Emission Control System Efficiency; 3D .0927 Bulk Gasoline Terminals; 3D .0938 Perchloroethylene Dry Cleaning System (Repealed); 3D .0953 Vapor Return Piping for Stage II Vapor Recovery 3Q .0101 Required Air Quality Permits; 3Q .0102 Activities Exempted From Permit Requirements; 3Q . 0103 Definitions; 3Q .0207 Annual Emissions Reporting; 3Q .0301 Applicability; 3Q .0302 Facilities not Likely to Contravene Demonstration; 3Q .0306 Permits Requiring Public Participation; 3Q .0312 Application Processing Schedule; 3Q .0607 Application Processing Schedule; 3Q .0805 Grain Elevators; 3Q .0806 Cotton Gin; and 3Q .0807 Emergency Generators effective on September 14, 1998.

(ii) Other material. None.

[FR Doc. 00–3359 Filed 2–16–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–226–0172a; FRL–6534–2]

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 to approve revisions to the California State Implementation Plan (SIP) which concern the control of particulate matter (PM) emissions. The revisions amend Rules 403 and 1186 adopted by the South Coast Air Quality Management District (SCAQMD). The intended effect of these SIP revisions is to regulate PM emissions in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). This action will incorporate these rules into the Federally approved SIP. 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 April 17, 2000 without further notice, unless EPA receives adverse comments by March 20, 2000. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Dave Jesson at the Region IX office listed below. Copies of the rules and EPA's evaluation of the rules 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:

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.

FOR FURTHER INFORMATION CONTACT: Dave Jesson, Planning Office (AIR–2), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1288, or jesson.david@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Applicability

We are approving revisions to SCAQMD Rule 403, Fugitive Dust, and SCAQMD Rule 1186, PM10 Emissions from Paved and Unpaved Roads and Livestock Operations. SCAQMD adopted the revised rules on December 11, 1998, and the California Air Resources Board (CARB) submitted the rules to EPA on May 13, 1999. We determined the submittal to be complete on June 10, 1999.[1] The rules establish fugitive dust controls needed to allow the area to attain the National Ambient Air Quality Standards (NAAQS) for fine particulate matter, or PM10.[2]

[1] 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).

[2] The opinion issued by the U.S. Court of Appeals for the D.C. Circuit in *American Trucking Assoc., Inc., et al.* v. *USEPA,* No. 97–1440 (May 14, 1999), among other things, vacated the new standards for PM10 that were published on July 18, 1997 and became effective September 16, 1997. However, the PM10 standards promulgated on July 1, 1987 were not an issue in this litigation, and the Court's decision does not affect the applicability of those standards. Codification of those standards continues to be recorded at 40 CFR 50.6. In the notice promulgating the new PM10 standards, the EPA Administrator decided that the previous PM10 standards that were promulgated on July 1, 1987, and provisions associated with them, would continue to apply in areas subject to the 1987 PM10 standards until certain conditions specified in 40 CFR 50.6(d) are met. See 62 FR at 38701. EPA has not taken any action under 40 CFR 50.6(d) for the South Coast subject to this provision.

II. Background

A. Applicable Requirements

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA or the Act) were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. The air quality planning requirements for the reduction of PM10 emissions through reasonably available control measures (RACM) and best available control measures (BACM) are set out in section 189(a)(1)(C) and 189(b)(1)(B) of the CAA.

In determining the approvability of a PM rule or ordinance, we must evaluate the measure 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). We must also ensure that measures are enforceable, and strengthen or maintain the SIP's control strategy.

For PM10 nonattainment areas classified as moderate, part D of the CAA requires that SIPs must include enforceable measures reflecting reasonably available control technology (RACT) for large stationary sources and RACM technology for other sources. The Act requires that SIPs for areas classified as serious must include measures applying best available control technology (BACT) to stationary sources and BACM technology to other sources. SCAQMD has jurisdiction over areas classified as serious for PM10.[3]

The statutory provisions relating to RACT, RACM, BACT, and BACM are discussed in EPA's ''General Preamble,'' which gives the Agency's preliminary views on how we intend to act on SIPs submitted under Title I of the Act. See generally 57 FR 13498 (April 16, 1992), 57 FR 18070 (April 28, 1992), and 59 FR 41998 (August 16, 1994). In this action, EPA is applying these policies to this submittal, taking into consideration the specific factual issues presented.

B. Evaluation of Rules

1. Rule 1186—PM10 Emissions From Paves and Unpaved Roads, and Livestock Operations

On August 11, 1998 (63 FR 42786), we fully approved SCAQMD Rule 1186 as adopted on February 14, 1997. Rule

[3] SCAQMD has jurisdiction over the South Coast Air Basin (SCAB) and Coachella Valley PM10 serious nonattainment areas. This **Federal Register** action for SCAQMD excludes the Los Angeles County 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.