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 [FR Doc. 00-31358 Filed 12-8-00; 8:45 am]
BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 224-0268; FRL-6908-1]

Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of a revision to the Ventura County Air Pollution Control District's (VCAPCD)

portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on August 9, 2000 and concerns volatile organic compound (VOC) emissions from surface cleaning and degreasing. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves a local rule that regulates this emission source and directs California to correct rule deficiencies.

EFFECTIVE DATE: This rule is effective on January 10, 2001.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200

Pennsylvania Avenue, N.W., Washington D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Ventura County Air Pollution Control District, 669 County Square Dr., 2nd Fl., Ventura, CA 93003-5417.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 744-1199.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

I. Proposed Action

On August 9, 2000 (65 FR 48652), EPA proposed a limited approval and limited disapproval of the following rule that was submitted for incorporation into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
VCAPCD	74.6	Surface Cleaning and Degreasing	11/10/98	02/16/99

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the Act. These provisions are described below.

- Rule 74.6 contains two director's discretion clauses in Sections C and C2a which are unapprovable because they allow the APCO to change SIP requirements without going through the rulemaking process.

- Section C1f contains a reference to Rule 74.32, Electronic Manufacturing Operations, which has never been submitted for approval into the SIP. The reference creates confusion over the rule's applicability.

- Section D requires that records of a solvent's intended uses, content, mix ratio be recorded. Although the types of records that must be maintained are specified, the frequency with which records should be kept is not specified.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we did not receive any comments.

III. EPA Action

Because no comments were submitted, our assessment of the rule as

described in our proposed action is not changed. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a limited approval of the submitted rule. This action incorporates the submitted rule into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rule. As a result, sanctions will be imposed unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months of the effective date of this action. These sanctions will be imposed under section 179 of the Act according to 40 CFR 52.31. In addition, EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months. Note that the submitted rules have been adopted by the VCAPCD, and EPA's final limited disapproval does not prevent the local agency from enforcing them.

IV. Administrative 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 (Public Law 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.*).

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

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 February 9, 2001. 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 1, 2000

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)(262)(i)(B)(3) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

(262) * * *

(i) * * *

(B) * * *

(3) Rule 74.6, revised on November 10, 1998.

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[FR Doc. 00-31330 Filed 12-8-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[OH-138-2; FRL-6914-7]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is redesignating Cuyahoga and Jefferson Counties, Ohio, to attainment for particulate matter nominally 10 microns in aerodynamic diameter and smaller (PM₁₀). EPA is also approving Ohio's plan for maintaining air quality at levels below the applicable air quality standards.

EPA proposed these actions on July 10, 2000. One commenter submitted

numerous comments, generally taking the position that the criteria for redesignation to attainment given in Clean Air Act section 107(d)(3)(E) are not met. EPA has reviewed these comments and, for the reasons set forth below, continues to believe that the redesignation criteria have been met and that these areas may be redesignated and their maintenance plans approved.

The Steubenville area includes portions of Brooke County, West Virginia, as well as Jefferson County, Ohio. For administrative convenience EPA is taking action only on the Ohio portion of this area. Nevertheless, the action reflects review of air quality for the entire area and Ohio's fulfillment of its portion of an area-wide attainment plan that it developed jointly with West Virginia. In the future, if the standard is violated in either portion of the area, such that redesignation back to nonattainment is warranted, EPA will propose to reinstate nonattainment status for the entire area.

EFFECTIVE DATE: This action will be effective on January 10, 2001.

ADDRESSES: Copies of the Ohio's submittals and other information are available for inspection during normal business hours at the following address: (We recommend that you telephone John Summerhays at (312) 886-6067, before visiting the Region 5 Office) United States Environmental Protection Agency, Region 5, Air Programs Branch (AR-18J), Regulation Development Section, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Environmental Scientist, United States Environmental Protection Agency, Region 5, Air Programs Branch (AR-18J), Regulation Development Section, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6067, (summerhays.john@epa.gov).

SUPPLEMENTARY INFORMATION: The terms "we," "us," and "our" in this notice signify EPA. This notice is organized as follows:

Table of Contents

- I. What actions did EPA propose, and why?
- II. What comments did EPA receive and what are our responses?
- III. What actions is EPA taking, and why?
- IV. Administrative requirements.
 - A. Executive Order 12866
 - B. Executive Order 13045
 - C. Executive Order 13084
 - D. Executive Order 13132
 - E. Executive Order 12898
 - F. Regulatory Flexibility
 - G. Unfunded Mandates
 - H. Submission to Congress and the Comptroller General
 - I. National Technology Transfer and Advancement Act