§ 256.14 [Removed]

2. Section 256.14 is removed.

[FR Doc. 00–31950 Filed 12–14–00; 8:45 am]

BILLING CODE 4310–MR–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2000–4C]

Public Performance of Sound Recordings: Definition of a Service

AGENCY: Copyright Office, Library of Congress.

ACTION: Petition for rulemaking, denial; correction.

SUMMARY: This document corrects a footnote to a proposed rule document published in the **Federal Register** of December 11, 2000, regarding the public performance of sound recordings: definition of a service.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

Correction

In proposed rule document 00–31458 beginning on page 77330 in the issue of December 11, 2000, make the following correction, in the **SUPPLEMENTARY INFORMATION** section:

On page 77332, in the third column, in footnote 1, the last sentence which reads, ''From these descriptions, there is considerable doubt whether either offering would qualify as an 'interactive service.' '' is corrected to read as follows: ''From these descriptions, there is considerable doubt whether either offering would qualify as a noninteractive service.''

Dated: December 12, 2000.

David O. Carson,

General Counsel.

[FR Doc. 00–32038 Filed 12–14–00; 8:45 am]

BILLING CODE 1410–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 242–0257; FRL–6917–6]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District, Monterey Bay Unified Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, and South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We are proposing a limited approval and limited disapproval of revisions to the Imperial County Air Pollution Control District (ICAPCD) portion, Monterey Bay Unified Air Pollution Control District (MBUAPCD) portion, and the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California SIP concerning PM–10 emissions from livestock feed lots, agricultural burning, industrial processes, and residential wood burning.

We are also proposing full approval of revisions to the ICAPCD portion of the California SIP concerning definitions, PM–10 emissions from orchard heaters, incinerators, open burning, and range improvement burning, and to the South Coast Air Quality Management District (SCAQMD) portion of the California SIP concerning PM–10 emissions from restaurant operations.

We are also proposing full approval of rescissions from the MBUAPCD portion of the California SIP concerning exceptions to other rules.

We are proposing action on local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by January 16, 2001.

ADDRESSES: Mail comments to Andrew Steckel, Rulemaking Office Chief (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect copies of the submitted rule revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted rule revisions at the following locations:

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, 1001 ''I'' Street, Sacramento, CA 95814.

Imperial County Air Pollution Control District, 150 South Ninth Street, El Centro, CA 92243.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Street, Fresno, CA 93726.

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1135.

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

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules proposed for limited approval and limited disapproval with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
ICAPCD	420	Livestock Feed Yards	09/14/99	05/26/00
ICAPCD	701	Agricultural Burning	09/14/99	05/26/00
MBUAPCD	403	Particulate Matter	03/22/00	05/26/00

TABLE 1—SUBMITTED RULES—Continued

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVUAPCD	4201	Particulate Matter Concentration	12/17/92	11/18/93
SJVUAPCD	4901	Residential Wood Burning	07/15/93	12/10/93

On October 6, 2000, we determined that the submittals of ICAPCD Rules 420 and 701 and MBUAPCD Rule 403 met the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. On December 27, 1993, we determined that the submittal of SJVUAPCD Rule 4201 met the completeness criteria. On February 7, 1994, we determined that the submittal of SJVUAPCD Rule 4901 met the completeness criteria.

Table 2 lists the rules proposed for full approval with the dates that they were adopted or rescinded by the local air agency and submitted by the CARB.

TABLE 2—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
ICAPCD	101	Definitions	09/14/99	05/26/00
ICAPCD	408	Frost Protection	09/14/99	05/26/00
ICAPCD	409	Incinerators	09/14/99	05/26/00
ICAPCD	421	Open Burning	09/14/99	05/26/00
ICAPCD	702	Range Improvement Burning	09/14/99	05/26/00
MBUAPCD	405	Exceptions	*03/22/00	05/26/00
MBUAPCD	406	Additional Exception	*03/22/00	05/26/00
SCAQMD	1138	Control of Emissions from Restaurant Operations	11/14/97	03/10/98

* Rescinded.

On October 6, 2000, we determined that the submittals of ICAPCD Rules 101, 408, 409, 421, and 702 and MBUAPCD Rules 405 and 406 met the completeness criteria. On May 21, 1998, we determined that the submittal of SCAQMD Rule 1138 met the completeness criteria.

B. Are There Other Versions of These Rules?

We approved versions of submitted ICAPCD Rule 101 into the ICAPCD portion of the SIP as Rule 101, Definitions, on May 27, 1982 (47 FR 23159) and as Rule 701, Definitions, on January 27, 1981 (46 FR 8472).

We approved a version of submitted ICAPCD Rule 408 into the ICAPCD portion of the SIP as Rule 408, Frost Protection and Orchard Heaters, on January 27, 1981 (46 FR 8472).

We approved a version of submitted ICAPCD Rule 409 into the ICAPCD portion of the SIP as Rule 409, Incinerators, on November 18, 1983 (48 FR 52452).

We approved a version of submitted ICAPCD Rule 420 into the ICAPCD portion of the SIP as Rule 420, Livestock Feed Yards, on February 3, 1989 (54 FR 5448). The current submittal supersedes a submittal on October 25, 1991 on which we have not acted.

We approved a version of submitted ICAPCD Rule 421 into the ICAPCD portion of the SIP as Rule 421, Open Burning—Non-Agricultural, Rule 422, Open Burning of Wood Wastes, and Rule 423, Exceptions, on February 3, 1989 (54 FR 5448).

We approved versions of submitted ICAPCD Rule 701 into the ICAPCD portion of the SIP as Rule 202, Exceptions, on August 22, 1977 (42 FR 42224) and Rule 702, Prohibitions, and Rule 706, Penalty Clause, on January 27, 1981 (46 FR 8472).

We approved a version of submitted ICAPCD Rule 702 into the ICAPCD portion of the SIP as Rule 705, Range Improvement Burning, on January 27, 1981 (46 FR 8472).

We approved versions of submitted MBUAPCD Rule 403 into the MBUAPCD portion of the SIP as Rule 403, Particulate Matter, on May 18, 1981 (46 FR 27116) and as Rule 405, Exceptions, on July 13, 1987 (52 FR 26148).

We approved MBUAPCD Rule 406, Additional Exception, into the MBUAPCD portion of the SIP on July 13, 1987 (52 FR 26148).

We approved the following versions of submitted SJVUAPCD Rule 4201 into the portions of the California SIP applicable to each of the eight counties that were unified and now comprise the SJVUAPCD:

- Fresno County Rule 404, Particulate Matter Concentration, approved on August 22, 1977 (42 FR 42219).
- Kern County Rule 404, Particulate Matter Concentration—Valley Basin, approved on August 22, 1977 (42 FR 42219).
- Kings County Rule 404, Particulate Matter, approved on August 4, 1978 (43 FR 34468).
- Madera County Rule 403, Particulate Matter Emissions from the Incineration of Combustible Refuse, approved on April 16, 1991 (56 FR 15286).
- Merced County Rule 404, Particulate Matter Concentration, June 14, 1978 (43 FR 25689).
- San Joaquin County Rule 404, Particulate Matter Concentration, approved on August 22, 1977 (42 FR 42219).
- Stanislaus County Rule 404, Particulate Matter Concentration, approved on August 22, 1977 (42 FR 42219).
- Tulare County Rule 404, Particulate Matter, approved on August 22, 1977 (42 FR 42219).

Submitted SJVUAPCD Rule 4901 is a new rule with no previous versions or submittals.

Submitted SCAQMD Rule 1138 is a new rule with no previous versions or submittals.

C. What Are the Changes in the Submitted Rules?

Submitted ICAPCD Rule 101 has the following changes:

- Many definitions were added or revised to correspond to requirements of the amended Clean Air Act of 1990 (CAA).
- The definitions for Major Source and Major Modification were deleted. These definitions are not relevant in Rule 207, New Source Review, because the threshold requiring new source review is more stringent than that defined for a major source or major modification.

• The definitions from SIP Rule 701 were transferred to Rule 101.

Submitted ICAPCD Rule 408 adds a prohibition to burn oil in open containers and adds requirements that orchard heaters be clean, in good repair, and be free of solids in stacks.

Submitted ICAPCD Rule 409 has the following changes:

• The specific temperature and contact time for burning was added.

• The exemption was clarified to exclude the burning of certain materials that produce smoke or toxic fumes.

Submitted Rule ICAPCD Rule 420 has the following changes:

• The submitted rule applies to all livestock feed yards subject to ICAPCD regulations, while the SIP-approved rule applies strictly to livestock feed yards located within 1.5 miles from any ''urban limit,'' as defined by the County General Plan.

• Submitted Rule 420 specifies under a new ''Test Methods'' section that moisture content shall be determined with an electrical conductivity moisture meter.

Submitted ICAPCD Rule 421 consists of SIP Rules 421, 422, and 423 combined. In addition, the following changes were made:

• The exception to the general prohibition to use an orchard heater for freeze protection was deleted.

• The exception to the general prohibition to use equipment in agricultural operations were deleted.

• The exception to the general prohibition to burn for agricultural operations for the grazing of animals or raising of cattle was deleted.

• The authority of a public officer to set or permit a fire for the remediation of an oil spill on water (presumed on a No-Burn Day) pursuant to Section 8670.7 of the California Government Code was added.

Submitted ICAPCD Rule 701 consists primarily of SIP Rule 702 renumbered to Rule 701, plus the exceptions contained in SIP Rule 202. An authority citation from SIP Rule 706 is revised and also moved into Rule 701, while the penalty clause was omitted. SIP Rule 701 contained only definitions, which were transferred to Rule 101 and will be superseded by submitted Rule 101 in another TSD. The significant changes in submitted Rule 701 are as follows:

• The APCO was granted the authority to restrict burning on Burn Days, if meteorological conditions would cause an undue amount of emissions to be transported to populated or sensitive receptor areas or cause or contribute to a violation of an ambient air quality standard.

• The requirement was added that a District inspector must be present for agricultural burns near residential areas, rural schools, or heavily travelled roads.

Submitted Rule 702 consists primarily of SIP Rule 705 renumbered. There are no significant changes between Rules 702 and 705.

Submitted MBUAPCD Rule 403 has all of the exceptions in Rule 405 transferred to it as exemptions to Rule 403. An exemption for internal combustion engines was also added.

Submitted MBUAPCD Rules 405 and 406 are rescinded.

Submitted SJVUAPCD Rule 4201 changes are as follows:

• The rules of eight old counties that unified into SJVUAPCD are combined into a single rule, which is equally as stringent.

Submitted SJVUAPCD Rule 4901 is a new rule that consists of the following:

• All new wood heaters must be EPA-certified Phase II or pellet-fueled.

• All used wood heaters must be EPA-certified or Oregon-certified or pellet-fueled.

• Retailers must provide public awareness information with each wood burner sale and cannot advertise wood as ''seasoned'' unless the moisture content is 20 percent or less by weight.

• The rule establishes a two-stage voluntary curtailment program during November through February for areas located less than 3,000 feet above mean sea level, except where wood burning is the sole source of heat or natural gas is not available. The APCO will request a Level I voluntary curtailment when a Pollutant Standards Index (PSI) of 100 or greater is predicted or request a Level II voluntary curtailment when a PSI of 150 or greater is predicted.

Submitted SCAQMD Rule 1138 is a new rule that consists of the following:

• The operator of a chain-driven charbroiler must install a catalytic oxidizer or equivalent control device that will result in an emissions decrease of about 83% for both PM–10 and VOC.

• An operator of a charbroiler with permitted control equipment operating before November 14, 1997 may continue to operate for the life of the control equipment. At this time but not later than November 14, 2007, the operator must replace the existing control equipment with a catalytic oxidizer or equivalent control device.

• An operator that cooks less than 875 pounds of meat per week or emits less than one pound per day of any criteria pollutant may apply for an exemption, but must keep records to support the exemption.

The TSDs have more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

We evaluated these rules for enforceability and consistency with the CAA as amended in 1990, with 40 CFR part 51, and with EPA's PM–10 policy. Sections 172(c)(1) and 189(a) of the CAA require moderate PM–10 nonattainment areas to implement reasonably available control measures (RACM), including reasonably available control technology (RACT) for stationary sources of PM–10. Section 189(b) requires that serious PM–10 nonattainment areas, in addition to meeting the RACM/RACT requirements, implement best available control measures (BACM), including best available control technology (BACT). ICAPCD is a moderate PM–10 nonattainment area. MBUAPCD is a PM–10 attainment area and need not meet BACM/BACT or RACM/RACT control levels. SJVUAPCD and SCAQMD are serious PM–10 nonattainment areas. SCAQMD is an extreme ozone nonattainment area and is required by section 182(a)(2)(A) of the CAA to meet RACT requirements for VOC.

EPA's preliminary guidance for moderate PM–10 nonattainment areas provides that RACM/RACT is required to be implemented for all source categories unless the State demonstrates that a particular source category does not contribute significantly to PM–10 levels in excess of the NAAQS (*i.e.*, de minimis sources). See *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, 57 FR 13498, 13540 (April 16, 1992) and *Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, 59 FR 41998 (August 16, 1994). The activities subject to ICAPCD Rule 420 contribute a significant amount of the total PM–10 emissions, and the activities subject to submitted Rules 701 and 702 contribute a small but not insignificant amount of the total PM–10 emissions in the Imperial Valley according to the September 23, 1993 *State Implementation Plan for PM–10 in the Imperial Valley* (ICAPCD PM–10 Plan). Moreover, the ICAPCD PM–10 Plan relies on SIP Rules 702, 704, and 705, which are versions of submitted Rules 701 and 702. Submitted Rules 420, 701, and 702 must meet RACM/RACT control levels. However, we are not determining at this time whether Rule 420 does so.

The activities subject to ICAPCD Rules 408, 409 and 421 do not contribute a significant amount of the total PM–10 emissions in ICAPCD

according to the ICAPCD PM–10 Plan. Therefore, ICAPCD Rules 408, 409, and 421 are not being evaluated to meet RACM/RACT control levels, but only to ensure that they do not relax the SIP in violation of sections 110(l) and 193 of the CAA and that they meet enforceability and other general SIP requirements of section 110.

The activities subject to submitted SJVUAPCD Rule 4201 contribute a small but not insignificant amount of the total PM–10 emissions in the SJVUAPCD according to the May 15, 1997 *SJVUAPCD PM–10 Attainment Demonstration Plan* (SJVUAPCD PM–10 Plan). Moreover, the SJVUAPCD PM–10 Plan relies on Rule 4201. Therefore, submitted Rule 4201 must meet BACM/BACT control levels.

The activities subject to submitted SJVUAPCD Rule 4901 contribute a significant amount of the total PM–10 emissions in the SJVUAPCD according to the SJVUAPCD PM–10 Plan. Moreover, the SJVUAPCD PM–10 Plan relies on Rule 4901. Therefore, submitted Rule 4901 must meet BACM requirements.

The activities subject to submitted SCAQMD Rule 1138 must meet BACM/BACT requirements for PM–10 and RACT requirements for VOC.

The TSDs have more information on how we evaluated the rules.

Guidance and policy documents that we used to define specific enforceability, RACM/RACT, BACM/BACT, and SIP relaxation requirements include the following:

- *PM–10 Guideline Document*, (EPA–452/R093–008).
- *State Implementation Plan for PM–10 in the Imperial Valley* (September 23, 1993).
- *General Preamble Appendix C3—Prescribed Burning Control Measures*, 57 FR 18072 (April 28, 1992).
- *Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, 59 FR 41998 (August 16, 1994).
- *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations: Clarification to Appendix D of November 24, 1987 Federal Register* (Blue Book), notice of availability published in the **Federal Register** (May 25, 1988).
- *Guidance Document for Residential Wood Combustion Emission Control Measures* (EPA–450/2–89–015).
- *Technical Information Document for Residential wood Combustion Best Available control Measures*, EPA–450/2–92–002 (September 1992).
- *Model Volatile Organic Compound Rules for Reasonably Available Control Technology* (June 1992).

B. Do the Rules Meet the Evaluation Criteria?

These rules are largely consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. Rule provisions which do not meet the evaluation criteria are summarized below and discussed further in the TSDs.

C. What Are the Rule Deficiencies?

ICAPCD Rule 420 contains the following deficiencies:

- The rule lacks a test method procedure by which to determine compliance with the moisture content standard (*e.g.* minimum number of samples to be collected, specifics on collecting representative samples, whether moisture content results of each sample are to be averaged for a final result).
- The rule lacks a definition of ''rainy period.''
- The rule contains inappropriate Executive Officer discretion with respect to allowing exceptions to compliance with the rule's moisture content standard. Specific criteria for granting an exception must be included in the rule. ICAPCD Rule 701 contains the following deficiency:
- The rule has limited enforceability, because of the open-ended discretion of the Director to approve an exemption to burn on a No-Burn Day in case of imminent and substantial economic loss if the burning were not allowed. The conditions to allow such burning must be limited such that it is unlikely that the NAAQS would be violated or that there would be smoke impacts on sensitive areas. MBUAPCD Rule 403 contains the following deficiencies:
- The rule enforceability is limited, because it does not contain periodic monitoring requirements.
- The rule enforceability is limited, because it does not state the test method for PM.
- The rule enforceability is limited, because it does not require recordkeeping for at least two years. SJVUAPCD Rule 4201 contains the following deficiencies:
- The rule does not appear to meet the requirements of BACM/BACT. Other serious PM–10 nonattainment areas have lower particulate matter emission limits.
- The rule does not have periodic monitoring requirements.
- The rule does not require recordkeeping for at least two years.

SJVUAPCD Rule 4901 contains the following deficiency:

- The rule does not appear to meet the requirements of BACM, which should include restrictions on the sale and installation of woodburning fireplaces, mandatory curtailment during periods of poor air quality, and possibly other control measures.

D. EPA recommendations to Further Improve the Rules

The TSD for ICAPCD Rule 421 describes an additional rule revision that does not affect our current action but is recommended for the next time the local agency modifies the rule.

E. Proposed Action and Public Comment

As authorized in sections 110(k)(3) and 301(a) of the Act, we are proposing a limited approval of MBUAPCD Rule 403 to improve the SIP. If finalized, this action would incorporate the submitted rule into the SIP, including those provisions identified as deficient. We are simultaneously proposing a limited disapproval of this rule under section 110(k)(3). If this disapproval is finalized, no sanctions would be imposed under section 179 of the CAA because the area is PM–10 attainment and the rule is not required to maintain attainment. Note that the submitted rule has been adopted by the District, and our final limited disapproval would not prevent the local agency from enforcing it.

As authorized in sections 110(k)(3) and 301(a) of the Act, we are proposing a limited approval of ICAPCD Rules 420 and 701, SJVUAPCD Rule 4201, and SJVUAPCD Rule 4901 to improve the SIP. If finalized, this action would incorporate these submitted rules into the SIP, including those provisions identified as deficient. We are simultaneously proposing a limited disapproval of these rules under section 110(k)(3). If this disapproval is finalized, sanctions will be imposed under section 179 of the Act unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months. These sanctions would be imposed as described in 59 FR 39832 (August 4, 1994) because the areas are PM–10 nonattainment and the PM–10 emissions are not insignificant. A final disapproval would also trigger the federal implementation plan (FIP) requirement under section 110(c). Note that the submitted rules have been adopted by the Districts, and our final limited disapproval would not prevent the local agencies from enforcing them.

As authorized in section 110(k)(3) of the Act, EPA is also proposing a full approval of ICAPCD Rules 101, 408, 409, 421, and 702, a full approval of the recision of MBUAPCD Rules 405 and

406, and a full approval of SCAQMD Rule 1138 to improve the SIP.

We will accept comments from the public on the proposed limited approval and limited disapproval and on the proposed full approvals for the next 30 days.

III. Background Information

A. Why Were These Rules Submitted?

PM–10 harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control PM–10 emissions. Table 3 lists some of the national milestones leading to the submittal of local agency PM–10 rules.

TABLE 3.—PM–10 NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the Clean Air Act, as amended in 1977. 43 FR 8964; 40 CFR 81.305.
July 1, 1987 ...	EPA replaced the TSP standards with new PM standards applying only up to 10 microns in diameter (PM–10). 52 FR 24672.
November 15, 1990.	Clean Air Act Amendments of 1990 were enacted, Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671*q*.
November 15, 1990.	PM–10 areas meeting the qualifications of section 107(d)(4)(A) and (B) of the CAA were designated nonattainment by operation of law and classified as moderate or serious pursuant to section 186(a) and 189(a). States are required by section 110(a) to submit rules regulating CO and PM–10 emissions in order to achieve the attainment dates specified in sections 186(a)(1) and 188(c).

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13045

Executive Order 13045, entitled 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.

C. 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 OMB 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 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 proposed 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 proposed rule.

D. Executive Order 13132

Executive Order 13132, entitled 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 proposed 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, because it merely acts on 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. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed 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 proposed rule will not have a significant impact on a substantial number of small entities because SIP actions under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP action 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 proposed 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. This proposed Federal action acts on 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. 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.

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Ozone, Particulate matter, Volatile organic compounds.

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

Dated: December 5, 2000.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 00–32025 Filed 12–14–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 4096b; FRL–6578–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of VOC and NO_X RACT Determinations for Individual Source

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions establish and require reasonably available control technology (RACT) for 56 major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in Pennsylvania. In the Final Rules section of this **Federal Register**, EPA is approving the revisions as a direct final rule without prior proposal because the Agency views these as noncontroversial submittals and anticipates no adverse comments. A more detailed description of the state submittals and EPA's evaluations are included in Technical Support Documents (TSDs) prepared in support of this rulemaking action. Copies of the TSDs are available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if adverse comment is received on an amendment, paragraph, or section of this rule and that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Written comments must be received by January 16, 2001.

ADDRESSES: Written comments on this action should be addressed to Makeba Morris, Chief, Permits and Technical Assessment Branch, Air Protection Division, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ray Chalmers at (215) 814–2061 for information on sources #1 through #17, Melik Spain at (215) 814–2299 for information on sources #18 through #50, or Helene Drago at (215) 814–5796 for information on sources #51 through 56.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Editorial note: This document was received at the Office of the Federal Register on December 6, 2000.

Dated: March 23, 2000.

Bradley M. Campbell,

Regional Administrator, Region III.

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