

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2011-0461; FRL-9439-1]

**Revisions to the California State Implementation Plan, Placer County Air Pollution Control District and Feather River Air Quality Management District**

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing a limited approval and limited disapproval of permitting rules submitted for the Placer County Air Pollution Control District (PCAPCD) and Feather River Air Quality Management District (FRAQMD) portions of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on May 19, 2011 and concern

New Source Review (NSR) permit programs for new and modified major stationary sources of air pollution. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** *Effective Date:* This rule is effective on August 26, 2011.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2011-0461 for this action. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be publicly available in either location (e.g., CBI).

To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Laura Yannayon, EPA Region IX, (415) 972-3534, [yannayon.laura@epa.gov](mailto:yannayon.laura@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to EPA.

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**I. Proposed Action**

On May 19, 2011 (76 FR 28944), EPA proposed a limited approval and limited disapproval of the following rules that were submitted for incorporation into the California SIP.

Local agency	Rule No.	Rule title	Amended	Submitted
PCAPCD .....	502	New Source Review .....	12/11/10	7/20/10
FRAQMD .....	10.1	New Source Review .....	10/5/09	7/20/10

<sup>1</sup> The proposed notice incorrectly stated that the amended date was October 28, 2010.

We proposed a limited approval because we determined that these rules improve the SIP and are largely consistent with the applicable CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions do not satisfy the requirements of section 110 and part D of the Act. Specifically:

- Both rules are missing definitions for the terms “begin actual construction,” “commence” and “necessary preconstruction approvals or permits.”
- Both rules are missing provisions meeting the requirements of 40 CFR 51.165(a)(5)(ii).
- Placer Rule 502 is missing a definition for the term “Federally enforceable.”

Our proposed rule and related Technical Support Document (TSD) contain more information on the basis for this rulemaking and on our evaluation of the submittal.

**II. Public Comments and EPA Responses**

EPA’s proposed action provided a 30-day public comment period. During this period, we received no comments.

**III. EPA Action**

No comments were submitted that change our basis for proposing a limited approval and limited disapproval of the submitted rules. Therefore, under CAA

sections 110(k)(3) and 301(a) and for the reasons set forth in our May 19, 2011 proposed rule, we are finalizing a limited approval and limited disapproval of PCAPCD Rule 502 and FRAQMD Rule 10.1. We are finalizing a limited approval of the submitted rules because we continue to believe that the rules improve the SIP and are largely consistent with applicable CAA requirements. This action incorporates the submitted rules into the District portion of the California SIP, including those provisions identified as deficient. As authorized under sections 110(k)(3) and 301(a), EPA is simultaneously finalizing a limited disapproval of PCAPCD Rule 502 and FRAQMD Rule 10.1. 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 PCAPCD and the FRAQMD, and EPA’s final limited disapproval does not prevent the local agency from enforcing it. The limited disapproval also does not

prevent any portion of the rule from being incorporated by reference into the Federally enforceable SIP, as discussed in a July 9, 1992 EPA memo found at: <http://www.epa.gov/nsr/ttnnsr01/gen/pdf/memo-s.pdf>.

**IV. Statutory and Executive Order Reviews**

*A. Executive Order 12866, Regulatory Planning and Review*

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

*B. Paperwork Reduction Act*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b).

*C. 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 SIP approvals and limited approvals/limited disapprovals 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 this limited approval/limited disapproval 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).

#### *D. Unfunded Mandates Reform Act*

Under sections 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 costs to State, local, or Tribal governments in the aggregate; or to the 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 limited approval/limited disapproval action promulgated does not include a Federal mandate that may result in estimated 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.

#### *E. Executive Order 13132, Federalism*

*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 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 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

#### *F. Executive Order 13175, Coordination With Indian Tribal Governments*

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This final rule does not have Tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on Tribal governments, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes.

Thus, Executive Order 13175 does not apply to this rule.

#### *G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because it approves a State rule implementing a Federal standard.

#### *H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

#### *I. 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.

#### *J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, Feb. 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this rulemaking.

#### K. Congressional Review Act

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. section 804(2). This rule will be effective on August 26, 2011.

#### L. 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 September 26, 2011. 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 30, 2011.

**Jared Blumenfeld,**

*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)(381)(i)(E) and (F) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(381) \* \* \*

(i) \* \* \*

(E) Placer County Air Pollution Control District.

(1) Rule 502, "New Source Review," as adopted on February 11, 2010.

(F) Feather River Air Quality Management District.

(1) Rule 10.1, "New Source Review," as amended on October 5, 2009, except section C, as adopted on February 8, 1993.

\* \* \* \* \*

[FR Doc. 2011-18834 Filed 7-26-11; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 180

[EPA-HQ-OPP-2011-0531; FRL-8880-5]

#### Carboxymethyl Guar Gum Sodium Salt and Carboxymethyl-Hydroxypropyl Guar; Exemption From the Requirement of a Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of carboxymethyl guar gum sodium salt (CAS Reg. No. 39346-76-4) and carboxymethyl-hydroxypropyl guar (CAS Reg. No. 68130-15-4); when used as an inert ingredient (thicker/drift reduction agent) in pesticide formulations applied to growing crops. SciReg Inc., on behalf of Rhodia Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of carboxymethyl guar gum sodium salt and carboxymethyl-hydroxypropyl guar.

**DATES:** This regulation is effective July 27, 2011. Objections and requests for hearings must be received on or before September 26, 2011, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2011-0531. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

#### FOR FURTHER INFORMATION CONTACT:

Alganesh Debesai, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8353; e-mail address: [debesai.alganesh@epa.gov](mailto:debesai.alganesh@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

##### A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.