

the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Alaska's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

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

#### 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, Volatile organic compounds.

Dated: August 10, 1998.

**Chuck Clarke,**

*Regional Administrator, Region 10.*

[FR Doc. 98-22194 Filed 8-17-98; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 102-0093 ; FRL -6144-4]

#### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; El Dorado County Air Pollution Control District and Yolo-Solano Air Quality Management District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP) for ozone. These revisions concern the control of oxides of nitrogen (NO<sub>x</sub>) from stationary internal combustion (IC) engines. The intended effect of proposing limited approval and limited disapproval of these rules is to regulate emissions of NO<sub>x</sub> in accordance with the requirements of the Clean Air Act, as

amended in 1990 (CAA or the Act). EPA's final action on these proposed rules will incorporate these rules into the Federally approved SIP. EPA has evaluated these rules and is proposing a simultaneous limited approval and limited disapproval under provisions of the CAA regarding EPA actions on SIP submittals and general rulemaking authority. These revisions, while strengthening the SIP, do not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas.

**DATES:** Comments on this proposed action must be received in writing on or before September 17, 1998.

**ADDRESSES:** Comments may be mailed to: Andrew Steckel, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rules and EPA's evaluation report 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:

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.

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

El Dorado County Air Pollution Control District, 2850 Fairlane Court, Building C, Placerville, CA 95667.

Yolo-Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, CA 95616.

#### FOR FURTHER INFORMATION CONTACT:

Thomas C. Canaday, Rulemaking Office (AIR-4), Air Division, U.S.

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1202.

#### SUPPLEMENTARY INFORMATION:

##### I. Applicability

The rules being proposed for limited approval and limited disapproval into the SIP are El Dorado County Air Pollution Control District (EDCAPCD) Rule 233-Stationary Internal Combustion Engines, and Yolo-Solano Air Quality Management District (YSAQMD) Rule 2.32-Stationary Internal Combustion Engines. Rule 233 was submitted by the EDCAPCD to EPA on October 20, 1994. Rule 2.32 was submitted by the YSAQMD to EPA on September 28, 1994.

##### II. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA) were

enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. The air quality planning requirements for the reduction of NO<sub>x</sub> emissions through reasonably available control technology (RACT) are set out in section 182(f) of the CAA. On November 25, 1992, EPA published a proposed rule entitled, "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO<sub>x</sub> Supplement) which describes and provides preliminary guidance on the requirements of section 182(f). The November 25, 1992, action should be referred to for further information on the NO<sub>x</sub> requirements and is incorporated into this document by reference.

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO<sub>x</sub> ("major" as defined in section 302 and sections 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. Both EDCAPCD and YSAQMD are classified as serious;<sup>1</sup> therefore these areas were subject to the RACT requirements of section 182(b)(2) and the November 15, 1992 deadline cited below.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC (and NO<sub>x</sub>) emissions (not covered by a pre-enactment control technologies guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There were no NO<sub>x</sub> CTGs issued before enactment and EPA has not issued a CTG document for any NO<sub>x</sub> sources since enactment of the CAA. The RACT rules covering NO<sub>x</sub> sources and submitted as SIP revisions are expected to require final installation of the actual NO<sub>x</sub> controls as expeditiously as practicable, but no later than May 31, 1995.

This document addresses EPA's proposed action for El Dorado County Air Pollution Control District (EDCAPCD) Rule 233-Stationary Internal Combustion Engines, and Yolo-Solano Air Quality Management District (YSAQMD) Rule 2.32-Stationary Internal Combustion Engines. EDCAPCD adopted Rule 233 on October 18, 1994. YSAQMD adopted Rule 2.32 on August 10, 1994. The State of California submitted Rule 233 on October 20, 1994, and Rule 2.32 on September 28,

<sup>1</sup> EDCAPCD and YSAQMD retained their designation of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

1994. Both rules were found to be complete on October 21, 1994, pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51 Appendix V.<sup>2</sup>

NO<sub>x</sub> emissions contribute to the production of ground level ozone and smog. EDCAPCD Rule 233 and YSAQMD Rule 2.32 specify exhaust emission standards for NO<sub>x</sub> and carbon monoxide (CO). The rules were adopted as part of EDCAPCD's and YSAQMD's efforts to achieve the National Ambient Air Quality Standards (NAAQS) for ozone and in response to the CAA requirements cited above. The following is EPA's evaluation and proposed action for these rules.

### III. EPA Evaluation and Proposed Action

In determining the approvability of a NO<sub>x</sub> rule, EPA must evaluate the rule 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). EPA's interpretation of these requirements, which forms the basis for this action, appears in the NO<sub>x</sub> Supplement (57 FR 55620) and various other EPA policy guidance documents.<sup>3</sup> Among these provisions is the requirement that a NO<sub>x</sub> rule must, at a minimum, provide for the implementation of RACT for stationary sources of NO<sub>x</sub> emissions.

For the purposes of assisting State and local agencies in developing NO<sub>x</sub> RACT rules, EPA prepared the NO<sub>x</sub> Supplement to the General Preamble. In the NO<sub>x</sub> Supplement, EPA provides preliminary guidance on how RACT will be determined for stationary sources of NO<sub>x</sub> emissions. While most of the guidance issued by EPA on what constitutes RACT for stationary sources has been directed towards application for VOC sources, much of the guidance is also applicable to RACT for stationary sources of NO<sub>x</sub> (see section 4.5 of the NO<sub>x</sub> Supplement). In addition, pursuant to section 183(c), EPA is issuing alternative control technique documents (ACTs), that identify alternative controls for all categories of stationary sources of NO<sub>x</sub>. The ACT documents will provide

information on control technology for stationary sources that emit or have the potential to emit 25 tons per year or more of NO<sub>x</sub>. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of NO<sub>x</sub>. In general, the guidance documents cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted NO<sub>x</sub> RACT rules meet Federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

There is currently no version of either El Dorado County Air Pollution Control District (EDCAPCD) Rule 233-Stationary Internal Combustion Engines, or Yolo-Solano Air Quality Management District (YSAQMD) Rule 2.32-Stationary Internal Combustion Engines in the SIP. The submitted rules include the following provisions:

- General provisions including applicability, exemptions, and definitions.
- Exhaust emissions standards for oxides of nitrogen (NO<sub>x</sub>) and carbon monoxide (CO).
- Administrative and monitoring requirements including compliance schedule, reporting requirements, monitoring and recordkeeping, and test methods.

In evaluating the rules, EPA must also determine whether the section 182(b) requirement for RACT implementation by May 31, 1995 is met. In a Proposed Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Stationary Internal Combustion Engines dated December, 1997, the State of California Air Resources Board (CARB) determined RACT limits for IC engines rated at 50 brake horsepower or more to be 50 parts per million volume (ppmv) for rich-burn spark-ignited engines, 125 ppmv for lean-burn spark-ignited engines, and 350 ppmv for diesel engines. These limits were determined based on previously implemented regulatory control in Ventura County and San Diego County. EPA agrees that these limits are consistent with the Agency's guidance and policy for making RACT determinations in terms of general cost-effectiveness, emission reductions, and environmental impacts. Both EDCAPCD Rule 233 and YSAQMD Rule 2.32 provide three options for demonstrating compliance. In each rule the first option, which applies to existing IC engines that meet the limits by May 31, 1995, sets emission limits of 640 ppmv, 740 ppmv and 700 ppmv for rich-burn spark-ignited engines, lean-burn spark-ignited engines, and diesel engines respectively. The EPA has

determined that these limits do not meet RACT for IC engines.

Although the monitoring and recordkeeping provisions of EDCAPCD Rule 233 and YSAQMD Rule 2.32 will strengthen the SIP, these rules contain deficiencies related to the emissions limits for oxides of nitrogen (NO<sub>x</sub>), as well as other deficiencies. A more detailed discussion of the sources controlled, the controls required, explanation of why these controls fail to represent RACT, and other rule deficiencies can be found in the Technical Support Documents (TSD's) prepared by EPA for each rule. Both of these TSD's are dated July 21, 1998.

Because of the above deficiencies, EPA cannot grant full approval of these rules under section 110(k)(3) and part D. Also, because the submitted rules are not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rules under section 110(k)(3). However, EPA may grant a limited approval of the submitted rules under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of EDCAPCD's submitted Rule 233 and YSAQMD's submitted Rule 2.32 under sections 110(k)(3) and 301(a) of the CAA as meeting the requirements of section 110(a) and part D. At the same time, EPA is also proposing a limited disapproval of these rules because they contain deficiencies which must be corrected in order to fully meet the requirements of sections 182(a)(2), 182(b)(2), 182(f), and part D of the CAA. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: highway funding and offsets. The 18 month period referred to in section 179(a) will begin on the effective date of EPA's final limited disapproval. Moreover, the final disapproval triggers the Federal implementation plan (FIP) requirement under section 110(c). It should be noted that the rules covered by this document have been adopted and are currently in effect in their respective districts. EPA's

<sup>2</sup>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).

<sup>3</sup>Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register Notice**" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

final limited disapproval action will not prevent the EDCAPCD, the YSAQMD, or EPA from enforcing these rules.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

## V. Administrative Requirements

### A. Executive Orders 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The proposed rules are not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because they are not "economically significant" actions under E.O. 12866.

### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301, and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its action 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).

### C. 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 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 proposed 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 Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and record keeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: July 31, 1998.

**Felicia Marcus,**

*Regional Administrator, Region IX.*

[FR Doc. 98-22200 Filed 8-17-98; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA181-0081b; FRL-6141-9]

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

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from wood product coating operations.

The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no relevant adverse comments are received, no further activity is contemplated in relation to this rule. If EPA receives relevant adverse comments, the direct final rule will not take effect 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 on the rule. Any parties interested in commenting on the rule should do so at this time.

**DATES:** Comments must be received in writing by September 17, 1998.

**ADDRESSES:** Written comments should be addressed to: Andrew Steckel, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Mojave Desert Air Quality Management District, 15428 Civic Drive, Suite 200, Victorville, CA 92392

South Coast Air Quality Management District, 218 East Copley Drive, Diamond Bar, CA 91765

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

### FOR FURTHER INFORMATION CONTACT:

Jerald S. Wamsley, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1226

**SUPPLEMENTARY INFORMATION:** This document concerns Mohave Desert Air Quality Management District Rule 1114—Wood Product Coating Operations and South Coast Air Quality Management District, Rule 1136—Wood Product Coatings submitted to EPA by the California Air Resources Board to EPA on March 3, 1997 and August 28, 1996, respectively. For further information, please see the information provided in the Direct Final action that