ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 184–0220a; FRL–6546–8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving revisions to the California State Implementation Plan (SIP). The revisions concern rules from the San Diego County Air Pollution Control District. These rules were submitted by the State of California on behalf of the District to apply as general provisions for the implementation of NSR and other SIP requirements for stationary sources in the District.

This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of air pollutants in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). 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 May 8, 2000, without further notice, unless EPA receives adverse comments by April 10, 2000. If EPA receives such comment, it will publish a timely withdrawal **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted in writing to David Albright at the Region IX mailing address listed below. Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours at the following address: Permits Office (AIR–3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. 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

San Diego County Air Pollution Control District, 9150, Chesapeake Drive, San Diego, California 92123–1096

FOR FURTHER INFORMATION CONTACT: David Albright, Permits Office, AIR–3, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Telephone: (415) 744–1627. Electronic mail: albright.david@epa.gov

SUPPLEMENTARY INFORMATION: Through out this document wherever ''we,'' ''us,'' or ''our'' are used we mean EPA.

I. Applicability

The rules we are approving into the California SIP are SDCAPCD Rule 19.3—Emission Information and SDCAPCD Rule 60—Circumvention. The California Air Resources Board submitted SDCAPCD Rules 19.3 and 60 to us on October 18, 1996 and July 13, 1994, respectively.

II. Background

On November 15, 1990, Congress enacted the Clean Air Act Amendments of 1990. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(3)(B) of the CAA, Congress statutorily adopted the requirement that each State in which all or part of a marginal or worse ozone nonattainment area is located shall submit a revision to the State implementation plan to require that the owner or operator of each stationary source of oxides of nitrogen or volatile organic compounds provide the State with a statement showing the actual emissions of oxides of nitrogen and volatile organic compounds from that source. San Diego County is classified as a serious ozone nonattainment area and SDCAPCD Rule 19.3 is intended to address this CAA section 182 requirement.

On October 21, 1977, we approved SDCAPCD Rule 60 into the California SIP (see 42 FR 56113). A revised version of Rule 60 was submitted for SIP approval on July 13, 1994 along with earlier versions of several SDCAPCD NSR rules that were the focus of a recent EPA rulemaking.[1] Revised Rule 60 is a companion administrative rule to the SDCAPCD NSR rules but was not included in our recent rulemaking package because Rule 60 was deemed by us to be segregable and fully approvable whereas the NSR rules contained certain deficiencies that resulted in a limited approval and limited disapproval. Today's action on Rule 60 does not have any effect on SDCAPCD Rules 20.1, 20.2, 20.3, and 20.4.

The State of California submitted many revised rules for incorporation into its SIP on July 13, 1994 and October 18, 1996, including the rules being acted on in this document. This document addresses EPA's direct final action for SDCAPCD Rule 19.3—Emission Information and SDCAPCD Rule 60—Circumvention. SDCAPCD adopted Rule 19.3 on May 15, 1996 and adopted Rule 60 on May 17, 1994. We determined Rule 19.3 to be complete on December 19, 1996 and Rule 60 to be complete on September 12, 1994, pursuant to EPA's completeness criteria as set forth in 40 CFR part 51, appendix V.

Rule 19.3 requires any person owning or operating any source of emissions to submit emission statement forms to the District in accordance with CAA 182(a)(3)(B). Rule 60 is intended to ensure that the definition of stationary source in SDCAPCD Rule 20.1 and the requirements of SDCAPCD's NSR Rules 20.1, 20.2, 20.3, and 20.4 are not circumvented by sources. The following is EPA's evaluation and final action for these rules.

III. EPA Evaluation and Action

There is currently no version of SDCAPCD Rule 19.3—Emission Information in the SIP. The submitted rule establishes requirements for any person owning or operating a source of emissions of air pollutants, or any person selling or supplying any material the use of which may cause the emission of air pollutants. Owners/operators of stationary sources which emit 25 tons per year or greater of volatile organic compounds or oxides of nitrogen are required to submit Emissions Statement Forms to the SDCAPCD annually. Owners/operators of sources emitting less than 5 tons per year of each air pollutant are not required to submit Emission Statement Forms. For sources emitting between 5 and 25 tons per year of volatile organic compounds or oxides of nitrogen and for persons selling or supplying any material, the use of which may cause the emission of air pollutants, Rule 19.3 requires the submission of Emission Statement Forms at the discretion of the San Diego County APCO.

Rule 19.3 was adopted by SDCAPCD and submitted for SIP approval to us in accordance with CAA section 182(a)(3)(B). Section 182(a)(3)(B) requires States to revise their SIP to include requirements for owners/operators of stationary sources of oxides

[1] On August 6, 1999, we proposed a limited approval and limited disapproval for the SDCAPCD NSR Rules 20.1, 20.2, 20.3, and 20.4 (see 64 FR 42892).

of nitrogen or volatile organic compounds to submit a statement showing the source's actual emissions of these pollutants.

On October 21, 1977, we approved into the SIP a version of Rule 60—Circumvention that had been adopted by SDCAPCD on November 8, 1976. Revisions to this rule were subsequently adopted on May 17, 1994, and submitted to us. The only significant change in SDCAPCD's submitted Rule 60 from the current SIP is an authorization for the District to aggregate emission units located or proposed to be located on the same or contiguous property and designate them as a single stationary source for purposes of SDCAPCD NSR Rules 20.1, 20.2, 20.3, and 20.4, provided the units are substantially related to each other and a potential intent to circumvent the NSR rules exists. Rule 60 describes several circumstances which, when present, create a potential intent to circumvent the requirements of Rules 20.1, 20.2, 20.3, and 20.4.

We evaluated the submitted rules and determined that they are consistent with the CAA, our regulations, and our policy. Therefore, SDCAPCD Rule 19.3—Emission Information and Rule 60—Circumvention are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D. We have prepared a Technical Support Document (TSD) for this rulemaking which describes the requirements of Rules 19.3 and 60 and our evaluation of the rules. The TSD is available as described in the **ADDRESSES** section of this document.

We are publishing this direct final approval without prior proposal because we view this SIP revision as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This direct final approval will be effective May 8, 2000, without further notice unless we receive adverse comments by April 10, 2000.

If we receive such comments, then we will publish a timely withdrawal in the **Federal Register** 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. We will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this direct final approval will be effective on May 8, 2000, and no further action will be taken on the proposed rule.

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 May 8, 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, New source review, Nitrogen dioxide, Ozone, Permits, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: February 11, 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. Part 52.220 is being amended by adding paragraph (c)(198(i)(I)(*2*) and (c)(241)(i)(A)(*4*) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

(198) * * *

(i) * * *

(I) * * *

(*2*) Rule 60 adopted on May 17, 1994.

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(241) * * *

(i) * * *

(A) * * *

(*4*) Rule 19.3 adopted on May 15, 1996.

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[FR Doc. 00–5500 Filed 3–8–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT061–7220A; A–1–FRL–6542–3]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut and Rhode Island; Clean Fuel Fleets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final rulemaking action to approve both Connecticut's and Rhode Island's Clean Fuel Fleets Substitute Plan, incorporating them into the State Implementation Plan (SIP) under the Clean Air Act (CAA).

DATES: This direct final rule takes effect on May 8, 2000 without further notice, unless EPA receives adverse or critical comments by April 10, 2000. If EPA does receive adverse comments, we 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: You may mail comments to David B. Conroy, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, EPA Region 1, One Congress Street, Suite 1100 (CAA), Boston, MA 02114. You may also email comments to judge.robert@epa.gov.

You may review copies of the relevant documents to this action by appointment during normal business hours at the Office Ecosystem Protection, EPA Region 1, One Congress Street, Boston, Massachusetts. In addition, the information for each respective State is available at the Bureau of Air Management, Connecticut Department of Environmental Protection, 79 Elm Street, Hartford, Connecticut 06106–1630; and the Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Robert C. Judge at 617–918–1045 or judge.robert@epa.gov.

SUPPLEMENTARY INFORMATION:

This section is organized as follows:

What action is EPA taking today?

What are the Clean Fuel Fleets requirements?

How are Connecticut and Rhode Island meeting the Clean Fuel Fleets requirements?

Why is EPA approving Connecticut's and Rhode Island's Clean Fuel Fleets sutstitute Plan SIP revisions?

How does Clean Fuel Fleets affect air quality in Connecticut and Rhode Island?

What is the process for EPA's approval of this SIP revisions?

What Action Is EPA Taking Today?

The EPA is approving both Connecticut's and Rhode Island's Clean Fuel Fleets Substitute Plan submitted May 12, 1994 and October 5, 1994, respectively. We are approving these submittals into the Connecticut and Rhode Island SIPs as meeting the requirements of Section 182(c)(4) of the CAA.

What Are the Clean Fuel Fleets Requirements?

Section 246 of the CAA requires that serious or higher ozone nonattainment areas with populations of more than 250,000 adopt a Clean Fuel Fleets program (CFFP). Both ozone nonattainment areas in Connecticut meet that criterion: the Connecticut portion of the New York-Northern New Jersey-Long Island severe nonattainment area and the Greater Connecticut serious nonattainment area. (See 40 CFR 81.307.) Also, the Rhode Island ozone nonattainment area met that criterion at the time of submittal. (See 40 CFR 81.340.) Since that time, EPA has revoked the one-hour ozone standard for Rhode Island (64 FR 30911). On October 25, 1999 (64 FR 57424), EPA proposed that standard should apply again. In the event that EPA reimposes the one-hour ozone standard in Rhode Island, once again triggering the CFFP mandate, this approval action will ensure that Rhode Island meets the requirement for a CFFP.

Section 182(c)(4)(A) of the CAA requires States with serious ozone nonattainment areas to submit for EPA approval a SIP revision that includes measures to implement the CFFP. Section 182(d) requires the same of severe ozone nonattainment areas. Under this program, a certain specified percentage of vehicles purchased by fleet operators for covered fleets must meet emission standards that are more stringent than those that apply to conventional vehicles.

Alternatively, Section 182(c)(4)(B) of the CAA allows States to ''opt out'' of the CFFP by submitting a program or programs that will result in at least equivalent long term reductions in ozone-producing and toxic air emissions as achieved by the CFFP. The CAA directs EPA to approve a substitute program if it achieves long term reductions in emissions of ozone producing and toxic air pollutants equivalent to those that would have been achieved by the CFFP or the portion of the CFFP for which the measure is to be substituted.

How Are Connecticut and Rhode Island Meeting the Clean Fuel Fleets Requirements?

Connecticut has decided to opt out of the CFFP. Connecticut's substitute plan relies on the implementation of its reformulated gasoline (RFG) program and the enhanced inspection and maintenance (I/M) program in areas in Connecticut where these programs are not required explicitly by the CAA. Since Connecticut is implementing both programs statewide, an additional 87 towns will use RFG and 40 towns will have enhanced I/M beyond what would be required by the CAA. The resulting reductions of ozone-producing emissions meet or exceed the emissions reductions that would have occurred if the CFFP were implemented. Yet only those emissions reductions needed to meet CFFP targets are being approved herein. Specifically, Connecticut's Clean Fuel Fleets Substitute Plan will result in 0.1 tons per day (tpd) of ozone-producing chemicals (total reduction of volatile organic compounds (VOC) and nitrogen oxides combined) in 2000 and 0.4 tpd in 2015 in the severe area and 0.4 tpd in 2000 and 1.2 tpd in the serious area.