

The intended effect of this action is to regulate emissions of VOCs according to 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 submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, 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 If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Written comments must be received by April 21, 2000.

ADDRESSES: Comments should be addressed 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 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:

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

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

San Joaquin Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, CA 93721;

Santa Barbara County Air Pollution Control District 26 Castilian Drive, Suite B-23, Goleta, CA 93117; and,

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

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 the following local district rules: Monterey Bay Unified Air Pollution Control District (MBUAPCD) Rule 429—Applications of Nonarchitectural Coatings; San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 4606—Wood

Products Coating Operations; Santa Barbara County Air Pollution Control District (SBCAPCD) Rule 351—Surface Coating of Wood Products; South Coast Air Quality Management District (SCAQMD) Rule 1104—Wood Flat Stock Coating Operations. These rules were submitted by the California Air Resources Board (CARB) to EPA on these respective dates: March 23, 1988; February 16, 1999; May 13, 1999; and, October 29, 1999.

For further information, please see the information provided in the direct final action that is located in the rules section of this **Federal Register**.

Dated: February 15, 2000.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 00-6973 Filed 3-21-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OR73-7288-b; FRL-6544-5]

Approval and Promulgation of State Implementation Plans: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) approves various revisions to Oregon's State Implementation Plan (SIP). This revision to the SIP was submitted to EPA, dated October 8, 1998.

The revised regulations include Transportation Conformity (OAR 340-020-710 through 340-020-1080) and General Conformity OAR-020-1500 through 340-020-1590). In the Final Rules section of this **Federal Register**, the EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If the 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. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received in writing by April 21, 2000.

ADDRESSES: Written comments should be addressed to Christine Lemme (OAQ-107), Office of Air Quality, at the EPA Regional Office listed below. Copies of the state submittal are available at the following addresses for inspection during normal business hours. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Environmental Protection Agency, Region 10, Office of Air Quality, 1200 6th Avenue, Seattle, WA 98101 and the Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon 97204-1390.

FOR FURTHER INFORMATION CONTACT:

Wayne Elson, Office of Air Quality, (OAQ-107), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553-1463.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**.

Dated: February 22, 2000.

Chuck Findley,

Acting Regional Administrator, Region 10.

[FR Doc. 00-6970 Filed 3-21-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 214-0191; FRL-6563-2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and a simultaneous limited disapproval of revisions to the California State Implementation Plan (SIP) for the Kern County Air Pollution Control District (KCAPCD). The revisions concern Rule 427, stationary piston engines, for the control of oxides of nitrogen (NO_x) emissions.

The intended effect of proposing limited approval and a simultaneous limited disapproval of the rule is to regulate emissions of NO_x in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on the proposed rule will incorporate the rule into the federally approved SIP. EPA has evaluated the rule and is proposing a limited approval and a simultaneous limited disapproval under

provisions of the CAA regarding EPA action on SIP submittals and general rulemaking authority because these revisions do not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas.

DATES: Comments must be received on or before April 21, 2000.

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 rule and EPA's evaluation report of the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule is 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

Kern County Air Pollution Control District, 2700 "M" Street, Suite 302, Bakersfield, CA 93301

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1160.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rule being proposed for limited approval and a simultaneous limited disapproval into the California SIP is Kern County Air Pollution Control District (KCAPCD) Rule 427, Stationary Piston Engines (Oxides of Nitrogen). Rule 427 was submitted by the State of California to EPA on August 21, 1998.

II. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. The air quality planning requirements for the reduction of NO_x emissions through reasonably available control technology (RACT) are set out in section 182(f) of the Clean Air Act.

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_x 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_x requirements.

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO_x ("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. KCAPCD is classified as serious;¹ therefore this area is 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_x) 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_x CTGs issued before enactment and EPA has not issued a CTG document for any NO_x sources since enactment of the CAA. The RACT rule covering NO_x sources and submitted as SIP revisions require final installation of the actual NO_x controls as expeditiously as practicable, but no later than May 31, 1995.

This document addresses EPA's proposed action for Kern County Air Pollution Control District (KCAPCD), Rule 427, Stationary Piston Engines (Oxides of Nitrogen), adopted by the KCAPCD, on July 2, 1998. The State of California submitted Rule 427 to EPA on August 21, 1998. Rule 427 was found to be complete on October 2, 1998, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V.²

NO_x emissions contribute to the production of ground level ozone and smog. KCAPCD Rule 427 specifies NO_x emission standards and was originally adopted as part of KCAPCD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone, and in response to the CAA requirements cited above. The following is EPA's evaluation and proposed action for the rule.

¹ KCAPCD retained its designation of nonattainment and was 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).

² 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).

III. EPA Evaluation and Proposed Action

In determining the approvability of a NO_x 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). Among those provisions is the requirement that a NO_x rule must, at a minimum, provide for the implementation of RACT for stationary sources of NO_x emissions. The EPA interpretation of these requirements, which forms the basis for today's action, appears in the NO_x Supplement (57 FR 55620) and various other EPA policy guidance documents.³

For the purpose of assisting State and local agencies in developing NO_x RACT rules, EPA prepared the NO_x Supplement to the General Preamble. In the NO_x Supplement, EPA provides preliminary guidance on how RACT will be determined for stationary sources of NO_x 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_x (see section 4.5 of the NO_x 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_x. 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_x. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of NO_x.

In addition, the California Air Resources Board (CARB) is developing a guidance document entitled, "Proposed Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Stationary Internal Combustion Engines," Dec. 3, 1997. EPA has used CARB's proposed RACT Determination, dated Dec. 3, 1997, in evaluating Rule 427, for consistency with the CAA's RACT requirements while awaiting a final determination. 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_x

³ "Issues Relating to VOC regulation Cutpoints, Deficiencies, and Deviation, Clarification to Appendix D of November 24, 1987 Federal Register document" (Blue Book) (notice of availability was published in the Federal Register on May 25, 1988).

RACT rules meet Federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

There is currently a January 25, 1996, version of Rule 427, Stationary Piston Engines (Oxides of Nitrogen), in the SIP.

Submitted Rule 427 includes the following provisions:

- General provisions including applicability, exemptions, and definitions.
- Exhaust emissions standards for oxides of nitrogen (NO_x).
- Compliance and monitoring requirements including compliance schedule, reporting requirements, monitoring and recordkeeping, and test methods.

Submitted Rule 427 contains the following significant modifications from the 1996 version:

- Exempts low use rate engines.
- Allows and clarifies representative engine testing.
- Clarifies recordkeeping requirements.

Rules submitted to EPA for approval as revisions to the SIP must be fully enforceable, must maintain or strengthen the SIP and must conform with EPA policy in order to be approved by EPA. When reviewing rules for SIP approvability, EPA evaluates enforceability elements such as test methods, recordkeeping, and compliance testing in addition to RACT guidance regarding emission limits.

EPA has evaluated Kern County Air Pollution Control District Rule 427 for consistency with the CAA, EPA regulations, and EPA policy and has found that KCAPCD Rule 427 contains the following deficiencies, which must be corrected pursuant to the section 182(a)(2)(A) requirement of part D of the CAA.

Section V: Engines between 50 and 250 bhp are not subject to NO_x emission limits or testing requirements. Since such engines can easily emit at least 25 tons per year of NO_x (the major source threshold for KACPCD), this rule does not fulfill the CAA section 182 requirement to implement RACT for all major sources. Although a similar version of section V was previously approved into the SIP, it needs to be modified to implement RACT. Emission limits should be included for engines larger than 50 bhp (as exist, for example, in analogous rules in other California Districts) and groups of smaller engines that total 25 tons per year of NO_x emissions. Annual NO_x emission tests and operational non-resettable totalizing time or fuel meters should also be required.

Section VIII:

C.1: The extended compliance test schedule: Allows for once every two years instead of annual source testing. To ensure enforceability of the emission limits and early identification of violations, the frequency of source testing should be increased to once every 8760 hours of operation or every two years, whichever is shorter, as recommended in the proposed CARB RACT Determination.

C.2.d: Group testing of engines: This provision relaxes the general requirement to annually test each affected engine by allowing testing of a representative sample of engines. Such representative sampling provisions must be carefully designed to assure consistency with RACT and enforceability requirements of the Act. We believe that addition of the following elements to the representative sampling requirements of the rule would assure consistency with enforceability and RACT requirements.

- The EPA policy provisions require, among other things, a 10 percent (%) or greater reduction in emissions for each individual engine beyond the emission limits established in compliance with section V.
- The number of engines tested should be the greater of either one engine, or one third of all identical engines in the group. The engines must be rotated in such a way that all engines are tested in a three year period.

A detailed discussion of these deficiencies can be found in the Technical Support Document for Rule 427, dated December 1, 1999, which is available from the U.S. EPA, Region IX office. Because of these deficiencies, EPA cannot grant approval of the rule under section 110(k)(3) and part D. In order to strengthen the SIP, EPA is proposing a limited approval and a simultaneous limited disapproval of KCAPCD's submitted Rule 427 under sections 110(k)(3) and 301(a) of the CAA because it contains deficiencies which must be corrected in order to fully meet the requirements of sections 182(a)(2), 182(b)(2), 182(f), of 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

disapproval. Moreover, the final disapproval triggers the Federal implementation plan (FIP) requirement under section 110(c). It should be noted that the rule covered by this document has been adopted by the Kern County Air Pollution Control District and is currently in effect in the Kern County Air Pollution Control District. EPA's final disapproval action will not prevent the Kern County Air Pollution Control District or EPA from enforcing the rule.

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 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 does not apply to this rule.

C. Executive Order 13045

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. The rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. 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 Office of Management and Budget, 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 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 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. The proposed rule will not have a significant impact on a substantial number of small

entities because SIP approvals 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 the Federal SIP approval 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 approval action promulgated 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 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen Ozone, Reporting and record-keeping requirements, Volatile organic compounds.

Authority:

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

Dated: March 10, 2000.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 00-7125 Filed 3-21-00; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 190, 191, 192, and 195

[Docket No. RSPA-99-6106]

RIN 2137-AD35

Pipeline Safety: Periodic Updates to Pipeline Safety Regulations (1999)

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule is part of a periodic effort by RSPA to revise and update the pipeline safety regulations to improve clarity, ensure consistency, and remove unnecessary requirements on the regulated pipeline community. Revisions include incorporation by reference of the most recent editions of voluntary consensus standards and specifications to enable pipeline operators to utilize current technology, materials, and practices. This document also proposes to increase the pressure limitation for new thermoplastic pipe, to allow plastic pipe on bridges, to clarify welding requirements, to revise the definition of hazardous liquid pipeline accident, and to make numerous minor clarifications.

DATES: Comments on the subject of this proposed rule must be received on or before May 22, 2000.

ADDRESSES: Comments should reference Docket No. RSPA-99-6106, and be mailed to the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW, Washington, DC 20590-0001. You should submit the original and one copy. If you wish to receive confirmation of receipt of your comments, you must include a stamped, self-addressed postcard. The Dockets Facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays. The public may also submit or review comments in this docket by accessing the Dockets Management System's home page at <http://dms.dot.gov>. An electronic copy of any rulemaking document or comment may be downloaded from the OPS home page at <http://ops.dot.gov> or from the Government Printing Office