

"major rule" as defined by 5 U.S.C. 804(2).

E. 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 November 23, 1998. 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), 42 U.S.C. 7607(b)(2).)

F. Alaska's Audit Law

Nothing in this action should be construed as making any determination or expressing any position regarding Alaska's audit privilege and penalty immunity law, Alaska Audit Act, AS 09.25.450 *et seq.* (enacted in 1997) or its impact upon any approved provision in 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the Implementation Plan for the state of Alaska was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: September 4, 1998.

Randall F. Smith,

Acting Regional Administrator, Region 10.

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 C—Alaska

2. Section 52.76 is amended by designating the existing text as paragraph (a) and adding a paragraph (b) to read as follows: § 52.76 1990 Base Year Emission Inventory

* * * * *

(b) EPA approves a revision to the Alaska State Implementation Plan, submitted on December 5, 1994, of the on-road mobile source portion of the 1990 Base Year Emission Inventory for Carbon Monoxide in Anchorage and Fairbanks.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 206-0095a; FRL-6164-6]

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 on revisions to the California State Implementation Plan. The revisions concern negative declarations from the San Diego County Air Pollution Control District (SDCAPCD) for nine source categories that emit volatile organic compounds (VOC). The SDCAPCD has certified that major sources in these source categories are not present in the District and this information is being added to the federally approved State Implementation Plan (SIP). The intended effect of approving these negative declarations is to meet the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, 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 November 23, 1998 without further notice, unless EPA receives adverse

comments by October 23, 1998. If EPA receives such comment, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments may be mailed to Andrew Steckel, Rulemaking Office, Air Division, (AIR-4) at the address below. Copies of the submitted negative declarations are available for public inspection at EPA's Region IX office and also at the following locations during normal business hours.

Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Air Docket (6102), U.S. Environmental Protection Agency, 401 "M" Street, SW, Washington, DC 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, CA 92123-1096

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1184.

SUPPLEMENTARY INFORMATION:

I. Applicability

The revisions being approved as additional information for the California SIP include nine negative declarations for VOC source categories from the SDCAPCD: (1) Synthetic organic chemical manufacturing (SOCMI)—distillation, (2) SOCMI—reactors, (3) wood furniture, (4) plastic parts coatings (business machines), (5) plastic parts coatings (other), (6) offset lithography, (7) industrial wastewater, (8) autobody refinishing, and (9) volatile organic liquid storage. These negative declarations were submitted by the California Air Resources Board (CARB) to EPA on February 25, 1998.

II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the SDCAPCD within the San Diego Area (SDA). 43 FR 8964, 40 CFR 81.305. Because this area was unable to meet the statutory attainment date of December 31, 1982, California requested under section 172 (a)(2), and EPA approved, an extension of the attainment date to December 31, 1987.

(40 CFR 52.222). On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the above district's portion of the California SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q.

In amended section 182(b)(2) of the CAA, Congress statutorily adopted the requirement that States must develop reasonably available control technology (RACT) rules for VOC sources "covered by a Control Techniques Guideline (CTG) document issued by the Administrator between November 15, 1990 and the date of attainment." On April 28, 1992, in the **Federal Register**, EPA published a CTG document which indicated EPA's intention to issue CTGs for eleven source categories and EPA's requirement to prepare CTGs for two additional source categories within the same time frame. This CTG document established time tables for the submittal of a list of applicable sources and the submittal of RACT rules for those major sources for which EPA had not issued a CTG document by November 15, 1993. The CTG specified that states were required to submit RACT rules by November 15, 1994 for those categories for which EPA had not issued a CTG document by November 15, 1993.

Section 182(b)(2) applies to areas designated as nonattainment prior to enactment of the amendments and classified as moderate or above as of the date of enactment. The SDA is classified as serious;¹ therefore, SDA was subject to the post-enactment CTG requirement and the November 15, 1994 deadline. For source categories not represented within the portions of the SDA designated nonattainment for ozone, EPA requires the submission of a negative declaration certifying that major sources are not present.

The SDCAPCD negative declarations were adopted on October 22, 1997 and submitted by the State of California on February 25, 1998. The SDCAPCD negative declarations were found to be complete on April 7, 1998 pursuant to EPA's completeness criteria that are set

forth in 40 CFR Part 51, Appendix V² and are being finalized for approval into the SIP as additional information.

This document addresses EPA's direct final action for the SDCAPCD negative declarations for the following VOC categories: (1) Synthetic organic chemical manufacturing (SOCMI)—distillation, (2) SOCMIs—reactors, (3) wood furniture, (4) plastic parts coatings (business machines), (5) plastic parts coatings (other), (6) offset lithography, (7) industrial wastewater, (8) autobody refinishing, and (9) volatile organic liquid storage. The submitted negative declarations represent nine of the thirteen source categories listed in EPA's CTG document.³ Of the nine submitted negative declarations, SDCAPCD has approved SIP regulations for minor sources in five source categories: wood furniture, plastic parts coating (other), offset lithography, autobody refinishing, and volatile organic liquid storage.

The submitted negative declarations certify that there are no major VOC sources in these source categories located inside the SDCAPCD. VOCs contribute to the production of ground level ozone and smog. These negative declarations were adopted as part of SDCAPCD's effort to meet the requirements of section 182(b)(2) of the CAA.

III. EPA Evaluation and Action

In determining the approvability of a negative declaration, EPA must evaluate the declarations for consistency with the requirements of the CAA and EPA regulations, as found in section 110 of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

An analysis of SDCAPCD's emission inventory revealed that there are no major sources of VOC emissions from: SOCMIs—distillation, SOCMIs—reactors, wood furniture, plastic parts coatings (business machines), plastic parts coatings (other), offset lithography, industrial wastewater, autobody refinishing, and volatile organic liquid storage. SDCAPCD's review of their permit files also indicated that major sources in these source categories do not exist in the SDCAPCD. In a document adopted on October 22, 1997, SDCAPCD

certified that SDCAPCD does not have any major stationary sources in these source categories located within the federal ozone nonattainment planning area.

EPA has evaluated these negative declarations and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. SDCAPCD's negative declarations for the VOC sources listed above are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, the EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This action will be effective November 23, 1998, without further notice unless the Agency receives adverse comments by October 23, 1998.

If the EPA receives such comments, then EPA 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. The EPA 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 rule will be effective on November 23, 1998 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Orders 12866 and 13045

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

The final rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under E.O. 12866.

B. 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.

¹ San Diego Area 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). The San Diego Area was reclassified from severe to serious on January 19, 1995. See 60 FR 3771.

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).

³ SDCAPCD has submitted RACT rules for three other major source categories: Aerospace, SOCMIs Batch Processing, and Shipbuilding. The fourth category, Clean Up Solvents, is represented in each separate Reasonably Available Control Technology rule in the SDCAPCD SIP.

Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final 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).

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 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.

D. Submission to Congress and the Comptroller General

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**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

E. 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 November 23, 1998. 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 8, 1998.

Felicia Marcus,

Regional Administrator, Region IX.

Subpart F of 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 52.222 is being amended by adding paragraph (a)(5) to read as follows:

§ 52.222 Negative declarations.

(a) * * *

(5) San Diego County Air Pollution Control District. (i) Synthetic organic chemical manufacturing (distillation), synthetic organic chemical manufacturing (reactors), wood furniture, plastic parts coatings (business machines), plastic parts coatings (other), offset lithography,

industrial wastewater, autobody refinishing, and volatile organic liquid storage were submitted on February 25, 1998 and adopted on October 22, 1997.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 206-0096a; FRL-6164-4]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern negative declarations from the Placer County Air Pollution Control District (PCAPCD) for seven source categories that emit volatile organic compounds (VOC) and five source categories that emit oxides of nitrogen (NO_x). The PCAPCD has certified that these source categories are not present in the District and this information is being added to the federally approved State Implementation Plan (SIP). The intended effect of approving these negative declarations is to meet the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, 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 November 23, 1998 without further notice, unless EPA receives adverse comments by October 23, 1998. If EPA receives such comments, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Andrew Steckel, Rulemaking Office, Air Division, (AIR-4) at the address below. Copies of the submitted negative declarations are available for public inspection at EPA's Region IX office and also at the following locations during normal business hours.