

(TSCA) section 5(e) consent order for this substance. The NCEL is 0.1 mg/m³ as an 8-hour time-weighted average. Persons who wish to pursue NCELS as an alternative to the § 721.63 respirator may request to do as under § 721.30. Persons whose § 721.30 requests to use the NCELS approach are approved by EPA will receive NCELS provisions comparable to those listed in the corresponding section 5(e) consent order.

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(i), (g)(1)(ii), (g)(1)(vii), (g)(1)(ix), (g)(2), (g)(3), (g)(4)(iii), and (g)(5).

(iii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (f), (g), (h), and (k) are applicable to manufacturers, importers, and processors of this chemical substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2011–20021 Filed 8–5–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0211; FRL–9446–6]

Approval and Promulgation of Air Quality Implementation Plans; State of California; Interstate Transport of Pollution; Interference With Prevention of Significant Deterioration Requirement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of a state implementation plan (SIP) revision submitted by the State of California on November 17, 2007, to address the “transport SIP” provisions of Clean Air Act (CAA) section 110(a)(2)(D)(i) for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS or standards) and the 1997 fine particulate matter (PM_{2.5}) NAAQS. Section 110(a)(2)(D)(i) of the CAA requires that each SIP contain, among other things,

adequate measures prohibiting emissions of air pollutants in amounts which will interfere with any other State’s measures required under title I, part C of the CAA to prevent significant deterioration of air quality. EPA is approving California’s SIP revision with respect to those Districts that implement SIP-approved permit programs meeting the approval criteria and simultaneously disapproving California’s SIP revision with respect to those Districts that do not implement SIP-approved permit programs meeting the approval criteria, as discussed in our May 31, 2011 proposed rule (76 FR 31263).

DATES: This final rule is effective September 7, 2011.

ADDRESSES: EPA has established a docket for this action under EPA–R09–OAR–2011–0211. The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material) and some may not be available in either location (e.g., confidential business information (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. Although listed in the index, some information is not publicly available, i.e., CBI or other information the disclosure of which 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.

FOR FURTHER INFORMATION CONTACT: Rory Mays, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 972–3227, mays.rory@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, the terms “we”, “us”, and “our” refer to EPA.

I. Summary of the Proposed Actions

On May 31, 2011 (76 FR 31263), EPA proposed a limited approval and limited disapproval of a SIP revision submitted by the California Air Resources Board (CARB) on November 17, 2007, to address the “transport SIP” provisions of CAA section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS and the 1997 PM_{2.5} NAAQS (2007 Transport SIP). Specifically, EPA proposed a limited approval and limited disapproval of the 2007 Transport SIP with respect to the requirement in CAA

section 110(a)(2)(D)(i)(II) that each SIP contain adequate measures prohibiting emissions of air pollutants in amounts which will interfere with any other State’s measures required under title I, part C of the CAA to prevent significant deterioration of air quality. We refer to this requirement as “element (3)” of section 110(a)(2)(D)(i).

A. Proposed Action With Respect to 1997 8-Hour Ozone NAAQS

We proposed the following actions with respect to element (3) of CAA section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS. For nine Districts¹ that are designated nonattainment and classified under subpart 2 of part D, title I of the CAA and that have SIP-approved nonattainment area new source review (NNSR) programs meeting the approval criteria discussed in our May 31, 2011 proposed rule, we proposed to approve the 2007 Transport SIP.

For three Districts² with nonattainment areas classified under subpart 2 for which NNSR SIP revisions were necessary to meet the approval criteria, we proposed to approve the 2007 Transport SIP if we finalized approval of the required NNSR SIP revisions by our July 10, 2011 Consent Decree deadline for final action on element (3) of the 2007 Transport SIP.³ Alternatively, for any of these Districts for which we could not approve the required NNSR SIP revision by our July 10, 2011 deadline, we proposed to disapprove the 2007 Transport SIP with respect to element (3) of CAA section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS and to promulgate a limited NNSR Federal Implementation Plan (FIP) addressing the relevant requirements.

For two Districts⁴ with “former subpart 1” nonattainment areas that implement SIP-approved NNSR programs meeting the approval criteria,

¹ Antelope Valley Air Quality Management District (AQMD), Bay Area AQMD, El Dorado County Air Pollution Control District (APCD), Imperial County APCD, Mojave Desert AQMD, San Joaquin Valley APCD, South Coast AQMD, Ventura County APCD, and Yolo-Solano AQMD.

² Feather River AQMD, Placer County APCD, and Sacramento Metropolitan AQMD.

³ See *WildEarth Guardians v. U.S. EPA* (Case No. 4:09–CV–02453–CW), Consent Decree dated November 10, 2009, as amended by *Notice of Stipulated Extensions to Consent Decree Deadlines*, dated April 28, 2011 (establishing July 10, 2011 deadline for final action on element (3) of the 2007 Transport SIP). The July 10, 2011 deadline was further extended to July 29, 2011 by *Notice of Stipulated Extension to Consent Decree Deadlines*, dated July 7, 2011.

⁴ Eastern Kern APCD and San Diego County APCD.

we proposed to approve the 2007 Transport SIP.

For seven Districts⁵ with “former subpart 1” nonattainment areas that do not yet have SIP-approved NNSR programs, we proposed to disapprove the 2007 Transport SIP but to determine that implementation of the provisions of 40 CFR part 51, Appendix S (“The Interpretative Rule”)⁶ during this interim period pending EPA’s final subpart 2 classifications of these areas adequately addresses the requirements of element (3) of CAA section 110(a)(2)(D)(i) and, therefore, discharges EPA’s obligation to promulgate a FIP for these limited purposes.

For Monterey Bay Unified APCD (“Monterey”), which is designated unclassifiable/attainment and has a SIP-approved Prevention of Significant Deterioration (PSD) program meeting the approval criteria, we proposed to approve the 2007 Transport SIP.

For two Districts⁷ with unclassifiable/attainment areas for which we recently approved PSD SIP revisions meeting the approval criteria by direct final rule, we proposed to approve the 2007 Transport SIP. Alternatively, we proposed to disapprove the 2007 Transport SIP if either of these direct final rules were withdrawn and would not become effective by our July 10, 2011 Consent Decree deadline, in which case we would promulgate a limited PSD FIP for the relevant District based on the provisions of 40 CFR 52.21 identifying NO_x as an ozone precursor.

For North Coast Unified AQMD (“North Coast”), we proposed to disapprove the 2007 Transport SIP and to promulgate a limited PSD FIP for NO_x emission sources only, as discussed in our May 31, 2011 proposed rule. By separate action published in today’s Federal Register, EPA finalized that limited PSD FIP for North Coast.⁸

For the rest of the State, which is designated unclassifiable/attainment for the 1997 8-hour ozone NAAQS and subject to the Federal PSD program in 40 CFR 52.21, we proposed to disapprove the 2007 Transport SIP but to determine that no further action is

required to address element (3) of CAA section 110(a)(2)(D)(i) because EPA has already promulgated a PSD FIP for these areas.

B. Proposed Action With Respect to 1997 PM_{2.5} NAAQS

We proposed the following actions with respect to element (3) of CAA section 110(a)(2)(D)(i) for the 1997 PM_{2.5} NAAQS. For two Districts⁹ that are designated nonattainment, we proposed to approve the 2007 Transport SIP based on a determination that implementation of The Interpretative Rule during the SIP-development period adequately addresses the requirements of element (3) of CAA section 110(a)(2)(D)(i).

For five Districts¹⁰ that are designated unclassifiable/attainment and that have SIP-approved PSD programs meeting the approval criteria discussed above, we proposed to approve the 2007 Transport SIP.

For the rest of the State, which is designated unclassifiable/attainment and subject to the Federal PSD program in 40 CFR 52.21, we proposed to disapprove the 2007 Transport SIP but to determine that no further action is required to address element (3) of CAA section 110(a)(2)(D)(i) because EPA has already promulgated a PSD FIP for these areas.

C. Proposed Action With Respect to Greenhouse Gases

Finally, with respect to PSD authority to regulate greenhouse gases (GHGs), we proposed to take the following actions.

For three Districts¹¹ that were subject to the PSD SIP Narrowing Rule (75 FR 82536, December 30, 2010), we proposed to fully approve the 2007 Transport SIP with respect to element (3) of CAA section 110(a)(2)(D)(i) based on letters from each District. These letters clarified that the 2007 Transport SIP should be read, with respect to CAA section 110(a)(2)(D)(i)(II), to reflect each of their PSD programs as they are currently federally approved as a result of the PSD SIP Narrowing Rule.

For Monterey, which has confirmed that its SIP provides GHG PSD permitting authority at thresholds

consistent with the Tailoring Rule, we proposed to fully approve the 2007 Transport SIP with respect to element (3) of CAA section 110(a)(2)(D)(i).

For Sacramento Metropolitan AQMD (“Sacramento”), which was subject to the PSD GHG SIP Call (75 FR 77698, December 13, 2010), we proposed to fully approve the 2007 Transport SIP with respect to element (3) of CAA section 110(a)(2)(D)(i) if Sacramento’s corrective SIP revision to address GHG permitting requirements received EPA approval.

For all other areas in California, which are subject to the Federal PSD program in 40 CFR 52.21, we proposed to disapprove the 2007 Transport SIP but to determine that no further action is required to address element (3) of CAA section 110(a)(2)(D)(i) because EPA has already promulgated a PSD FIP for these areas.

For a more detailed explanation of our evaluation of the 2007 Transport SIP with respect to element (3) of CAA section 110(a)(2)(D)(i) and of the rationale for our proposed actions, please see our May 31, 2011 proposed rule and related Technical Support Document (76 FR 31263).

II. EPA’s Response to Comments

Our May 31, 2011 proposed rule provided for a 30-day comment period. We did not receive any public comments in response to the proposed rule.

III. Final Action

Under sections 110(k)(3) and 301(a) of the CAA, EPA is finalizing a limited approval and limited disapproval of the 2007 Transport SIP submitted by CARB on November 17, 2007. We are finalizing a limited approval and limited disapproval action because the 2007 Transport SIP is not separable with respect to individual California Districts, and because, although the submittal as a whole strengthens the SIP and meets the applicable CAA requirements for certain Districts, it does not meet the applicable requirements for certain other Districts, as discussed in Section I of this final rule and in our May 31, 2011 proposed rule.

Specifically, we are approving the 2007 Transport SIP as meeting the requirements of element (3) of CAA section 110(a)(2)(D)(i) with respect to the following areas:

- Twelve Districts¹² that implement SIP-approved NNSR or PSD programs

¹² Antelope Valley AQMD, Bay Area AQMD, El Dorado County APCD, Imperial County APCD,

⁵ Amador County APCD, Butte County AQMD, Calaveras County APCD, Feather River AQMD, Mariposa County APCD, Northern Sierra AQMD, and Tuolumne County APCD.

⁶ Note that the waiver provisions in section VI of 40 CFR part 51 Appendix S no longer apply. See Phase 2 Rule, 75 FR 71612 (November 29, 2005) and *NRDC v. EPA*, 571 F. 3d 1245 (DC Cir. 2009) (vacating EPA’s elimination of the 18-month limitation in 40 CFR part 52.24(k) with respect to the waiver provisions in section VI of 40 CFR part 51 Appendix S).

⁷ Mendocino County AQMD and Northern Sonoma County APCD.

⁸ See fn. 3 above.

⁹ San Joaquin Valley APCD and the South Coast Air Basin portion of South Coast AQMD.

¹⁰ Mendocino County AQMD, Monterey Bay Unified APCD, North Coast Unified AQMD, Northern Sonoma County APCD, and Sacramento Metropolitan AQMD.

¹¹ Mendocino County AQMD, Northern Sonoma County APCD, and North Coast Unified AQMD. Note that footnote 24 of our proposed rule (76 FR 31263 at 31268) incorrectly identifies Monterey Bay Unified APCD instead of Northern Sonoma County APCD as one of the three Districts that were subject to the PSD SIP Narrowing Rule but that our Technical Support Document correctly identifies the relevant Districts.

meeting the approval criteria for the 1997 8-hour ozone NAAQS;

- Three Districts¹³ for which we have recently approved the required NNSR SIP revisions for the 1997 8-hour ozone NAAQS (see 76 FR 43183, July 20, 2011 (Final rule, Sacramento Metropolitan AQMD NNSR and PSD SIP revisions); and Final rule, “Revisions to the California State Implementation Plan, Placer County Air Pollution Control District and Feather River Air Quality Management District,” signed June 30, 2011);

- Two Districts¹⁴ for which we have recently approved the required PSD SIP revisions for the 1997 8-hour ozone NAAQS (see 76 FR 26192 (May 6, 2011));

- Five Districts¹⁵ that implement SIP-approved PSD programs meeting the approval criteria for the 1997 PM_{2.5} NAAQS;

- Four Districts¹⁶ that implement SIP-approved PSD programs meeting the approval criteria for greenhouse gases (GHGs); and

- One District (Sacramento) for which we have recently approved the required PSD SIP revision for GHGs (see 76 FR 43183, July 20, 2011 (Final rule, Sacramento Metropolitan AQMD NNSR and PSD SIP revisions)).

We are simultaneously disapproving the 2007 Transport SIP for failure to meet the requirements of element (3) of CAA section 110(a)(2)(D)(i) with respect to the following areas:

- Seven Districts¹⁷ with “former subpart 1” ozone nonattainment areas that do not yet have SIP-approved NNSR programs meeting the approval criteria for the 1997 8-hour ozone NAAQS;

- One District (North Coast) for which EPA has not yet approved a PSD SIP revision meeting the approval criteria for the 1997 8-hour ozone NAAQS; and

- All areas in the State that are subject to the Federal PSD program in 40 CFR 52.21 for the 1997 8-hour ozone NAAQS, the 1997 PM_{2.5} NAAQS, and/

or GHGs, where the California SIP remains deficient with respect to PSD requirements.

Under section 179(a) of the CAA, final disapproval of a submittal that addresses a requirement of part D, title I of the CAA (CAA sections 171–193) or is required in response to a finding of substantial inadequacy as described in CAA section 110(k)(5) (SIP Call) starts a sanctions clock. The 2007 Transport SIP was not submitted to meet either of these requirements. Therefore, this final limited disapproval does not trigger a sanctions clock.

Disapproval of a required SIP revision also triggers the requirement under CAA section 110(c) that EPA promulgate a FIP no later than 2 years from the date of the disapproval unless the State corrects the deficiency, and the Administrator approves the plan or plan revision before the Administrator promulgates such FIP. For the seven Districts with “former subpart 1” ozone nonattainment areas for which we are disapproving the 2007 Transport SIP (because they do not yet have SIP-approved NNSR programs meeting the approval criteria for the 1997 8-hour ozone NAAQS), we are finalizing our proposal to conclude that current implementation of The Interpretative Rule in these areas adequately addresses the requirements of element (3) of CAA section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS and, therefore, discharges EPA’s obligation to promulgate a FIP for these limited purposes.

For all other Districts for which we are disapproving the 2007 Transport SIP, with the exception of North Coast, EPA has already incorporated into the applicable SIP the provisions of the Federal PSD program contained in 40 CFR 52.21 and, therefore, has no further obligation to promulgate a FIP to address the requirements of element (3) of CAA section 110(a)(2)(D)(i).

With respect to North Coast, which implements a PSD program that does not currently satisfy element (3) of CAA section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS, by separate action published in today’s **Federal Register**, EPA finalized a limited PSD FIP, as discussed herein and in our May 31, 2011 proposed rule. That limited PSD FIP will apply only until EPA approves the required PSD SIP revision for this area.¹⁸

¹⁸ We note that CARB submitted a PSD SIP revision for North Coast Unified AQMD on February 28, 2011 to address, among other things, the requirement to identify NO_x as an ozone precursor.

Finally, with respect to the five Districts¹⁹ for which NNSR or PSD SIP revisions were necessary to meet the transport SIP approval criteria for the 1997 8-hour ozone NAAQS, we are not finalizing the limited NNSR/PSD FIPs that we had proposed in the alternative to codify in 40 CFR sections 52.233, 52.270(b)(3)(iv), and 52.270(b)(4)(iv). We are approving the 2007 Transport SIP for these Districts based on our final approval of the required SIP revisions, as discussed in Section I of this final rule and in our May 31, 2011 proposed rule.

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

¹⁹ Feather River AQMD, Placer County APCD, Sacramento Metropolitan AQMD, Mendocino County AQMD, and Northern Sonoma County APCD.

Mojave Desert AQMD, San Joaquin Valley APCD, South Coast AQMD, Ventura County APCD, Yolo-Solano AQMD, Eastern Kern APCD, San Diego County APCD, and Monterey Bay Unified APCD.

¹³ Feather River AQMD, Placer County APCD, and Sacramento Metropolitan AQMD.

¹⁴ Mendocino County AQMD and Northern Sonoma County APCD.

¹⁵ Mendocino County AQMD, Monterey Bay Unified AQMD, North Coast Unified AQMD, Northern Sonoma County APCD, and Sacramento Metropolitan AQMD.

¹⁶ Mendocino County AQMD, Monterey Bay Unified APCD, North Coast Unified AQMD, and Northern Sonoma County APCD.

¹⁷ Amador County APCD, Butte County AQMD, Calaveras County APCD, Feather River AQMD, Northern Sierra AQMD, Mariposa County APCD, and Tuolumne County APCD.

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 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 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 today 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 in part and disapproves in part a State plan implementing a Federal requirement, 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 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 in part and disapproves in part a State plan implementing a Federal requirement.

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

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).

L. Petitions for Review of This Action

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 October 7, 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

Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, and Volatile organic compounds.

Dated: July 25, 2011.

Keith Takata,

Acting 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.*

■ 2. Section 52.220 is amended by paragraph (c)(386)(ii)(A)(4) to read as follows:

§ 52.220 Identification of plan.

* * * * *

- (c) * * *
- (386) * * *
- (ii) * * *
- (A) * * *

(4) 2007 Transport SIP at pages 21–22 (Attachment A) (“Evaluation of interference with Prevention of Significant Deterioration Measures of any other State”).

* * * * *

■ 3. Section 52.283 is amended by adding paragraph (a)(3) to read as follows:

§ 52.283 Interstate Transport.

(a) * * * (3) The requirements of section 110(a)(2)(D)(i)(II) regarding interference with any other state’s measures required under title I, part C

of the Clean Air Act to prevent significant deterioration of air quality, except that these requirements are not fully met in the Air Pollution Control Districts (APCDs) or Air Quality Management Districts (AQMDs) listed in this paragraph.

- (j) Amador County APCD
- (ii) Butte County AQMD
- (iii) Calaveras County APCD
- (iv) Feather River AQMD
- (v) Northern Sierra AQMD
- (vi) Mariposa County APCD
- (vii) Tuolumne County APCD
- (viii) North Coast Unified AQMD
- (ix) All other areas in California that are subject to the Federal PSD program as provided in 40 CFR 52.270.

* * * * *

[FR Doc. 2011–19898 Filed 8–5–11; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0211; FRL–9448–5]

Limited Federal Implementation Plan; Prevention of Significant Deterioration; California; North Coast Unified Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited Federal Implementation Plan (FIP) for the North Coast Unified Air Quality Management District (NCUAQMD) portion of the California State Implementation Plan (SIP). We proposed this action simultaneously with our proposed limited approval and limited disapproval of a SIP revision submitted by California to address the “transport SIP” provisions of Clean Air Act (CAA) section 110(a)(2)(D)(i) for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS or standards) and the 1997 fine particulate matter (PM_{2.5}) NAAQS (2007 Transport SIP) (76 FR 31263, May 31, 2011). This limited FIP establishes Federal Prevention of Significant Deterioration (PSD) permitting requirements for nitrogen oxides (NO_x) emission sources only in the NCUAQMD.

DATES: *Effective Date:* This rule is effective on September 7, 2011.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2011–0211 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., Confidential Business Information). 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: Rory Mays, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 972–3227, mays.rory@epa.gov.

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

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I. Proposed Action

On May 31, 2011 (76 FR 31263), EPA proposed a limited approval and limited disapproval of California’s 2007 Transport SIP with respect to the requirement in CAA section 110(a)(2)(D)(i)(II) that each SIP contain adequate measures prohibiting emissions of air pollutants in amounts which will interfere with other States’ measures required under title I, part C of the CAA to prevent significant deterioration of air quality. We refer to this requirement as “element (3)” of section 110(a)(2)(D)(i). Simultaneously, EPA proposed a limited FIP for the NCUAQMD to address certain requirements of “element (3)” of section 110(a)(2)(D)(i) that California’s 2007 Transport SIP failed to satisfy. EPA proposed this limited FIP because of a statutory duty that we were obligated under the terms of a Consent Decree to meet by July 10, 2011, unless we approved a SIP meeting the applicable requirements by that date.¹ This Consent Decree deadline has been extended by stipulation to July 29, 2011.²

Specifically, for the NCUAQMD, we proposed to disapprove California’s

¹ See *WildEarth Guardians v. U.S. EPA* (Case No. 4:09–CV–02453–CW), Consent Decree dated November 10, 2009, as amended by *Notice of Stipulated Extensions to Consent Decree Deadlines*, dated April 28, 2011, and *Notice of Stipulated Extension to Consent Decree Deadline*, dated July 7, 2011.

² See *ibid.*