

Office prior to the publication of the rule of today's **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 CAA, petitions for judicial review of this action to approve revisions to the Virginia SIP must be filed in the United States Court of Appeals for the appropriate circuit by December 22, 1997. Filing a petition for reconsideration by the Administrator of this 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 a rule or action. This action pertaining to the Virginia General Conformity Rule may not be challenged later in the proceedings to enforce its requirements. (See section (b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 29, 1997.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraph (c)(118) to read as follows:

§ 52.2420 Identification of plan.

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(c) * * *

(118) Revision to the Virginia State Implementation Plan on January 27, 1997 by the Virginia Department of Environmental Quality:

(i) Incorporation by reference.

(A) A letter of January 27, 1997 from the Virginia Department of Environmental Quality transmitting the General Conformity Rule.

(B) Virginia Regulation 9 VAC 5 Chapter 160—Regulation for General Conformity, effective January 1, 1997.

(ii) Additional Material from the Virginia's January 27, 1997 submittal

pertaining to Regulation 9 VAC 5 Chapter 160.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 193–054; FRL–5907–9]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on July 11, 1997. The revisions concern rules from the following District: Bay Area Air Quality Management District (BAAQMD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to implement the transportation conformity provisions of the Clean Air Act, as amended in 1990 (CAA or the Act). The rules define the criteria and procedures for transportation conformity actions and consultation for the Bay Area. EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals.

DATES: This action is effective on November 20, 1997.

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

Air Planning Office (AIR–2), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; Ruth Verlar, 415–744–1208. Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW., Washington, DC 20460. California Air Resources Board, Transportation Strategies Group, 2020 "L" Street, Sacramento, CA 92123–1095; Eric Simon, 916–322–2700. Bay Area Air Quality Management District, 939 Ellis St., San Francisco, CA 94109, David Marshall, 415–749–4678.

FOR FURTHER INFORMATION CONTACT: Mark Brucker, Air Planning Office, AIR–2, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: 415–744–1231, brucker.mark@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP include: BAAQMD, "The San Francisco Bay Area Transportation Air Quality Conformity Procedures," which include sections 93.100–93.104 and sections 93.106–93.136 and "The San Francisco Bay Area Transportation Air Quality Conformity Interagency Consultation Procedures". These rules were submitted by the California Air Resources Board to EPA on December 16, 1996.

II. Background

On July 11, 1997 in 62 FR 37172, EPA proposed to approve the following rules into the California SIP: BAAQMD: "The San Francisco Bay Area Transportation Air Quality Conformity Procedures," which includes sections 93.100–93.104 and sections 93.106–93.136 and "The San Francisco Bay Area Transportation Air Quality Conformity Interagency Consultation Procedures". The rules were adopted by BAAQMD on November 6, 1996. The California Air Resources Board (CARB) submitted these revisions to EPA on December 16, 1996. These rules were adopted as part of BAAQMD's efforts to achieve the National Ambient Air Quality Standards (NAAQS) and in response to section 176(c) transportation conformity requirements of the Clean Air Act (CAA). A detailed discussion of the background for each of the above rules is provided in the proposed rule cited above.

EPA has evaluated the above rule(s) for consistency with the requirements of the CAA and EPA regulations and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the proposed rule cited above. EPA has found that the rules meet the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided in the proposed rule and in the technical support document (TSD), dated June, 1997, which is available at EPA's Region IX office.

III. Response to Public Comments

A 30-day public comment period was provided in 62 FR 37172. No comments were received, so no response has been prepared.

IV. EPA Action

EPA is finalizing this action to approve the above rules for inclusion into the California SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of sections 110(a) and 176(c)(4) of the CAA. This approval action will incorporate these rule(s) into the Federally approved SIP. The intended effect of approving these rule(s) is to regulate actions of agencies which affect emissions from on-road mobile sources in accordance with the requirements of the CAA.

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

V. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

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

SIP approvals under 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 impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its 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 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 costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by section 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 December 22, 1997. 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, Carbon Monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of Nitrogen, Ozone, Particulate matter, 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: September 26, 1997.

Felicia Marcus,

Regional Administrator.

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. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(243) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

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(243) Transportation Air Quality Conformity Procedures and Transportation Conformity Consultation Procedures for the following AQMD were submitted on December 16, 1996, by the Governor's designee.

(i) Incorporation by reference.

(A) Bay Area Air Quality Management District.

(1) "The San Francisco Bay Area Transportation Air Quality Conformity Procedures," which includes sections 93.100–93.104 and sections 93.106–93.136, adopted on November 6, 1996.

(2) "The San Francisco Bay Area Transportation Air Quality Conformity Interagency Consultation Procedures," adopted on November 6, 1996.

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