

appropriate circuit by February 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, Incorporation by reference, Intergovernmental relations, Ozone, 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: December 2, 1997.

Harry Seraydarian,

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.*

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c) (239)(i)(E)(2) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(239) * * *

(i) * * *

(E) * * *

(2) Rule 8–4, Rule 8–11, Rule 8–12, Rule 8–13, Rule 8–14, Rule 8–19, Rule 8–20, Rule 8–23, Rule 8–29, Rule 8–31, Rule 8–32, Rule 8–38, Rule 8–43, Rule 8–45, Rule 8–50 amended on December 20, 1995.

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[FR Doc. 97–33324 Filed 12–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL158a; FRL–5900–3]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: In this action, USEPA approves a State Implementation Plan (SIP) revision, submitted by the State of Illinois on April 25, 1997, for the general conformity rules. The general conformity SIP revision enables the State of Illinois to implement the Federal general conformity requirements in the nonattainment and maintenance areas at the State level. General Conformity assures that Federal actions conform to the State plan to attain and maintain the public health based air quality standards. In this action, USEPA is approving the Illinois General Conformity rules through a “direct final” rulemaking; the rationale for this “direct final” approval and other information is set forth below.

DATES: This action is effective February 23, 1998 unless adverse written comments are received by January 22, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, United States Environmental Protection Agency, Region 5, Air and Radiation Division, Air Programs Branch (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the SIP revision are available for inspection at the following address: (It is recommended that you telephone Patricia Morris at (312) 353–8656 before visiting the Region 5 Office.)

United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 353–8656.

SUPPLEMENTARY INFORMATION:

I. Background

Conformity provisions first appeared in the Clean Air Act (CAA) amendments of 1977 (Public Law 95–95). Although these provisions did not define the term conformity, they provided that no Federal department could engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which did not conform to a SIP that has been approved or promulgated for the nonattainment areas.

The CAA Amendments of 1990 expanded the scope and content of the conformity provisions by defining conformity to an implementation plan. Conformity is defined in Section 176(c) of the CAA as conformity to the SIP’s purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards and achieving expeditious attainment of such standards, and that such activities will not: (1) cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The CAA requires USEPA to promulgate criteria and procedures for determining conformity of all other Federal actions in the nonattainment or maintenance areas (actions other than those under Title 23 U.S.C. or the Federal Transit Act) to a SIP. The criteria and procedures developed for this purpose are called “general conformity” rules. The actions under Title 23 U.S.C. or the Federal Transit Act (referred to as transportation conformity) will be addressed in a separate **Federal Register** notice. The USEPA published the final general conformity rules in the November 30, 1993, **Federal Register** and codified them at 40 CFR part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans. The general conformity rules require the States and local air quality agencies (where applicable) to adopt and submit a general conformity SIP revision to the USEPA not later than November 30, 1994.

II. Evaluation of State Submittal

Pursuant to the requirements under Section 176(c)(4)(C) of the CAA, as amended November 15, 1990, the Illinois Environmental Protection Agency (IEPA) submitted a SIP revision to the USEPA on April 25, 1997. The

submittal was found complete in a letter dated July 8, 1997. In its submittal, the State adopted rules (35 Illinois Administrative Code Part 255) which repeat verbatim the USEPA general conformity rule (40 CFR part 93, subpart B) with only minor clarifications. General conformity is required for all areas which are designated nonattainment or maintenance for any of the six National Ambient Air Quality Standard (NAAQS) criteria pollutants (ozone, carbon monoxide, sulfur dioxide, nitrogen dioxide, lead, and particulate matter).

The IEPA held a public hearing on the general conformity submittal on October 25, 1996. Several comments were received on the rules and responded to by the IEPA.

III. USEPA Action

The USEPA is approving the general conformity SIP revision for the State of Illinois. The USEPA has evaluated this SIP revision and has determined that the State has fully adopted regulations which meet the provisions of the Federal general conformity rules in accordance with 40 CFR part 93, subpart B. The appropriate public participation and comprehensive interagency consultations have been undertaken during development and adoption of this rule by the IEPA.

The USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial revision and anticipates no adverse written comments. However, in a separate document in this **Federal Register** publication, the USEPA is proposing to approve the SIP revision should adverse or critical written comments be filed. This action will be effective on February 23, 1998 unless, by January 22, 1998, adverse or critical written comments on the approval are received.

If USEPA receives adverse written comments, the approval will be withdrawn before the effective date by publishing a subsequent rulemaking that will withdraw the final action. All public written comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If the effective date is delayed, timely notice will be published in the **Federal Register**.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be

considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. section 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. sections 603 and 604. Alternatively, USEPA 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 CAA 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 the State action. The CAA forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. EPA.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, USEPA must undertake various actions in association with 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. 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 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, USEPA 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 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 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, General conformity, Intergovernmental relations.

Dated: December 5, 1997.

Michelle D. Jordan,

Acting Regional Administrator, Region V.

For the reasons stated in the preamble, 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 O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(137) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(137) Approval—On April 25, 1997, the Illinois Environmental Protection Agency submitted a revision to the State Implementation Plan for general conformity rules. The general conformity rules enable the State of Illinois to implement the general conformity requirements in the nonattainment or maintenance areas at the State or local level in accordance with 40 CFR Part 93, Subpart B—Determining Conformity of General

Federal Actions to State or Federal Implementation Plans.

(i) *Incorporation by reference.*

(A) Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter 2: Environmental Protection Agency, Part 255 General Conformity: Criteria and Procedures. Adopted at 21 Ill. Reg. effective March 6, 1997.

[FR Doc. 97-33322 Filed 12-22-97; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA179-0052a] [FRL-5911-2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on a revision to the California State Implementation Plan (SIP). The revision concerns Rule 1115 from the Mojave Desert Air Quality Management District (MDAQMD). This approval action will incorporate Rule 1115 into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rule controls VOC emissions from metal parts and products coating operations. Thus, EPA is finalizing the approval of this revision 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 action is effective on February 23, 1998, unless adverse or critical comments are received by January 22, 1998. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. 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:

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

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 92123-1095
Mojave Desert Air Quality Management District, 15428 Civic Drive, Suite 200, Victorville, CA 92392

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1226.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rule being approved into the California SIP is Rule 1115, Metal Parts and Products Coating Operations. This rule was submitted by the California Air Resources Board (CARB) to EPA on July 23, 1996.

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 Mojave Desert portion of San Bernardino County, California (see 43 FR 8964, 40 CFR 81.305). 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(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b)

as interpreted in pre-amended guidance.¹ EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The Mojave Desert portion of San Bernardino County is classified as "severe".² Therefore, this area was subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on July 23, 1996, including the rule being acted on in this document. This document addresses EPA's direct-final action for MDAQMD Rule 1115, Metal Parts and Products Coating Operations. MDAQMD revised and adopted Rule 1115 on April 22, 1996. This submitted rule was found to be complete on October 30, 1996 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V³ and is being finalized for approval into the SIP.

MDAQMD Rule 1115 is a prohibitory rule governing the use and application of coating compounds containing photochemically reactive volatile organic compounds (VOCs) in the metal parts and products coating industry. VOCs contribute to the production of ground level ozone and smog. This rule was originally adopted as part of the MDAQMD effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement.

Formerly, on January 5, 1993, EPA proposed a limited approval/disapproval of MDAQMD's Rule 1115 (see 58 FR 322). This version of Rule 1115 was adopted by MDAQMD on March 2, 1992 and submitted by the CARB to EPA on June 19, 1992 as a revision to the California SIP. EPA has not taken final action on the January 5, 1993 proposal.

In response to EPA's January 5, 1993 proposal, the MDAQMD Board amended Rule 1115 and adopted these revisions

¹ Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

² Mojave Desert 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 56 FR 56694 (November 6, 1991).

³ 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).