

We have prepared an estimate of the cost of the rule in our submission to OMB for approval of the information collection requirements in the rule. We will furnish a copy of this estimate to you upon request. A summary of the cost is contained in the preamble to this rule.

VII. Executive Order 13045 Protection of Children from Environmental Health Risks and Safety Risks

In accordance with Executive Order 13045, we have evaluated the environmental health or safety effect of the rule on children. We have determined that the rule will have no effect on children.

VIII. Executive Order 13084 Consultation and Coordination with Indian Tribal Governments

We certify that the final rule does not impose substantial direct compliance costs on Indian tribal governments. Further, we provided the public, including Indian tribal governments which operated mines, the opportunity to comment during the proposed rule's comment period. No Indian tribal government applied for a waiver or commented on the proposal.

IX. Executive Order 12612 Federalism

Executive Order 12612 requires that agencies, to the extent possible, refrain from limiting state policy options, consult with states prior to taking any action which would restrict state policy options, and take such actions only when there is a clear constitutional authority and the presence of a problem of a national scope. Since this rule does not limit state policy options, it complies with the principles of federalism and with Executive Order 12612.

X. Executive Order 12630 Government Actions and Interference with Constitutionally Protected Property Rights

This rule is not subject to Executive Order 12630 because it does not involve implementation of a policy with taking implications.

XI. Executive Order 12988 Civil Justice Reform

The Agency has reviewed Executive Order 12988 and determined that this rulemaking will not unduly burden the Federal court system. The regulation has been written to so as to provide a clear legal standard for affected conduct, and has been reviewed carefully to eliminate drafting errors and ambiguities.

List of Subjects

30 CFR Part 75

Mine safety and health, underground coal mining, ventilation.

Dated: August 11, 1999.

Marvin W. Nichols Jr.,
Deputy Assistant Secretary for Mine Safety and Health.

Accordingly, 30 CFR, chapter I, is amended as follows:

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

1. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811.

2. In subpart D of Part 75, the section heading of § 75.360 and paragraph (a)(1) are revised to read as follows:

§ 75.360 Preshift examination at fixed intervals.

(a)(1) Except as provided in paragraph (a)(2) of this section, a certified person designated by the operator must make a preshift examination within 3 hours preceding the beginning of any 8-hour interval during which any person is scheduled to work or travel underground. No person other than certified examiners may enter or remain in any underground area unless a preshift examination has been completed for the established 8-hour interval. The operator must establish 8-hour intervals of time subject to the required preshift examinations.

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[FR Doc. 99-21448 Filed 8-18-99; 8:45 am]
BILLING CODE 4510-43-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 009-0143a; FRL-6420-4]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revisions for Six California Air Pollution Control Districts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the California State Implementation Plan (SIP) which concern the control of particulate matter (PM) emissions from open burning, incinerator burning, and orchard heater sources in the Kern

County Air Pollution Control District (KCAPCD), Northern Sierra Air Quality Management District (NSAQMD), San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), Siskiyou County Air Pollution Control District (SCAPCD), Tehama County Air Pollution Control District (THCAPCD), and Tuolumne County Air Pollution Control District (TOCAPCD). This approval action will incorporate these rules into the federally-approved SIP. The intended effect of this action is to regulate emissions of PM in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA). Thus, EPA is finalizing the approval of these rules 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 attainment and nonattainment areas.

DATES: This rule is effective on October 18, 1999 without further notice, unless EPA receives relevant adverse comments by September 20, 1999. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rules and EPA's evaluation report for the rules are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules 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, SW, Washington, DC 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 290, Bakersfield, CA 93301.

Northern Sierra Air Quality Management District, 540 Searles Avenue, Nevada City, CA 95959.

San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Street, Fresno, CA 93726.
Siskiyou County Air Pollution Control District, 525 South Foothill Drive, Yreka, CA 96097.

Tehama County Air Pollution Control District, 1760 Walnut Street, Red Bluff, CA 96080.

Tuolumne County Air Pollution Control District, 2 South Green Street, Sonoma, CA 95370.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office, (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1135.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California Applicable SIP are listed below with the date that they were submitted to EPA by the California Air Resources Board (CARB):

- KCAPCD Rule 416, Open Burning (submitted on October 18, 1996).
- KCAPCD Rule 417, Agricultural Burning (submitted on October 18, 1996).
- NSAQMD Rules 302 to 312, Open Burning (submitted on October 25, 1991).
- SJVUAPCD Rule 4302, Incinerator Burning (submitted on May 24, 1994).
- SJVUAPCD Rule 4303, Orchard Heaters (submitted on May 24, 1994).
- SCAPCD Rule 4.3, Non-Agricultural Burning (submitted on March 26, 1990).
- THCAPCD Rule 3.12, Wildland Vegetation Management Burning (submitted on May 13, 1991).
- TOCAPCD Rules 302 to 310, Open Burning (submitted on March 26, 1990).

II. Background

On March 3, 1978, EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the provisions of the 1977 Clean Air Act, that included the San Joaquin Valley Air Basin (43 FR 8964; 40 CFR 81.305). On July 1, 1987 (52 FR 24672) EPA replaced the TSP standards with new PM standards applying only to PM up to 10 microns in diameter (PM-10).¹ On

November 15, 1990, amendments to the 1977 CAA were enacted (Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q). On the date of enactment of the 1990 CAA Amendments, PM-10 areas meeting the qualifications of section 107(d)(4)(B) of the Act were designated nonattainment by operation of law and classified as moderate or serious pursuant to section 188(a). Nevada County, Plumas County, and Sierra County (all of which now comprise NSAQMD), Siskiyou County, Tehama County, and Tuolumne County were designated unclassifiable for PM-10. The present KCAPCD includes a part of Kern County, which was designated unclassifiable for PM-10, and a part of Searles Valley, which was classified and designated moderate nonattainment for PM-10. On February 8, 1993, EPA classified four nonattainment areas as serious, including the San Joaquin Valley Planning Area, which now comprises the SJVUAPCD.

Section 189(a) of the CAA requires PM-10 moderate nonattainment areas to adopt reasonably available control measures (RACM), including reasonably available control technology (RACT) for stationary sources of PM-10. Section 189(b) of the CAA requires PM-10 serious nonattainment areas to adopt best available control measures (BACM) for significant sources of PM-10, including best available control technology (BACT).

KCAPCD must adopt RACM due to including the Searles Valley Planning Area PM-10 moderate non-attainment area. However, the "PM-10 SIP for the Searles Valley Planning Area", pg III.6, November 1991, shows that the PM-10 Emissions Inventory is zero for waste (open) burning. Therefore, adopting RACM would not decrease emissions, and KCAPCD will not be evaluated by RACM requirements.

SJVUAPCD must at a minimum meet the requirements of RACM; SJVUAPCD must also meet the requirements of BACM. However, EPA is deferring decision on the specific BACM requirements until EPA acts on SJVUAPCD's BACM plan at a later date.

In response to section 110(a) and Part D of the Act, the State of California submitted many PM-10 rules for incorporation into the California SIP, including the rules being acted on in this document. This document addresses EPA's direct-final action for the following:

- KCAPCD Rule 416, Open Burning.

This rule was amended by the KCAPCD on July 11, 1996, submitted by the CARB for incorporation into the California SIP on October 18, 1996, and found to be complete on December 19,

1996, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 appendix V² and is being finalized for approval into the SIP.

- KCAPCD Rule 417, Agricultural Burning.

This rule was amended by the KCAPCD on July 11, 1996, submitted by the CARB for incorporation into the California SIP on October 18, 1996, and found to be complete on December 19, 1996.

- NSAQMD Rule 302, Prohibited Open Burning.
- NSAQMD Rule 303, Allowed Open Burning.
- NSAQMD Rule 304, Agricultural Burning.
- NSAQMD Rule 305, Range Improvement Burning.
- NSAQMD Rule 306, Forest Management Burning.
- NSAQMD Rule 307, Wildlands Vegetation Management Burning.
- NSAQMD Rule 308, Land Development Clearing.
- NSAQMD Rule 309, Ditch, Road and Right-of-FyWay Maintenance.
- NSAQMD Rule 310, Hazard Reduction.
- NSAQMD Rule 311, Residential Maintenance.
- NSAQMD Rule 312, Burning Permits.

These rules were adopted by the NSAQMD on November 10, 1988, submitted by the CARB for incorporation into the California SIP on October 25, 1991, and found to be complete on December 18, 1991.

- SJVUAPCD Rule 4302, Incinerator Burning. This rule was initially adopted by the SJVUAPCD on May 21, 1992, amended by the SJVUAPCD on December 16, 1993, submitted by the CARB for incorporation into the California SIP on May 24, 1994, and found to be complete on July 14, 1994.

- SJVUAPCD Rule 4303, Orchard Heaters. This rule was initially adopted by the SJVUAPCD on May 21, 1992, amended by the SJVUAPCD on December 16, 1993, submitted by the CARB for incorporation into the California SIP on May 24, 1994, and found to be complete on July 14, 1994.

- SCAPCD Rule 4.3, Non-Agricultural Burning. This rule was initially adopted by the SCAPCD on October 26, 1971, amended by the SCAPCD on January 24, 1989, submitted by the CARB for incorporation into the California SIP on March 26, 1990, and found to be complete on June 20, 1990.

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).

¹ On July 18, 1997 EPA promulgated revised and new standards for PM-10 and PM-2.5 (62 FR 38651). The U.S. Court of Appeals for the D.C. Circuit in *American Trucking Assoc., Inc., et al. v. USEPA*, No. 97-1440 (May 14, 1999) issued an opinion that, among other things, vacated the new standards for PM-10 that were published on July 18, 1997 and became effective September 16, 1997. However, the PM-10 standards promulgated on July 1, 1987 were not an issue in this litigation, and the Court's decision does not affect the applicability of those standards in this area. Codification of those standards continue to be recorded at 40 CFR 50.6. In the notice promulgating the new PM-10 standards, the EPA Administrator decided that the previous PM-10 standards that were promulgated on July 1, 1987, and provisions associated with them, would continue to apply in areas subject to the 1987 PM-10 standards until certain conditions specified in 40 CFR 50.6(d) are met. See 62 FR 38701. EPA has not taken any action under 40 CFR 50.6(d) for this area. Today's proposed action relates only to the CAA requirements concerning the PM-10 standards as originally promulgated in 1987.

- THCAPCD Rule 3.12, Wildland Vegetation Management Burning. This rule was initially adopted by the THCAPCD on August 4, 1987, amended by the THCAPCD on April 25, 1989, submitted by the CARB for incorporation into the California SIP on May 13, 1991, and found to be complete on July 10, 1991.

- TOCAPCD Rule 302, Burning Requirements.
- TOCAPCD Rule 303, Burn or No-Burn Day.
- TOCAPCD Rule 304, Burning Management Requirements.
- TOCAPCD Rule 305, Minimum Drying Times.
- TOCAPCD Rule 306, Agricultural Burning.
- TOCAPCD Rule 307, Wildland Vegetation Management.
- TOCAPCD Rule 308, Forest Management.
- TOCAPCD Rule 309, Range Improvement.
- TOCAPCD Rule 310, Miscellaneous Burning.

These rules were adopted by the TOCAPCD on November 22, 1988, submitted by the CARB for incorporation into the California SIP on March 26, 1990, and found to be complete on June 20, 1990.

PM emissions can harm human health and the environment. These rules were adopted as part of KCAPCD, NSAQMD, SJVUAPCD, SCAPCD, THCAPCD, and TOCAPCD efforts to maintain the National Ambient Air Quality Standard (NAAQS) for PM-10. The following is EPA's evaluation and final action for these rules.

III. EPA Evaluation and Action

In determining the approvability of a PM-10 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). EPA must also ensure that rules are enforceable and strengthen or maintain the SIP's control strategy.

The statutory provisions relating to RACM/RACM and BACM/BACT are discussed in EPA's "General Preamble", which give the Agency's preliminary views on how EPA intends to act on SIPs submitted under Title I of the CAA. See 57 FR 13498 (April 16, 1992), 57 FR 18070 (April 28, 1992) and 59 FR 41998 (August 16, 1994). In this rulemaking action, EPA is applying these policies to this submittal, taking into consideration the specific factual issues presented.

EPA previously reviewed rules from KCAPCD, NSAQMD, SJVUAPCD,

SCAPCD, THCAPCD, and TOCAPCD and incorporated them into the federally-approved SIP pursuant to section 110(k)(3) of the CAA.

On September 22, 1972 EPA approved KCAPCD Rule 416, Open Burning, into the SIP, and on September 22, 1972 and on March 22, 1978, EPA approved parts of KCAPCD Rule 417, Exceptions, into the SIP. Submitted KCAPCD Rule 416, Open Burning, combines and replaces these two SIP-approved rules and strengthens the rule by adding requirements for an extensive burn plan and a modeling study to limit health risk for open burning/open detonation activities. Submitted Rule 416 regulates PM-10 emissions from open burning activities other than agricultural burning. An earlier submittal of Rule 417, Exceptions (to Rule 416), on which no action was taken, was amended on August 22, 1989, and submitted to EPA on September 14, 1992. While EPA can only act on the most recently submitted version, EPA reviewed relevant materials associated with this superseded earlier version.

On July 6, 1982, EPA approved KCAPCD Rule 417.1, Agricultural Burning, into the SIP. Submitted KCAPCD Rule 417, Agricultural Burning, replaces the SIP-approved rule. Submitted Rule 417 provides for the burning of Tumbleweeds and Star Thistle according to present policy. A section on rice straw burning, not applicable to the desert region, is deleted. Rule 417 is at least as stringent as the SIP-approved rule. There are no superseded submittals of Rule 417 on which EPA has not acted.

On various dates, EPA approved into the SIP versions of submitted NSAQMD Rules 302 to 312 from the three individual counties comprising the NSAQMD. Nevada County Rules 301 to 303 and 316 to 318 were approved on June 14, 1978 and Rules 320 and 321 were approved on September 14, 1978. Plumas County Rules 301 to 303, 306 to 310, and 312 were approved on April 23, 1982. Sierra County Rules 301 and 302, 306 to 310, and 312 were approved on April 23, 1982. Submitted NSAQMD Rules 302 to 312, replace these previous SIP-approved rules and include the following significant changes:

- Burning activities, that were previously allowed on No-Burn Days, are now prohibited on No-Burn Days and include: Abatement of fire hazards, instruction of employees in fire-fighting, agricultural waste burning above 3,000 feet elevation, and residential maintenance burning.
- Burning activities that are now allowed on No-Burn Days, include:

Cooking for humans and burning empty pesticide sacks in the field.

On balance, the rules are at least as stringent with respect to activities allowed on No-Burn Days. There are no superseded submittals of NSAQMD open burning rules on which EPA has not acted.

On October 23, 1989, EPA approved into the SIP a version of Rule 4.3, Non-Agricultural Burning. Submitted SCAPCD Rule 4.3, Non-Agricultural Burning, replaces the SIP-approved version of the rule. The rule is strengthened by requiring that the allowance to burn on a No-Burn Day for cooking of food and for recreational purposes be carried out only with "approved combustibles". There are no superseded submittals of SCAPCD open burning rules on which EPA has not acted.

On various dates, EPA approved into the SIP versions of submitted SJVUAPCD Rule 4302 from the eight individual counties comprising the SJVUAPCD as follows: Fresno County Rule 417, approved on August 22, 1977; Kern County Rule 418, approved on September 22, 1972; Kings County Rule 418, approved on August 4, 1978; Madera County Rule 423, approved on November 18, 1993; Merced County Rule 417, approved on September 22, 1972; San Joaquin County Rule 417, approved on August 22, 1977; Stanislaus County Rule 417, approved on September 22, 1972; and Tulare County Rule 418, approved on September 22, 1972. The submitted SJVUAPCD Rule 4302 replaces all of these previous SIP-approved rules. Rule 4302 is equally as stringent as the rules of the eight counties and equally as stringent as the rules of six other California air pollution control districts. Rule 4302 is determined to meet the requirements of RACM. There are no superseded submittals of SJVUAPCD incinerator burning rules on which EPA has not acted.

On various dates, EPA approved into the SIP versions of submitted SJVUAPCD Rule 4303 from the eight individual counties comprising the SJVUAPCD as follows: Fresno County Rule 420, approved on September 22, 1972; Kern County Rule 421, approved on September 22, 1972; Kings County Rule 421, approved on August 4, 1978; Madera County Rule 425, approved on April 16, 1991; Merced County Rule 420, approved on September 22, 1972; San Joaquin County Rule 420, approved on August 22, 1977; Stanislaus County Rule 420, approved on September 22, 1972; and Tulare County Rule 421, approved on September 21, 1977. The submitted SJVUAPCD Rule 4303

replaces these previous SIP-approved rules. Rule 4303 is equally as stringent as the rules of the eight counties and equally as stringent as the rules of six other California air pollution control districts. Rule 4303 is determined to meet the requirements of RACM. There are no superseded submittals of SJVUAPCD orchard heater rules on which EPA has not acted.

On April 17, 1989, EPA approved into the SIP a version of THCAPCD Rule 3.12, Wildland Vegetation Management Burning. Submitted THCAPCD Rule 3.12, Wildland Vegetation Management Burning, replaces the SIP-approved rule. The rule is strengthened by requiring that vegetation be in a condition to facilitate combustion and minimize smoke emission. There are no superseded submittals of THCAPCD open burning rules on which EPA has not acted.

On May 27, 1982, EPA approved into the SIP Rules 301 to 319. On November 22, 1988, the TOCAPCD replaced or deleted the SIP-approved Rules 301 to 319. Submitted TOCAPCD Rules 301 to 310, replace these rules. The rules are strengthened by the following changes:

- Requirements for providing 48-hour and 72-hour burn advisories are added.
- Requirements for regulating forest management burning, range improvement burning, and wildland vegetation management burning are added.

- The allowance to burn on No-Burn Days for agricultural waste above 3,000 feet elevation and for agricultural burning above 6,000 feet elevation are eliminated.

There are no superseded submittals of TOCAPCD open burning rules on which EPA has not acted. EPA is not acting on TOCAPCD Rule 301, Compliance, submitted on March 26, 1990, because it is not appropriate for the SIP.

EPA has evaluated the submitted rules and has determined that, except for TOCAPCD Rule 301, they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, the following rules are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D:

- KCAPCD Rule 416, Open Burning (submitted on October 18, 1996).

- KCAPCD Rule 417, Agricultural Burning (submitted on October 18, 1996).

- NSAQMD Rules 302 to 312 (submitted on October 25, 1991):

- NSAQMD Rule 302, Prohibited Open Burning.

- NSAQMD Rule 303, Allowed Open Burning.

- NSAQMD Rule 304, Agricultural Burning.

- NSAQMD Rule 305, Range Improvement Burning.

- NSAQMD Rule 306, Forest Management Burning.

- NSAQMD Rule 307, Wildlands Vegetation Management Burning.

- NSAQMD Rule 308, Land Development Clearing.

- NSAQMD Rule 309, Ditch, Road and Right-of-Way Maintenance.

- NSAQMD Rule 310, Hazard Reduction.

- NSAQMD Rule 311, Residential Maintenance.

- NSAQMD Rule 312, Burning Permits.

- SJVUAPCD Rule 4302, Incinerator Burning (submitted on May 24, 1994).

- SJVUAPCD Rule 4303, Orchard Heaters (submitted on May 24, 1994).

- SKCAPCD Rule 4.3, Non-Agricultural Burning (submitted on March 26, 1990).

- THCAPCD Rule 3.12, Wildland Vegetation Management Burning (submitted on May 13, 1991).

TOCAPCD Rules 302 to 310 (submitted on March 26, 1990):

- TOCAPCD Rule 302, Burning Requirements.

- TOCAPCD Rule 303, Burn or No-Burn Day.

- TOCAPCD Rule 304, Burning Management Requirements.

- TOCAPCD Rule 305, Minimum Drying Times.

- TOCAPCD Rule 306, Agricultural Burning.

- TOCAPCD Rule 307, Wildland Vegetation Management.

- TOCAPCD Rule 308, Forest Management.

- TOCAPCD Rule 309, Range Improvement.

- TOCAPCD Rule 310, Miscellaneous Burning.

EPA is approving the replacement or deletion of the cited SIP-approved rules. A more detailed evaluation can be found in EPA's evaluation reports for the submitted, deleted, or replaced rules.

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, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective October 18, 1999 without further notice unless the Agency receives relevant adverse comments by September 20, 1999.

If the EPA receives such comments, then EPA will publish a timely

withdrawal 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 October 18, 1999 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 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 E.O. 12875 do 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 E.O. 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.

This rule is not subject to E.O. 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 E.O. 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. 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).

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.

G. 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).

H. 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 October 18, 1999. 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, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: July 30, 1999.

David P. Howekamp,

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 paragraphs (c)(179)(i)(E)(3) and (G)(2), (c)(184) introductory text, (i)(D) introductory text and (F)(2), (c)(186)(i)(F), (c)(197)(i)(C)(3), and (c)(241)(i)(D) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(179) * * *
(i) * * *
(E) * * *

(3) Rule 4.3, adopted on January 24, 1989.

(G) * * *

(2) Rules 302 to 310, adopted on November 22, 1988.

* * * * *

(184) New and amended regulations for the following APCDs were submitted

on May 13, 1991, by the Governor's designee.

(i) * * *

(D) San Diego County Air Pollution Control District.

* * * * *

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(2) Rule 3.12, adopted on April 25, 1989.

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(F) Northern Sierra Air Pollution Control District.

(J) Rules 302 to 312, adopted on November 10, 1988.

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(3) Rules 4302 and 4303, adopted on May 21, 1992 and amended on December 16, 1993.

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(D) Kern County Air Pollution Control District.

(J) Rules 416 and 417, adopted on April 18, 1972 and amended on July 11, 1996.

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[FR Doc. 99-21164 Filed 8-18-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 126-163a; FRL-6419-9]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; South Coast Air Quality Management District; Ventura County Air Pollution Control District; Mojave Desert Air Quality Management 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 rules from the South Coast Air Quality Management District (SCAQMD), Ventura County Air Pollution Control District (VCAPCD), and Mojave Desert Air Quality Management District (MDAQMD). This approval action will incorporate two rules into the federally approved SIP and remove two rules from the SIP. The intended effect of approving these rules 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 two rules control VOC emissions from storage tank cleaning and degassing operations and from components at crude oil and natural gas production and processing facilities. The two rules to be removed control VOC emissions from pumps, compressors, and relief valves. Thus, EPA is finalizing the approval of these revisions of 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 October 18, 1999 without further notice, unless EPA receives adverse comments by September 20, 1999. 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 must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rules 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 rules 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, SW, Washington, DC 20460

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

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765-4182.

Ventura County Air Pollution Control District, 702 County Square Drive, Ventura, CA 93003.

Mojave Desert Air Quality Management District, 15428 Civic Drive, Suite 200, Victorville, CA 92392-2383.

FOR FURTHER INFORMATION CONTACT: Max Fantillo, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1183.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP include: SCAQMD's Rule 1149, Storage Tank Cleaning and

Degassing and VCAPCD's Rule 74.10, Components at Crude Oil and Natural Gas Production and Processing Facilities. The rules being removed from the SIP are MDAQMD's Rule 466, Pumps and Compressors and Rule 467, Safety Pressure Relief Valves. These rules were submitted by the California Air Resources Board (CARB) to EPA on October 13, 1995 (Rule 1149), June 23, 1998 (Rule 74.10), and November 30, 1994 (Rules 466 and 467).

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 Los Angeles-South Coast Air Basin, the Ventura County area, and the South Desert Air Basin managed by MDAQMD. 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 districts' portions of the California SIP were 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. Public Law 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-amendment guidance.¹ EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The Los Angeles-South Coast Air Basin is classified as extreme; the Ventura County area and the Southeast Desert Air Basin managed by MDAQMD

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** document" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).