significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g); 6.04–1, 6.04–6. 160.5; 49 CFR 1.46.

§ 165.713 [Removed]

2. Remove § 165.713.

Dated: July 2, 2001.

G.W. Merrick,

Commander, U.S. Coast Guard, Captain of the Port, Charleston, South Carolina.

[FR Doc. 01–17405 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 071–0283; FRL–6997–6]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District, Monterey Bay Unified Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, and South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of revisions to the Imperial County Air Pollution Control District (ICAPCD) portion and Monterey Bay Unified Air Pollution Control District (MBUAPCD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on December 15, 2000 and concerns PM–10 emissions from livestock feed lots and from agricultural burning. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves local rules that regulate these emission sources and directs California to correct rule deficiencies.

EPA is also finalizing full approval of revisions to the ICAPCD portion of the California SIP concerning definitions, PM–10 emissions from orchard heaters, incinerators, open burning, and range improvement burning; to the South Coast Air Quality Management District (SCAQMD) portion concerning PM–10 emissions from restaurant operations; and to the MBUAPCD portion concerning exceptions to other rules.

EPA is deferring to a separate action revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California SIP concerning PM–10 emissions from industrial processes and from residential wood combustion.

EFFECTIVE DATE: This rule is effective on August 10, 2001.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted rule revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Imperial County Air Pollution Control District, 150 South Ninth Street, El Centro, CA 92243.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Street, Fresno, CA 93726.

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 744–1135.

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

I. Proposed Action

On December 15, 2000 (65 FR 78434), EPA proposed a limited approval and limited disapproval of the rules in Table 1 that were submitted by CARB for incorporation into the California SIP.

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
ICAPCD	420	Livestock Feed Yards	9/14/99	5/26/00
ICAPCD	701	Agricultural Burning	9/14/99	5/26/00
MBUAPCD	403	Particulate Matter	3/22/00	5/26/00
SJVUAPCD	4201	Particulate Matter Concentration	12/17/92	11/18/93
SJVUAPCD	4901	Residential Wood Burning	7/15/93	12/10/93

We proposed a limited approval because we determined that these rules improve the SIP and are largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the CAA and have limited enforceability.

On December 15, 2000 (65 FR 78434), we also proposed a full approval of the adoption or recision of the rules in Table 2 that were submitted by CARB for incorporation into or removal from the California SIP.

TABLE 2.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted or rescinded	Submitted
ICAPCD	101	Definitions	9/14/99	5/26/00
ICAPCD	408	Frost Protection	9/14/99	5/26/00

TABLE 2.—SUBMITTED RULES—Continued

Local agency	Rule No.	Rule title	Adopted or rescinded	Submitted
ICAPCD	409	Incinerators	9/14/99	5/26/00
ICAPCD	421	Open Burning	9/14/99	5/26/00
ICAPCD	702	Range Improvement Burning	9/14/99	5/26/00
MBUAPCD	405	Exceptions	3/22/00 (Rescinded)	5/26/00
MBUAPCD	406	Additional Exception	3/22/00 (Rescinded)	5/26/00
SCAQMD	1138	Control of Emissions from Restaurant Operations	11/14/97	3/10/98

Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments on SJVUAPCD Rules 4201 and 4901. We will address these comments in a separate action.

III. EPA Action

We are not taking action on SJVUAPCD Rules 4201 and 4901 at this time. No comments were submitted that change our assessment of the other rules as described in our proposed action. Therefore, as authorized in sections 110(k)(3) and 301(a) of the CAA, EPA is finalizing a limited approval of submitted rule MBUAPCD Rule 403. This action incorporates the submitted rule into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rule. No sanctions will be imposed for MBUAPCD Rule 403, because the area is PM–10 attainment and the rule is not required to maintain attainment.

EPA is also finalizing a limited approval of submitted rules ICAPCD Rules 420 and 701. This action incorporates the submitted rules into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rules. As a result, sanctions will be imposed for ICAPCD Rules 420 and 701 unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months of the effective date of this action. These sanctions will be imposed under section 179 of the Act as described in 59 FR 39832 (August 4, 1994). In addition, EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months. Note that the submitted rules have been adopted by the local agencies, and EPA's final limited disapproval does not prevent the local agency from enforcing them.

EPA is finalizing full approval of submitted rules ICAPCD Rule 101, ICAPCD Rule 408, ICAPCD Rule 409, ICAPCD Rule 421, ICAPCD Rule 702, and SCAQMD Rule 1138 for incorporation into the California SIP. EPA is finalizing full approval of the recision of submitted rules MBUAPCD Rule 405 and MBUAPCD Rule 406 from the California SIP.

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, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045

Executive Order 13045, entitled 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.

C. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. E.O. 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 E.O. 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 E.O. 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

D. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 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.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does 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 act on 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.

EPA's disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, 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 CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA 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 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 acts on 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. 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.

EPA believes that VCS are inapplicable to today's action because it does not require the public to perform activities conducive to the use of VCS.

H. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

I. 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 September 10, 2001. 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: May 18, 2001.

Jane Diamond,

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)(159)(iii)(C), (c)(254)(i)(D)(*5*), (c)(279)(i)(A)(*2*), and (c)(279)(i)(B)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(159) * * *

(iii) * * *

(C) Previously approved on July 13, 1987 in (c)(159)(iii)(A) of this section

and now deleted without replacement Rules 405 and 406.

* * * * *

(254) * * *

(i) * * *

(D) * * *

(*5*) Rule 1138, adopted on November 14, 1997.

* * * * *

(279) * * *

(i) * * *

(A) * * *

(*2*) Rules 101, 408, 409, 420, 421, 701, and 702, adopted on September 14, 1999.

(B) * * *

(*2*) Rule 403, adopted on March 22, 2000.

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[FR Doc. 01–17201 Filed 7–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7009–6]

Approval of Section 112(l) Program of Delegation; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving, through a ''direct final'' procedure, a request for delegation of the Federal air toxics program. The State's mechanism of delegation involves the straight delegation of all existing and future section 112 standards unchanged from the Federal standards. The actual delegation of authority of individual standards, except standards addressed specifically in this action, will occur through a mechanism set forth in a memorandum of agreement (MOA) between the Ohio Environmental Protection Agency (OEPA) and EPA. This request for approval of a mechanism of delegation encompasses all part 70 and non-part 70 sources subject to a section 112 standard with the exception of the Coke Oven standard.

DATES: The ''direct final'' is effective on September 10, 2001, unless EPA receives adverse or critical written comments by August 10, 2001. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: Pamela Blakely, Chief, Permits and Grants Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and other supporting information used in developing the approval are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR–18J, Chicago, Illinois, 60604. Please contact Genevieve Damico at (312) 353–4761 to arrange a time if inspection of the submittal is desired.

FOR FURTHER INFORMATION CONTACT: Genevieve Damico, AR–18J, 77 West Jackson Boulevard, Chicago, Illinois, 60604, (312) 353–4761, damico.genevieve@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Why Are We Delegating This Program to OEPA?

Section 112(l) of the Act enables the EPA to delegate Federal air toxics programs or rules to be implemented by States in State air toxics programs. The Federal air toxics program implements the requirements found in section 112 of the Act pertaining to the regulation of hazardous air pollutants. Approval of an air toxics program is granted by the EPA if the Agency finds that the State program: (1) Is no less stringent than the corresponding Federal program or rule, (2) the State has adequate authority and resources to implement the program for all sources, (3) the schedule for implementation and compliance is sufficiently expeditious, and (4) the program is otherwise in compliance with Federal guidance. Once approval is granted, the air toxics program can be implemented and enforced by State or local agencies, as well as EPA. Implementation by local agencies is dependent upon appropriate subdelegation.

II. What Is the History of This Request for Delegation?

On March 31, 1995, Ohio submitted to EPA a request for delegation of authority to implement and enforce the air toxics program under section 112 of the Act. Additional letters supplementing this request were sent on June 27, 1995, August 23, 1996, June 1, 1999, and July 8, 1999. On July 22, 1999, EPA found the State's submittal complete. OEPA notified us through a letter dated December 13, 2000, that it is not requesting delegation of the Coke Oven standard (40 CFR part 63, subpart L). In this document EPA is taking final action to approve the program of delegation for Ohio for part 70 and non-part 70 sources with the exception of sources subject to the Coke Oven standard (40 CFR part 63, subpart L).

III. How Will OEPA Implement This Delegation?

Requirements for approval, specified in section 112(l)(5), require that a State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule. These requirements are also requirements for an adequate operating permits program under part 70 (40 CFR 70.4). In an August 15, 1995 rulemaking, EPA promulgated a final full approval under part 70 of the State of Ohio's Operating Permit Program. The document did not include the approval of a 112(l) mechanism for delegation of all section 112 standards for sources subject to the part 70 program. Sources subject to the part 70 program are those sources that are operating pursuant to a part 70 permit issued by the State, local agency or EPA. Sources not subject to the part 70 program are those sources that are not required to obtain a part 70 permit from either the State, local agency or EPA (see 40 CFR 70.3).

This Ohio program of delegation will not include delegation of section 112(r) authority. (The 112(r) program has been delegated to OEPA under a separate document.) The program will, however, include the delegation of the 40 CFR part 63 general provisions to the extent that they are not reserved to the EPA and are delegable to the State, as set forth at 65 FR 55810 (September 14, 2000).

As stated above, this document constitutes EPA's approval of Ohio's program of straight delegation of all existing and future air toxics standards, except for section 112(r) standards and the Coke Oven standard. Straight delegation means that the State will not promulgate individual State rules for each section 112 standard promulgated by EPA, but will implement and enforce without change the section 112 standards promulgated by EPA. The Ohio program of straight delegation is as follows: Upon promulgation of a section 112 standard, OEPA will issue or reopen the appropriate permit to include the section 112 standard for sources which are subject according to the permit issuance schedule in the MOA. OEPA will be able to implement and enforce the terms of the permit containing the section 112 standard requirement. OEPA must notify EPA within 45 days of the final promulgation of the standard if OEPA does not intend to take delegation of the standard. OEPA will incorporate section 112 standards into the Title V permits, new source review