

**SUPPLEMENTARY INFORMATION:** In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision with the exception of the reference in section (1)(I), to the open burning rule in 10 CSR 10–6.045, as a direct final rule without prior proposal because the Agency views this is a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: December 15, 2009.

**William Rice,**

*Acting Regional Administrator, Region 7.*

[FR Doc. E9–30773 Filed 12–28–09; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2009–0754; FRL–9096–2]

### Revisions to the California State Implementation Plan, South Coast Air Quality Management District and Ventura County Air Pollution Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a limited approval and limited disapproval of revisions to the South Coast Air Quality Management District (SCAQMD) and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from coatings operations associated with the coating of motor vehicles and mobile equipment. We are proposing action on local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by January 28, 2010.

**ADDRESSES:** Submit comments, identified by docket number [EPA–R09–OAR–2009–0754], by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

**Instructions:** All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment.

If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

**Docket:** The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

#### FOR FURTHER INFORMATION CONTACT:

Nicole Law, EPA Region IX, (415) 947–4126, [law.nicole@epa.gov](mailto:law.nicole@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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

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#### I. The State's Submittal

##### A. What Rules Did the State Submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board.

TABLE 1—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
SCAQMD .....	1151	Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations	12/02/05	04/06/09
VCAPCD .....	74.18	Motor Vehicle and Mobile Equipment Coating Operations .....	11/11/08	03/17/09

On April 20, 2009, the submittal for VCAPCD Rule 74.18 was found to meet the completeness criteria in 40 CFR Part 51, Appendix V, which must be met

before formal EPA review. On May 13, 2009, the submittal for SCAQMD Rule 1151 was found to meet the completeness criteria.

##### B. Are There Other Versions of These Rules?

We approved an earlier version of Rule 74.18 into the SIP on April 19,

2001 (66 FR 20086). The VCAPCD adopted revisions to the SIP-approved version on November 11, 2008 and CARB submitted it to us on March 17, 2009. We approved an earlier version of Rule 1151 into the SIP on May 26, 2000 (65 FR 34101). The SCAQMD adopted revisions to the SIP-approved version on December 2, 2005 and CARB submitted it to us on April 6, 2009.

### *C. What Is the Purpose of the Rule Revisions?*

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. SCAQMD and VCAPCD revised their rules to comply with CARB's Suggested Control Measure for Automotive Coatings. EPA's technical support documents (TSD) have more information about these rules.

## **II. EPA's Evaluation and Action**

### *A. How Is EPA Evaluating the Rules?*

Guidance and policy documents that we use to evaluate enforceability and other requirements consistently include the following:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).
2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
3. "Suggested Control Measure for Automotive Coatings," California Air Resources Board, October 2005.

### *B. Do the Rules Meet the Evaluation Criteria?*

SCAQMD Rule 1151 and VCAPCD Rule 74.18 improve the SIP by establishing more stringent emission limits and by clarifying monitoring, reporting and recordkeeping provisions. The rules are largely consistent with the relevant policy and guidance regarding enforceability, rule stringency and SIP relaxations. Rule provisions which do not meet the evaluation criteria are summarized below and discussed further in the TSD.

### *C. What Are the Rule Deficiencies?*

SCAQMD Rule 1151(b)(51) and VCAPCD Rule 74.18(G)(16) exempt tertiary butyl acetate (TBAC) as a VOC. These exemptions do not fully comply with EPA's definition of a VOC which requires TBAC to be regarded as a VOC for the purposes of recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements.

### *D. EPA Recommendations To Further Improve the Rules*

The TSDs describe additional rule revisions that we recommend for the next time the local agencies modify the rules.

### *E. Proposed Action and Public Comment*

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is proposing a limited approval of the submitted rules to improve the SIP. If finalized, this action would incorporate the submitted rules into the SIP, including those provisions identified as deficient. This approach is limited because EPA is simultaneously proposing a limited disapproval of the rules under sections 110(k)(3) and 301(a), but is not proposing to impose sanctions or a FIP as a consequence of this limited disapproval as explained in the following paragraph.

As noted above, we are simultaneously proposing a limited disapproval of the submitted rules, because they do not comply with our requirement to retain TBAC as a VOC for the purposes of recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements. See 69 FR 69298 (November 29, 2004) and 40 CFR 51.100(s)(5). While we recognize the connection between these rule deficiencies and future ozone attainment plans in the South Coast and Ventura County, we are proposing not to impose sanctions or a FIP under CAA sections 179 and 110(c), because TBAC has negligible photochemical reactivity, and thus, the connection between the rule deficiencies and CAA nonattainment planning requirements is too remote to impose sanctions or a FIP. We note, however, that we may find approval of future ozone attainment demonstrations for these two areas problematic if they do not account for TBAC. We invite comment on this issue as well as all other aspects of our proposed action.

In the event that TBAC is exempted from the recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements, and final action has not yet been taken on the submitted rules, EPA will finalize action on SCAQMD Rule 1151 and VCAPCD Rule 74.18 as a full approval as opposed to a limited approval/limited disapproval. Note that the submitted rules have been adopted by the SCAQMD and VCAPCD, and EPA's final limited disapproval would not prevent the local agency from enforcing them.

We will accept comment from the public on the proposed limited approval and limited disapproval for the next 30 days.

## **III. Statutory and Executive Order Reviews**

### *A. Executive Order 12866, Regulatory Planning and Review*

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

### *B. Paperwork Reduction Act*

This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b).

### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This proposed 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).

### *D. Unfunded Mandates Reform Act*

Under sections 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or Tribal governments in the

aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed action 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 proposes to approve pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or Tribal governments, or to the private sector, result from this action.

#### *E. Executive Order 13132, Federalism*

*Federalism* (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (*Federalism*) and 12875 (*Enhancing the Intergovernmental Partnership*). Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely proposes to approve a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

#### *F. Executive Order 13175, Coordination With Indian Tribal Governments*

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications.” This proposed rule does not have Tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on Tribal governments, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes. Thus, Executive Order 13175 does not apply to this rule.

#### *G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because it proposes to approve a State rule implementing a Federal standard.

#### *H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

#### *I. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA,

EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today’s proposed action does not require the public to perform activities conducive to the use of VCS.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

**Dated:** December 2, 2009.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

[FR Doc. E9–30854 Filed 12–28–09; 8:45 am]

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Parts 52 and 70**

[EPA–R07–OAR–2008–0895; FRL–9096–5]

### **Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Iowa**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve revisions to the Iowa State Implementation Plan (SIP) and Iowa Operating Permits Program submitted by the State on November 18, 2008. The purpose of these revisions is to update existing air quality rules; make corrections, clarifications and improvements; add information with regard to control of fugitive dust; clarify the opacity limit for incinerators; update Prevention of Significant Deterioration (PSD) permitting requirements, and add rules for temporary operation of small generators during periods of disaster. EPA is approving the SIP provisions pursuant to section 110 of the CAA. EPA is approving the state operating permits revisions pursuant to section 502 of the CAA and implementing regulations.

**DATES:** Comments on this proposed action must be received in writing by January 28, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R07–OAR–2008–0895, by mail to Tracey Casburn, Environmental Protection