

PART 1—GENERAL PROVISIONS

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

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 1.891, the authority citation is revised to read as follows:

§ 1.891 Purpose of program.

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(Authority: 5 U.S.C. 3401 note)

3. In §§ 1.892 through 1.894, the authority citations are revised to read as follows:

§ 1.892 Review of positions.

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(Authority: 5 U.S.C. 3402)

§ 1.893 Establishing and converting part-time positions.

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(Authority: 5 U.S.C. 3402)

§ 1.894 Annual goals and time tables.

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(Authority: 5 U.S.C. 3402)

4. Section 1.895 is revised to read as follows:

§ 1.895 Review and evaluation.

The part-time career employment program will be reviewed through regular employment reports to determine levels of part-time employment. This program will also be designated an item of special interest to be reviewed during personnel management reviews.

(Authority: 5 U.S.C. 3402)

5. In §§ 1.896 and 1.897, the authority citations are revised to read as follows:

§ 1.896 Publicizing vacancies.

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(Authority: 5 U.S.C. 3402)

§ 1.897 Exceptions.

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(Authority: 5 U.S.C. 3402)

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[CA 057-0009a; FRL-5527-6]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Kern County Air Pollution Control District, Placer County Air Pollution Control District, Ventura County Air Pollution Control District, and San Joaquin Valley Unified Air Pollution Control 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 (SIP). The revisions concern rules from the following Districts: Kern County Air Pollution Control District (KNCAPCD), Placer County Air Pollution Control District (PLCAPCD), Ventura County Air Pollution Control District (VTCAPCD), and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD). This approval action will incorporate these rules into the federally approved 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 revised rules control VOC emissions from surface coating of metal parts and products, semiconductor manufacturing, fugitive emissions of reactive organic compounds (ROC) at petroleum refineries and chemical plants, polyester resin material operations, and decontamination of soil. Thus, EPA is finalizing the approval of these revisions 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 September 23, 1996 unless adverse or critical comments are received by August 26, 1996. If the effective date is delayed, a timely notice will be published in the Federal Register.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations: Rulemaking Section (A-5-3), Air and Toxics 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

Kern County Air Pollution Control District, 2700 "M" Street, Suite 290, Bakersfield, CA 93301

Placer County Air Pollution Control District, 11464 B Avenue, Auburn, CA 95603

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA 93003

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, CA 93721

FOR FURTHER INFORMATION CONTACT:

Daniel A. Meer, Chief, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1185.

SUPPLEMENTARY INFORMATION:**Applicability**

The rules being approved into the California SIP include: KNCAPCD's Rule 410.4, Surface Coating of Metal Parts and Products; PLCAPCD's Rule 244, Semiconductor Manufacturing Operations; VTCAPCD's Rules 74.7, Fugitive Emissions of Reactive Organic Compounds (ROC) at Petroleum Refineries and Chemical Plants, and 74.14, Polyester Resin Material Operations; and SJVUAPCD's Rule 4651, Volatile Organic Compound Emissions from Decontamination of Soil. These rules were submitted by the California Air Resources Board (CARB) to EPA on May 25, 1995 (410.4), May 24, 1995 (244), March 26, 1996 (74.7), September 14, 1992 (74.14), and December 22, 1994 (4651).

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 San Joaquin Valley Air Basin, Ventura County and the Sacramento Metro Area, which includes a portion of Placer County. 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. 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-amendment guidance.¹ EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. Ventura County and the Sacramento Metro Area are classified as severe, the San Joaquin Valley Air Basin and all of Kern County is classified as serious, therefore, these areas were subject to the RACT fix-up requirement and the May 15, 1991 deadline. However, the Southeast Desert Air Basin portion of Kern County was not a pre-amendment nonattainment area and, therefore was not designated and classified upon enactment of the amended Act. For this reason, KCAPCD is not subject to section 182(a)(2)(A) RACT fix-up requirement. The KCAPCD is, however, still subject to the requirements of EPA's SIP-Call because the SIP-Call included all of Kern County.²

The State of California submitted many revised RACT rules for incorporation into its SIP on September

14, 1992, December 22, 1994, May 24, 1995, May 25, 1995, and March 26, 1996, including the rules being acted on in this document. This document addresses EPA's direct-final action for KNCAPCD's Rule 410.4, Surface Coating of Metal Parts and Products; PLCAPCD's Rule 244, Semiconductor Manufacturing Operations; VTCAPCD's Rules 74.7, Fugitive Emissions of Reactive Organic Compounds (ROC) at Petroleum Refineries and Chemical Plants, and 74.14, Polyester Resin Material Operations; and SJVUAPCD's Rule 4651, Volatile Organic Compound Emissions from Decontamination of Soil. KNCAPCD adopted Rule 410.4 on April 6, 1995, PLCAPCD adopted Rule 244 on February 9, 1995, VTCAPCD adopted Rules 74.7 on October 10, 1995, 74.14 on May 26, 1992, and SJVUAPCD adopted Rule 4651 on December 17, 1992. These submitted rules were found to be complete on November 20, 1992 (74.14), January 3, 1995 (4651), July 24, 1995 (410.4 and 244), and May 15, 1996, (74.7) pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V³ and are being finalized for approval into the SIP.

These rules control VOC emissions from surface coating of metal parts and products, semiconductor manufacturing, polyester resin material operations, marine coatings, soil decontamination and fugitive ROC emissions at petroleum refineries and chemical plants. VOCs and ROCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of the efforts of these air pollution control districts 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. The following is EPA's evaluation and final action for these rules.

EPA Evaluation and Action

In determining the approvability of a VOC 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). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the

requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTG applicable to KNCAPCD's Rule 410.4 is entitled: "Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VI: Surface Coating of Miscellaneous Metal Parts and Products", (EPA-450/2-015). The CTG applicable to VTCAPCD's Rule 74.7 is entitled: "Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment", (EPA-450/3-83-006). PLCAPCD's Rule 244, VTCAPCD's Rule 74.14, and SJVUAPCD's Rule 4651 control emissions from source categories for which EPA has not issued CTGs. Accordingly these rules were evaluated for consistency with the general RACT requirements of the Clean Air Act (CAA Section 110 and part D). Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

KNCAPCD's submitted Rule 410.4, Surface Coating of Metal Parts and Products, is a revised rule which includes the following significant changes from the current SIP:

- Clarified definitions,
 - Lower VOC limits for baked extreme performance and for both baked and air-dried pretreatment wash primer coatings,
 - A capture efficiency requirement of at least 85% and a control efficiency requirement of 90%,
 - New VOC limits and vapor pressure requirements for solvent usage,
 - New prohibitions of sale and specifications
 - Record keeping provisions that require daily records, as well as more specific information about the coating applied,
 - New test methods.
- PLCAPCD's Rule 244, Semiconductor Manufacturing Operations, is a new rule

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 Ventura County, the Sacramento Metro Area and the San Joaquin Valley Air Basin retained their designation of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. The Southeast Desert Airbasin portion of the KCAPCD was designated nonattainment on November 6, 1991. See 56 FR 56694 (November 6, 1991). However on April 25, 1995, EPA published a final rule granting the State's request to reclassify the Sacramento Metro Area to severe from serious (60 CFR 20237). This reclassification became effective on June 1, 1995.

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).

which includes the following significant provisions:

- A requirement that all precursor VOCs from solvent cleaning stations be vented to control devices that reduce the total emissions by at least 90% by weight,
- In lieu of the above, a requirement that solvent cleaning stations be equipped with full covers, and a definition of freeboard ratio for solvent cleaning station sinks/reservoirs,
- A requirement that all precursor VOC emissions from negative photoresist operations be vented to control devices that reduce total emissions by at least 90% by weight,
- A list of test methods and record keeping requirements.

VTCAPCD's Rule 74.7, Fugitive Emissions of Reactive Organic Compounds (ROC) at Petroleum Refineries and Chemical Plants, is a revised rule which includes the following significant changes from the SIP:

- The applicability of the rule was expanded to include additional chemical plants,
- The definition section has been expanded,
- The operations requirement section was broadened,
- New inspection requirements were added,
- The repair requirements were revised,
- The Operator Management Plan was amended to reflect the new requirement and exemptions in the rule,
- The recordkeeping and reporting requirements were revised.

VTCAPCD's Rule 74.14, Polyester Resin Material Operations, is a new rule which includes the following significant provisions:

- Limits the ROC loss rate during resin polymerization to 60 grams per square meter of exposed area,
- Limits the monomer content of specialty and non-specialty, clear and pigmented gel coats, or requires the use of a closed mold system,
- Requires specified transfer efficient application methods,
- Limits ROC content of clean-up solvents,
- Add-on control equipment is specified when using non-compliant resin material,
- When compliant resin materials are used, records may be kept at weekly intervals, but daily records are required when using non-compliant resin material and/or an add-on control system,
- Test methods are included to verify rule compliance. SJVUAPCD's Rule 4651, Volatile Organic Compound

Emissions from Decontamination of Soil, is a new rule which includes the following significant provisions:

- A definition of contaminated soil,
- An exemption for soil quantities of less than one cubic yard,
- A definition of the conditions allowing limited aeration,
- The requirements for decontamination systems,
- Test methods to be employed, and soil sampling procedures to be followed to verify compliance.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, KNCAPCD's Rule 410.4, Surface Coating of Metal Parts and Products; PLCAPCD's Rule 244, Semiconductor Manufacturing Operations; VTCAPCD's Rules 74.7, Fugitive Emissions of Reactive Organic Compounds (ROC) at Petroleum Refineries and Chemical Plants; 74.14, Polyester Resin Material Operations; and SJVUAPCD's Rule 4651, Volatile Organic Compound Emissions from Decontamination of Soils are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

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

EPA is publishing this document without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective September 23, 1996, unless, by August 26, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The 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. If no such comments are received, the public is advised that this

action will be effective September 23, 1996.

Regulatory Process

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

SIP approvals under sections 110 and 301(a) 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, I certify 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 regulatory 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. E.P.A.*, 427 U.S. 246, 256-66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100

million or more to State, local, or tribal governments in the aggregate or to the private sector.

Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's Federal Register. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

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: June 17, 1996.

Felicia Marcus,
Regional Administrator.

Subpart F of 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:

Subpart F—California

Authority: 42 U.S.C. 7401-7671q.

2. Section 52.220 is amended by adding paragraphs (c)(189)(i)(B)(3), (210)(i)(E), (220)(i)(B)(3), (221)(i)(A)(2), (229) and (230) to read as follows:

§ 52.220 Identification of plan.

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- (c) * * *
- (189) * * *
- (i) * * *

(B) * * *

(3) Rule 74.14, adopted on May 26, 1992.

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(210) * * *

(i) * * *

(E) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 4651, adopted on December 17, 1992.

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(220) * * *

(i) * * *

(B) * * *

(3) Rule 244, adopted on February 9, 1995.

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(221) * * *

(i) * * *

(A) * * *

(2) Rule 410.4, adopted on April 6, 1995.

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(229) (Reserved)

(230) New and amended regulations for the following APCDs were submitted on March 26, 1996, by the Governors designee.

(i) Incorporation by reference.

(A) Ventura County Air Pollution Control District.

(1) Rule 74.7, adopted on October 10, 1995.

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40 CFR Part 52

[CT26-1-7198; A-1-FRL-5523-2]

Approval and Promulgation of Air Quality Implementation Plans; Approval of the Carbon Monoxide Implementation Plan Submitted by the State of Connecticut Pursuant to Sections 186-187 and 211(m)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On September 15, 1995, EPA proposed to approve the State implementation plans (SIP) submitted by the State of Connecticut for the purpose of bringing about the attainment of the national ambient air quality standard (NAAQS) for carbon monoxide (CO). The implementation plans were submitted by the State to satisfy the requirements of Sections 187(a)(2)(A), 187(a)(3), 187(a)(7) and 211(m) of the Clean Air Act for an approvable nonattainment area CO SIP for Connecticut's portion of the New York-New Jersey-Connecticut CO nonattainment area. Public comments

were solicited on Connecticut's SIP submittals, which included the CO attainment demonstration, contingency measures, vehicle miles travelled (VMT) forecasts and the oxygenated fuels program for Connecticut's portion of the New York-New Jersey-Connecticut CO nonattainment area, and on EPA's proposed action. No public comments were received. In this action, EPA is finalizing the approvals of these SIP revisions. This document also updates 40 CFR 52.372, 52.373, and 52.374.

EFFECTIVE DATE: August 26, 1996.

ADDRESSES: Copies of the SIP revision relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region I, Air Quality Planning Unit, One Congress Street, 11th floor, Boston, MA 02203; and the Bureau of Air Management, Department of Environmental Protection, 79 Elm Street, Hartford, CT 06106.

FOR FURTHER INFORMATION CONTACT: Wing H. Chau, Air Quality Planning Unit (CAQ), Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region 1, J.F.K. Federal Building, Boston, MA 02203, (617) 565-3570.

SUPPLEMENTARY INFORMATION: On January 12, 1993, January 14, 1993 April 7, 1994, and August 1, 1995, the Connecticut Department of Environmental Protection (DEP) submitted revisions to its State Implementation Plan (SIP) for air quality. The revisions are designed to satisfy the requirements of Sections 187(a)(2)(A), 187(a)(3), 187(a)(7) and 211(m) of the Clean Air Act, as amended in 1990 (CAA).

Those States containing CO nonattainment areas with design values greater than 12.7 parts per million (ppm) were required to submit, among other things, a State Implementation Plan revision, by November 15, 1992, that contains a forecast of VMT in the nonattainment area for each year before the year in which the SIP projects the NAAQS for CO to be attained and an attainment demonstration such that the plan will provide for attainment by December 31, 1995 for moderate CO nonattainment areas. The SIP revision is also required to provide for annual updates of the VMT forecasts along with annual reports regarding the extent to which the forecasts proved to be accurate. In addition, these annual reports must contain estimates of actual VMT in each year for which a forecast was required. The attainment demonstration must include a SIP control strategy, which is also due by