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.

Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. section 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 is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability. Section 804 exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. section 804(3).

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 November 2, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: July 30, 1998.

Jeanne M. Fox,

Regional Administrator, Region 2.

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 HH—New York

2. Section 52.1670 is amended by adding new paragraph (c)(94) to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) * * *

* * * * *

(94) A revision to the State Implementation Plan submitted by the New York State Department of Environmental Conservation on April 9, 1996 and supplemented on October 17, 1996 and February 2, 1998 that allows Niagara Mohawk Power Corporation and Champion International Corporation to trade emissions to meet the requirements of NO_X RACT.

(i) Incorporation by reference:

(A) Permits to Construct and/or Certificates to Operate: The following facilities have been issued permits to construct and/or certificates to operate by New York State and such permits and/or certificates are incorporated for the purpose of establishing an emission trade to be consistent with Subpart 227–2:

(1) Niagara Mohawk Power Corporation's system-wide utility boilers; New York special permit conditions and approval letter dated December 14, 1995.

(2) Champion International Corporation's two coal-fired boilers, Units 1 and 2, Jefferson County; New York special permit conditions and approval letter dated December 2, 1997.

(ii) Additional information:

(A) Documentation and information to support the emission trade in three letters addressed to EPA from the New York State Department of Environmental Conservation and dated as follows:

(1) April 9, 1996 to Mr. Conrad Simon, Director of Air and Waste Management Division from Deputy Commissioner David Sterman for a SIP revision for Niagara Mohawk Power Corporation and Champion International Corporation.

(2) October 17, 1996 letter to Mr. Ted Gardella, EPA from Mr. Patrick Lentlie, supplementing the SIP revision with the special permit condition approval letters.

(3) February 2, 1998 letter to Mr. Ronald Borsellino, Chief of the Air Programs Branch from Mr. Patrick Lentlie, supplementing the SIP revision with the amended special permit conditions for Champion International Corporation.

[FR Doc. 98–23332 Filed 9–1–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 212–0092a; FRL–6142–5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast 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). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of particulate matter (PM) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The rules control PM emissions from stationary sources, including process industries and cement plants. 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 nonattainment areas.

DATES: This rule is effective on November 2, 1998 without further notice, unless EPA receives adverse comments by October 2, 1998. 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

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

FOR FURTHER INFORMATION CONTACT: Patricia Bowlin, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1188.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP include: SCAQMD Rule 404, Particulate Matter—Concentration; Rule 405, Solid Particulate Matter—Weight; and Rule 1112.1, Emissions of Particulate Matter from Cement Kilns. These rules were submitted by the California Air Resources Board to EPA on June 4, 1986.

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 (1977 CAA or pre-amended Act), that included the South Coast 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 pursuant to section 188(a). The South Coast Air Basin and the Coachella Valley Planning Area (which is also under SCAQMD's jurisdiction) were among the areas designated nonattainment. On February 8, 1993, EPA re-classified five moderate non-attainment areas to serious nonattainment, including the South Coast Air Basin and the Coachella Valley Planning Area. See 58 FR 3334 (January 1, 1993). This **Federal Register** action for the SCAQMD excludes the Los Angeles County portion of the Southeast Desert AQMA, otherwise known as the Antelope Valley Region in Los Angeles County, which is now under the jurisdiction of the Antelope Valley Air Pollution Control District as of July 1, 1997.[2]

Section 189(a) of the CAA requires moderate PM–10 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 serious nonattainment areas to adopt best available control measures (BACM), including best available control technology (BACT).

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 on June 4, 1986, including the rules being acted on in this document. This document addresses EPA's direct-final action for SCAQMD Rule 404, Particulate Matter—Concentration; Rule 405, Solid Particulate Matter—Weight; and Rule 1112.1, Emissions of Particulate Matter from Cement Kilns. SCAQMD adopted these rules on February 7, 1986. These submitted rules are being finalized for approval into the SIP.

SCAQMD Rule 404 and Rule 405 are general PM rules that limit the concentration and rate of PM emissions from stationary sources. SCAQMD Rule 1112.1 limits PM emissions from cement plants. PM emissions can harm human health and the environment. These rules were originally adopted as part of SCAQMD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for TSP. 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/RACT and BACM/BACT are discussed in EPA's ''General Preamble'', which provides 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 (8/16/94). In this rulemaking action, EPA is applying these policies, taking into consideration the specific factual issues presented.

On September 28, 1981 EPA approved into the SIP versions of SCAQMD Rule 404, Particulate Matter—Concentration, and Rule 405, Solid Particulate Matter—Weight, that had been adopted on October 5, 1979. The submitted versions of Rule 404 and Rule 405 contain the same requirements as the current SIP rules but have been revised to exempt sources subject to SCAQMD Rule 1112.1, Emissions of Particulate Matter from Cement Kilns.

There is currently no version of SCAQMD Rule 1112.1, Emissions of Particulate Matter from Cement Kilns, in the SIP. The submitted rule applies to gray cement plants and includes the following provisions:

- Emission limit of 0.40 pounds per ton of kiln feed for plants with kiln feed rates of less than 75 tons per hour (tph)
- Emission limit of 30 pounds per hour for plants with kiln feed rates of 75 tph or greater.

EPA has evaluated the submitted rules and has determined that they fulfill the RACT requirements of CAA

[1] On July 18, 1997 EPA promulgated revised and new standards for PM–10 and PM–2.5 (62 FR 38651). EPA has not yet established specific plan and control requirements for the revised and new standards. This action is part of SCAQMD's efforts to achieve compliance with the 1987 PM–10 standards.

[2] The State has recently changed the names and boundaries of the air basins located within the Southeast Desert Modified AQMA. Pursuant to State regulation the Coachella-San Jacinto Planning Area is now part of the Salton Sea Air Basin (17 Cal. Code. Reg. § 60114); the Victor Valley/Barstow Region in San Bernardino County and the Antelope Valley Region in Los Angeles County are a part of the Mojave Desert Air Basin (17 Cal. Code. Reg. § 60109). In addition, in 1996 the California Legislature established a new local air agency, the Antelope Valley Air Pollution Control District, to have the responsibility for local air pollution planning and measures in the Antelope Valley Region (California Health & Safety Code § 40106).

section 189(a). In subsequent action on the SCAQMD PM–10 BACM Plan, EPA will determine if the submitted rules also fulfill the BACT requirements of CAA section 189(b).

SCAQMD Rule 404, Particulate Matter—Concentration; SCAQMD Rule 405, Solid Particulate Matter—Weight; and SCAQMD Rule 1112.1, Emissions of Particulate Matter from Cement Kilns, are consistent with the CAA, EPA regulations, and EPA PM–10 RACT policy. Therefore, the rules are being approved under section 110(k)(3) of the CAA as meeting the requirements of sections 110(a) and part D. A more detailed evaluation can be found in EPA's evaluation report for these rules.

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 rule without prior proposal because the Agency views this as a noncontroversial revision 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 November 2, 1998 without further notice unless the Agency receives relevant adverse comments by October 2, 1998.

If the EPA receives such comments, then EPA will publish a timely withdrawal of the direct final rule 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 November 2, 1998 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The final rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under E.O. 12866.

B. Regulatory Flexibility Act

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 populations of less than 50,000.

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 impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of 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).

C. 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 this approval 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 approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

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).

E. 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 November 2, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Particulate matter.

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: July 31, 1998.

Felicia Marcus,

Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(169) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(169) New and amended regulations submitted on June 4, 1986 by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(*1*) Rules 404 and 405 adopted on May 7, 1976 and amended on February 7, 1986. Rule 1112.1 adopted on February 7, 1986.

* * * * *

[FR Doc. 98–23328 Filed 9–1–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD 061–3028a, MD 065–3028a; FRL–6148–1]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to VOC Regulations for Dry Cleaning and Stage I Vapor Recovery

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving two State Implementation Plan (SIP) revisions submitted by the State of Maryland. The first revision amends Maryland's dry cleaning regulation such that its volatile organic compound (VOC) requirements no longer apply to dry cleaning operations using perchloroethylene. The second revision amends Maryland's Stage I Vapor Recovery regulation such that it is no longer applicable to gasoline storage tanks with a capacity of less than 2000 gallons. The intended effect of this action is to approve these revisions to Maryland's SIP in accordance with the Clean Air Act (the Act).

DATES: This final rule is effective November 2, 1998 unless within October 2, 1998, adverse or critical comments are received. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Carolyn M. Donahue, (215) 814–2095, or by e-mail at donahue.carolyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On February 6, 1998, the Maryland Department of the Environment (MDE) submitted two formal revisions to its State Implementation Plan (SIP). The first SIP revision amends *COMAR 26.11.19.12: Control of VOCs from Dry Cleaning Installations* such that its VOC control requirements no longer apply to dry cleaning operations using perchloroethylene. EPA has determined that the compound perchloroethylene has minimal photochemical reactivity and, therefore, does not contribute significantly to the formation of ground level ozone. The second SIP revision amends *COMAR 26.11.13.04: Control of VOCs from Gasoline Storage/Loading Operations* such that it no longer applies to gasoline storage tanks with a capacity of less than 2000 gallons.

II. Summary of the SIP Revisions

COMAR 26.11.19.12: Control of VOCs From Dry Cleaning Installations

In revising this regulation, Maryland removed the VOC requirements for dry cleaning operations using perchloroethylene. EPA has determined that perchloroethylene is not a compound which significantly contributes to the formation of ground level ozone (61 FR 4588, February 7, 1996). This revision removes sections B(1), C, D from COMAR 26.11.19.12 and renumbers the remaining sections accordingly. Dry cleaners that use perchloroethylene are still subject to state and federal toxic and hazardous air pollutant requirements.

COMAR 26.11.13.04: Control of VOCs From Gasoline Storage/Loading Operations

Maryland amended this regulation to eliminate the Stage I Vapor Recovery requirements for gasoline storage tanks with a capacity of less than 2000 gallons. Through a survey conducted in August 1995 of Maryland service stations, MDE concluded that less than 2% of the total gasoline throughput was from tanks with a capacity between 250 and 2000 gallons. This revision removes sections C(1)(b), C(2), and C(4) and renumbers the remaining sections accordingly.

EPA is approving this rule without prior proposal because the Agency views these as noncontroversial amendments 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 revisions should adverse or critical comments be filed. This rule will be effective November 2, 1998 without further notice unless the Agency receives relevant adverse comments by October 2, 1998.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and 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. EPA will not institute a second comment period on this rule. 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 rule will be effective on November 2, 1998 and no further action will be taken on the proposed rule. If adverse comments are received that do not pertain to both approval actions taken in this rule, the action not affected by the adverse comments will be finalized in the manner described here. Only those actions which receive adverse comments will be withdrawn in the manner described here.

III. Final Actions

EPA is approving revisions to *COMAR 26.11.19.12: Control of VOCs from Dry Cleaning Installations.* EPA is also approving the revisions to *COMAR 26.11.13.04: Control of VOCs from Gasoline Storage/Loading Operations.*

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state 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.