

or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves 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. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

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 action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 August 7, 2001. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. 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, Hydrocarbons, Nitrogen dioxide, Ozone.

Dated: May 21, 2001.

Ira W. Leighton,

Acting Regional Administrator, EPA-New England.

40 CFR part 52 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 OO—Rhode Island

2. Section 52.2088 is added to subpart OO to read as follows:

§ 52.2088 Control strategy: Ozone.

Revisions to the State Implementation Plan submitted by the Rhode Island Department of Environmental Management on September 21, 1998. These revisions are for the purpose of satisfying the rate of progress requirement of section 182(c)(2)(B), and the contingency measure requirements of section 182(c)(9) of the Clean Air Act, for the Providence serious ozone nonattainment area.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 095-0237a; FRL-6987-3]

Revisions to the Arizona and California State Implementation Plans, Maricopa County Environmental Services Department, Placer County Air Pollution Control District and South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Maricopa County Environmental Services Department (MCESD) portion of the Arizona State Implementation Plan (SIP), and the Placer County Air Pollution Control District (PCAPCD) and South Coast Air Quality Management District (SCAQMD) portions of the California SIP. These revisions concern volatile organic compound (VOC) emissions from Pharmaceutical, Cosmetic and Vitamin Manufacturing Operations, Fiberboard Manufacturing, and Hydrogen Plant Process Vents. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on August 7, 2001, without further notice, unless EPA receives adverse comments by July 9, 2001. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

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.

Maricopa County Environmental Services Department, 1001 N. Central Avenue, Suite 201, Phoenix, Arizona, 85004-1942.

Placer County APCD, DeWitt Center,
11464 "B" Ave., Auburn, CA 95603–
2603.

South Coast AQMD, 21865 E. Copley
Dr., Diamond Bar, CA 91765–4182.

FOR FURTHER INFORMATION CONTACT: Ed
Addison, Rulemaking Office (AIR–4),
U.S. Environmental Protection Agency,
Region IX, (415) 744–1160.

SUPPLEMENTARY INFORMATION:

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

Table of Contents

- I. The State's Submittal
 - A. What rules did the State submit?
 - B. Are there other versions of these rules?
 - C. What is the purpose of the submitted rules?
- II. EPA's Evaluation and Action.
 - A. How is EPA evaluating the rules?
 - B. Do the rules meet the evaluation criteria?
 - C. Public comment and final action.
- III. Background information.
 - A. Why were these rules submitted?

IV. Administrative Requirements

I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the State agency.

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
MCESD	349	Pharmaceutical, Cosmetic and Vitamin Manufacturing Operations	04/07/99	08/04/99
PCAPCD	229	Fiberboard Manufacturing	06/28/94	07/13/94
SCAQMD	1189	Hydrogen Plant Process Vents	01/21/00	07/26/00

On August 25, 1999, July 22, 1994, and October 4, 2000, these rule submittals were found to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

There are no previous versions of Rules 349, 229, and 1189 in the SIP.

C. What Is the Purpose of the Submitted Rules?

MCESD Rule 349 applies to the manufacture and blending of materials to make pharmaceutical or cosmetic products or vitamins, including any process that is incidental to such operations, such as tablet coating and finishing.

PCAPCD Rule 229 applies to new and existing facilities that manufacture medium density fiberboard. Currently there is only one facility in Placer County, the SierraPine, Ltd. plant, in Rocklin, CA.

SCAQMD Rule 1189 reduces emissions of volatile organic compounds from hydrogen plants that produce any hydrogen for use in petroleum refining operations. The TSDs have more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(1) and 193). The MCESD, PCAPCD,

and SCAQMD regulate ozone nonattainment areas (see 40 CFR part 81), so Rules 349, 229, and 1189 must fulfill RACT.

Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. "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 published in the May 25, 1988 **Federal Register**.

3. "Requirements for Preparation, Adoption, and Submittal of Implementation Plans," U.S. EPA, 40 CFR part 51.

4. "State Implementation Plans for National Primary and Secondary Ambient Air Quality Standards," Section 110 of the Clean Air Act, and Plan Requirements for Nonattainment Areas, Title I Part D of the Clean Air Act, Sections 182(b)(2), 189(a)(1)(C) and 189(b)(1)(B).

5. "EPA–OAQPS Guideline—Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products," December 1978.

6. TSD for RACT Determination as prepared for US EPA Region IX Air and Toxics Division by E.H. Pechan & Associates, Inc. January 18, 1994.

7. "Determination of RACT for control of Fugitive Emissions of VOCs from Oil and Gas Production and Processing Facilities, Refineries, Chemical Plants, and Pipeline Transfer Stations," CARB, December 8, 1993.

B. Do The Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSDs have more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by July 9, 2001, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on August 7, 2001. This will incorporate these rules into the federally enforceable SIP.

III. Background Information

A. Why Were These Rules Submitted?

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. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule does not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 (64 FR 43255, August 10, 1999), because it merely approves 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. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus

standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

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 compound.

Dated: April 27, 2001.

Mike Schulz,

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 D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(94)(i)(F) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(94) * * *

(i) * * *

(F) Rule 349, adopted on April 7, 1999.

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Subpart F—California

3. Section 52.220 is amended by adding paragraphs (c)(198)(i)(B)(2) and (c)(280) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(198) * * *

(i) * * *

(B) * * *

(2) Rule 229, adopted on June 28, 1994.

* * * * *

(280) New and amended regulations for the following APCDs were submitted on July 26, 2000, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(1) Rule 1189, adopted on January 21, 2000.

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