

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221, [Attention: Notice No. 872].

FOR FURTHER INFORMATION CONTACT: William H. Foster, Regulations Division, (202) 927-8210, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226. You may also write questions by e-mail to whfoster@atfhq.atf.treas.gov. ATF will not accept comments on the proposal that are submitted to this address.

SUPPLEMENTARY INFORMATION:

Background

On February 9, 1999, ATF published a notice of proposed rulemaking (NPRM) in the **Federal Register** soliciting comments from the public and industry on a proposal to amend the regulations to clarify the standards of fill for distilled spirits and wine. This notice also proposed regulations to prohibit certain alcohol beverage containers that are likely to mislead consumers as to the identity or character of the distilled spirits, wine, or malt beverage products or are likely to be confused with other (non-alcohol) food products. The comment period for Notice No. 872 closes on April 12, 1999.

However, ATF received a request from the National Association of Beverage Importers, Inc. (NABI) to extend the comment period an additional 30 days. NABI, representing the companies that import most of the alcohol beverages brought into the United States, stated that additional time was needed for it to obtain information from its members and foreign counterparts in order to prepare the association's comments.

In consideration of the above, ATF finds that an extension of the comment period is warranted and the Bureau is, therefore, extending the comment period until May 10, 1999.

Disclosure

Copies of Notice No. 872 and written comments will be available for public inspection during normal business hours at: ATF Reference Library, Room 6480, 650 Massachusetts Avenue NW, Washington, DC.

Drafting Information

The author of this document is Nancy M. Kern, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 4

Advertising, consumer protection, customs duties and inspections, imports, labeling, packaging and containers, and wine.

27 CFR Part 5

Advertising, consumer protection, customs duties and inspections, imports, labeling, liquors, and packaging and containers.

27 CFR Part 7

Advertising, beer, consumer protection, customs duties and inspection, imports, and labeling.

Authority and Issuance

This notice is issued under the authority contained in 26 U.S.C. 5368, 5301, 7805; 27 U.S.C. 205.

Signed: April 6, 1999.

John W. Magaw,
Director.

[FR Doc. 99-8993 Filed 4-9-99; 8:45 am]

BILLING CODE 4810-31-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 013-0139b; FRL-6322-3]

Approval and Promulgation of Implementation Plans; California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP) which concern the control of particulate matter (PM) from open burning. The intended effect of proposing limited approval and limited disapproval of these rules is to regulate PM emissions in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rule will incorporate these rules into the federally approved SIP for San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) and South Coast Air Quality Management District (SCAQMD). EPA has evaluated SJVUAPCD Rule 4103 and SCAQMD Rule 444 and is proposing a simultaneous limited approval and

limited disapproval under provisions of the CAA regarding EPA action on SIP submittals and general rulemaking authority. These revisions, while strengthening the SIP or maintaining the SIP's control strategy, do not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas. In this action, EPA also is proposing full approval of SCAQMD Rule 208 for incorporation into the California SIP. EPA has evaluated this rule and determined that it is consistent with the CAA and EPA regulations and will maintain the SIP's control strategy.

DATES: Comments must be received on or before May 12, 1999.

ADDRESSES: Comments may be mailed to: Andrew Steckel, Rulemaking Office AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rules and EPA's evaluation report of the rules are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

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 95812
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, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1135.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being proposed for limited approval and limited disapproval into the California SIP are SJVUAPCD Rule 4103, Open Burning (amended December 16, 1993) and SCAQMD Rule 444, Open Fires (amended October 2, 1987). SJVUAPCD Rule 4103 was submitted by the State of California to EPA on May 24, 1994. SCAQMD Rule 444 was submitted by the State of California to EPA on March 23, 1988.

The rule being proposed for full approval into the California SIP is SCAQMD Rule 208, Permit for Open

Burning (amended January 5, 1990). SCAQMD Rule 208 was submitted by the State of California to EPA on May 13, 1991.

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 San Joaquin Valley Planning Area and 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. Public Law 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 or serious pursuant to section 188(a). The San Joaquin Valley Planning Area (now under the SJVUAPCD), the South Coast Air Basin (under the SCAQMD), and the Coachella Valley Planning Area (now under the SCAQMD) were among the areas designated nonattainment.

On February 8, 1993, EPA classified four nonattainment areas as serious nonattainment, including the San Joaquin Valley Planning Area, the South Coast Air Basin, and the Coachella Valley Planning Area in 58 FR 3334 (January 1, 1993). This **Federal Register** action for 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

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 California'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 (California Code of Regulations, Title 17, 60114); the Victor Valley/Barstow Region in San Bernardino County and the Antelope Valley Region in Los Angeles County are now a part of the Mojave Desert Air Basin (California Code of Regulations, Title 17, 60109). In addition, in 1996 the California Legislature established a new local agency, the Antelope Valley Air Pollution Control District, to have the responsibility for local air pollution

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 with significant PM-10 sources to adopt best available control measures (BACM), including best available control technology (BACT). SCAQMD and SJVUAPCD are serious PM-10 nonattainment areas. SCAQMD has not identified Open Burning as a significant PM-10 source in their PM-10 BACM Plan, so EPA will evaluate the SCAQMD rules against RACM requirements. If the SCAQMD BACM Plan should be disapproved, EPA may require SCAQMD to submit additional Open Burning provisions to meet BACM requirements. SJVUAPCD has not identified Open Burning as a non-significant PM-10 source in their BACM Plan, so EPA will evaluate the SJVUAPCD rule against RACM and BACM requirements. However, EPA may identify additional BACM requirements for Open Burning upon review of the SJVUAPCD BACM Plan at a later date.

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, including the rules being acted on in this document. This document addresses EPA's proposed action for SJVUAPCD Rule 4103, Open Burning, SCAQMD Rule 444, Open Fires, and SCAQMD Rule 208, Permit for Open Burning. SJVUAPCD Rule 4103 was amended December 16, 1993, submitted by the State of California for incorporation into the SIP on May 24, 1994, and found to be complete on July 14, 1994, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V.³ SCAQMD Rule 444, was amended October 2, 1987, and submitted by the State of California for incorporation into the SIP on March 23, 1988. SCAQMD Rule 208 was amended January 5, 1990, submitted by the State of California for incorporation into the SIP on May 13, 1991, and found to be complete on July 10, 1991. The following is EPA's evaluation and proposed action for these rules.

planning and measures in the Antelope Valley Region (California Health & Safety Code, 40406).

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).

III. EPA Evaluation and Proposed 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 the SIP or maintain the SIP's control strategy.

The statutory provisions relating to RACM and BACM are discussed in EPA's "General Preamble," which give 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 (August 16, 1994). In this proposed action, EPA is evaluating SCAQMD rules to determine if they fulfill the RACM requirements of CAA section 189(a) and is evaluating SJVUAPCD rules to determine if they fulfill the BACM requirements of CAA section 189(b).

For the purpose of assisting state and local agencies in developing RACM and BACM rules, EPA prepared a series of technical guidance documents on PM-10 source categories (See CAA section 190). The RACM guidance applicable to these rules is entitled, "Appendix C3—Prescribed Burning Control Measures" (57 FR 18072). The BACM guidance applicable to these rules is entitled, "Prescribed Burning Background Document and Technical Information Document for Best Available Control Measures" (EPA-450/2-92-003).

Submitted SJVUAPCD Rule 4103 replaces 25 rules in the existing SIP for the eight counties that now comprise the SJVUAPCD. SJVUAPCD Rule 4103 regulates open burning and reduces PM emissions. Although SJVUAPCD Rule 4103 strengthens the SIP by combining and unifying the rules of eight counties and by eliminating the exemption for one- and two-family dwellings to burn residential rubbish, EPA has determined that SJVUAPCD Rule 4103 does not meet the requirements of RACM and BACM by allowing exemptions for eight burning activities that could be limited to Permissive-Burn Days. Rule 4103 also does not meet the requirements of BACM for Prescribed Burning (including Agricultural Burning, Forest Management Burning, Range Improvement Burning, and Wildland Vegetation Management Burning) to require burner training, to require emission reduction techniques, to require a smoke management plan, and

to require the second level of smoke dispersion evaluation during the day (the first level is the initial evaluation at the beginning of the day).

Submitted SCAQMD Rule 444 regulates open burning and reduces PM emissions. On July 6, 1982, EPA approved into the SIP a version SCAQMD Rule 444, Open Fires, that had been adopted by the District on October 2, 1981. Although the submitted SCAQMD Rule 444 will strengthen the SIP by requiring an approved implementation plan for Wildland Vegetation Management burning, EPA has determined that SCAQMD Rule 444 does not meet the requirements of RACM for Prescribed Burning, because the rule does not base approval of a burn on an evaluation of an airshed's capacity to disperse PM-10 emissions from all types of Open Burning and Prescribed and other PM-10 sources, to encourage burner training by offering incentives, and to encourage the use of emission reduction techniques by offering incentives.

There is currently no version of the SCAQMD Rule 208, Permit for Open Burning, in the SIP. Rule 208 requires a written permit to conduct Open Burning pursuant to SCAQMD Rule 444, Open Fires. EPA has evaluated the submitted SCAQMD Rule 208 and has determined that it is consistent with the CAA, EPA regulations, and meets the criteria for RACM in the General Preamble. EPA proposes full approval of SCAQMD Rule 208 into the California SIP.

A detailed list of rules to be replaced and a discussion of rule deficiencies can be found in the Technical Support Documents for SJVUAPCD Rule 4103 and SCAQMD Rule 444, which are available from the U.S. EPA's Region IX office.

Because of the above deficiencies, EPA cannot grant full approval of SJVUAPCD Rule 4103 and SCAQMD Rule 444 under section 110(k)(3) and part D. Also, because the submitted rules are not composed of separable parts that meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rules under section 110(k)(3). However, EPA may grant a limited approval of the submitted rules under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. In order to strengthen the SIP, EPA is proposing a limited approval of SJVUAPCD Rule 4103, Open Burning and SCAQMD Rule 444, Open Fires, under sections 110(k)(3) and 301(a) of the CAA.

At the same time, EPA is also proposing a limited disapproval of SJVUAPCD Rule 4103 and SCAQMD Rule 444, because they contain deficiencies, and, as such, the rules do not fully meet the requirements of part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: Highway funding and offsets. The 18-month period referred to in section 179(a) will begin on the effective date of EPA's final limited disapproval. Moreover, the final disapproval triggers the Federal implementation plan (FIP) requirement under section 110(c). It should be noted that the rules covered by this limited disapproval have been adopted by SJVUAPCD and SCAQMD and are currently in effect in SJVUAPCD and SCAQMD, respectively. EPA's final limited disapproval action will not prevent SJVUAPCD, SCAQMD, or EPA from enforcing these rules.

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.

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, Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior

consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

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.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a

summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do 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 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).

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 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.

List of Subjects in 40 CFR Part 52

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

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

Dated: March 22, 1999.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 99-8949 Filed 4-9-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA 68-7143-b; FRL-6322-4]

Approval and Promulgation of State Implementation Plans: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision to the particulate matter with an aerodynamic diameter less than or equal to nominal 10 micrometers (PM-10) SIP for the Spokane PM-10 nonattainment area submitted by the State of Washington and received at EPA on March 2, 1999. The revision, makes minor revisions to two sections of the Spokane County Air Pollution Control Authority's Regulation I, Article IV. The SIP revision was submitted by the State to satisfy certain Federal Clean Air Act requirements for a PM-10 nonattainment plan. In the Final Rules section of this **Federal Register**, the EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal amendment

and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If the EPA receives 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 rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received in writing by May 12, 1999.

ADDRESSES: Written comments should be addressed to Montel Livingston, Environmental Protection Specialist (OAQ-107), Office of Air Quality, at the EPA Regional Office listed below. Copies of the state submittal are available at the following addresses for inspection during normal business hours. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 10, Office of Air Quality, 1200 6th Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: George Lauderdale, Office of Air Quality (OAQ-107), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553-6511.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**.

Dated: March 31, 1999.

Chuck Clarke,

Regional Administrator, Region 10.

[FR Doc. 99-8943 Filed 4-9-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 068-1068b; FRL-6322-2]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Iowa on August 12, 1998. This revision consists of routine updates to Iowa Administrative Code, Chapters 20, 22, 23, 24, 25, 29, and 31. Approval of this