Compliance With Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b) of the Administrative Procedure Act, the Forest Service had determined that good cause exists for adopting this final rule without prior notice and comment opportunity. This rule is a technical amendment. The need for this rule arises from the agency's inadvertent failure to conform cross references in land exchange regulations at 36 CFR part 254 in a 1994 final rule to changes in administrative appeal regulations at 36 CFR parts 215 and 217 adopted in 1993. This conforming amendment does not alter the agency's practice with regard to administrative appeals of land exchange decisions. The agency has been routinely processing appeals of land exchange decisions under 36 CFR part 215, since land exchange decisions are project-level decisions, not land and resource management plan decisions. Because this rulemaking does not make any substantive changes to regulations for land exchanges, does not limit appeal rights for decision related to land exchange activities, and merely conforms a cross reference to the appeal regulations that are actually in use, notice and comment on this rule prior to adoption is unnecessary.

Regulatory Impact

This rule is a technical amendment to correct a reference to another rule. As such, it has no substantive effect, since by the terms of the appeal rules at 36 CFR part 217, only land and resource management plan decision are subject to that rule. Additionally, despite the cross-reference error in part 254, the agency has been processing land exchange appeals under part 215 since 1993. As noted in the preamble, land exchange decisions are not plan decisions. For these reasons, this technical amendment is not subject toreview under USDA procedures and Exchange Order 12866 on Regulatory Planning and Review. Accordingly, this rule is not subject to Office of Management and Budget review under Executive Order 12866. Furthermore, this rule is exempt from further analysis under the Unfunded Mandates Reform Act of 1995; Executive Order 12778, Civil Justice Reform; Executive Order 12530, Takings Implications; the Regulatory Flexibility Act; or the Paperwork Reduction Act of 1995.

List of Subjects in 36 CFR Part 254

Community facilities and national forests.

Therefore, for the reasons set forth in the preamble, part 254 of Title 36 of the Code of Federal Regulations is amended as follows:

PART 254—[Amended]

1. The authority citation for part 254 continues to read:

Authority: 7 U.S.C. 428a(a) and 1011; 16 U.S.C. 484a, 486, 516, 551, and 555a; 43 U.S.C. 1701, 1715, and 1740; and other applicable laws.

2. Revise paragraph (g) of § 254.4 to read as follows:

§ 254.4 Agreement to initiate an exchange.

* * * * *

(g) The withdrawal from an exchange proposal by an authorized officer at any time prior to the notice of decision, pursuant to § 254.13 of this subpart, is not appealable under 36 CFR part 215 or 36 CFR part 251, subpart C.

3, Revise paragraph (b) of § 254.13 to read as follows:

§ 254.13 Approval of exchanges; notice of decision.

* * * * *

(b) For a period of 45 days after the date of publication of a notice of the availability of a decision to approve or disapprove an exchange proposal, the decision shall be subject to appeal as provided under 36 CFR part 215 or, for eligible parties, under 36 CFR part 251, subpart C.

4. Revise paragraph (b)(6) of § 254.14 to read as follows:

§ 254.14 Exchange agreement.

* * * * *

(b) * * *

(6) In the event of an appeal under 36 CFR part 215 or 36 CFR part 251, subpart C, a decision to approve an exchange proposal pursuant to § 254.13 of this subpart is upheld; and

* * * * *

Dated: April 2, 1999.

Sandra Key,

Acting Associate Chief.

[FR Doc. 99–12048 Filed 5–12–99; 8:45 am]

BILLING CODE 3410–11–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 192–0132a; FRL–6334–5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revisions, Mojave Desert Air Quality Management District and Tehama County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the California State Implementation Plan (SIP) which concern the recision of rules for the Mojave Desert Air Quality Management District (MDAQMD) and Tehama County Air Pollution Control District (TCAPCD). These rules concern emissions from orchard heaters and fuel burning equipment. The intended effect of this action is to bring the MDAQMD and TCAPCD SIPs up to date in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act).

DATES: This rule is effective on July 12, 1999 without further notice, unless EPA receives relevant adverse comments by June 14, 1999. 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: Written comments should be addressed 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 for the rules are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

Mojave Desert Air Quality Management District, 15428 Civic Drive, Suite 200, Victorville, CA 92392–2383

-Tehama County Air Pollution Control District, 1760 Walnut Street, Red Bluff, CA 96080.

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 recision from the MDAQMD portion of the California SIP are included in San Bernardino County Air Pollution Control District (SBCAPCD) Regulation VI, Orchard, Field or Citrus Grove Heaters, consisting of Rule 100, Definitions; Rule 101, Exceptions; Rule 102, Permits Required; Rule 103, Transfer; Rule 104, Standards for

Granting Permits; Rule 109, Denial of Application; Rule 110, Appeals; Rule 120, Fees; Rule 130, Classification of Orchard Heaters; Rule 131, Class I Heaters Designated; Rule 132, Class II Heaters Designated; Rule 133, Identification of Heaters; Rule 134, Use of Incomplete Heaters Prohibited; Rule 135, Cleaning, Repairs; Rule 136, Authority to Classify Orchard Heaters; and Rule 137, Enforcement. These rules were previously submitted by the California Air Resources Board (CARB) to EPA on June 30, 1972 and approved on September 22, 1972, 37 FR 19812, for incorporation into the SIP. These rule recisions were adopted by the MDAQMD on June 24, 1996 and submitted by CARB to EPA on March 3, 1997.

The rule being proposed for recision from the TCAPCD portion of the California SIP is TCAPCD Rule 4.13, Fuel Burning Equipment. This rule was previously submitted by CARB to EPA on February 21, 1972 and approved on May 31, 1972, 37 FR 10856, for incorporation into the SIP. This rule recision was adopted by the TCAPCD on September 10, 1985 and submitted by CARB to EPA on February 10, 1986.

II. Background

On September 22, 1972, the EPA approved SBCAPCD Regulation VI, Rules 100–104, 109, 110, 120, and 130–137, Orchard, Field or Citrus Grove Heaters, for incorporation into the SIP. The SBCAPCD rescinded Regulation VI from its rulebook prior to 1977. The recision of SBCAPCD Regulation VI was disapproved by EPA (43 FR 40018, September 8, 1978) as a SIP relaxation. On July 1, 1993, the SBCAPCD became the Mojave Desert Air Quality Management District (MDAQMD) by act of the California Legislature. In 1994, MDAQMD added portions of Riverside County, the Palo Verde Valley, and Blythe. The SBCAPCD rules remain in effect after July 1, 1993 until the MDAQMD rescinds or supersedes them. The rules being proposed for recision by MDAQMD were originally adopted by SBCAPCD for the purpose of controlling emissions from orchard heaters. In the spring of 1995, the MDAQMD conducted a survey of affected industry to determine if Class I and Class II orchard heaters were still in use. The survey determined that no known facility within the MDAQMD uses this antiquated technology. Wind machines are currently used to protect crops from frost. Therefore, the recision of SBCAPCD Regulation VI by MDAQMD does not relax the SIP control strategy.

On July 12, 1990, EPA approved TCAPCD Rule 4.9, Specific Contaminants, and Rule 4.14, Fuel Burning Equipment (Operational), for incorporation into the SIP. Rule 4.13, Fuel Burning Equipment, is submitted for recision, since Rules 4.9 and 4.14 provide regulation of the same pollutant emissions. Rule 4.9 regulates SOX and combustion contaminant (particulate matter) emissions by limiting the respective concentrations in the gas, instead of by absolute quantities of emissions. Rule 4.14 regulates NOX emissions by limiting the concentration in the gas, instead of by absolute quantity of emissions. SIP-approved Rules 4.9 and 4.14 strengthen the SIP relative to Rule 4.13, except for large fuel burning equipment with a capacity in excess of about 500 million British Thermal Units per hour. The TCAPCD does not have larger capacity sources; therefore, the recision of TCAPCD rule 4.13 does not relax the SIP control strategy.

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 rule recisions being acted on in this document. This document addresses EPA's direct-final action for approving the recision of SBCAPCD Regulation VI, which includes Rules 100–104, 109, 110, 120, and 130–137. The recision was adopted June 24, 1996 by MDAQMD. This submittal was found to be complete on August 12, 1997, pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51 Appendix V.[1] These rules are being proposed for recision from the SIP. This document also addresses EPA's proposed action approving the recision of TCAPCD Rule 4.13. The recision was adopted by TCAPCD September 10, 1985. This rule is being proposed for recision from the SIP. The following is EPA's evaluation and final action for these rules.

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 strengthen the SIP or maintain the SIP's control strategy.

EPA has evaluated the submitted rule recisions and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, the recision of SBCAPCD Regulation VI, Rules 100–104, 109, 110, 120, and 130–137 and TCAPCD Rule 4.13 are being approved under section 110(k)3 of the CAA as meeting the requirements of section 110(a) and part D.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment 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 July 12, 1999 without further notice unless the Agency receives relevant adverse comments by June 14, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal 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 July 12, 1999 and no further action will be taken on the proposed recisions.

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

[1] 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).

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 is 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.

G. Submission to Congress and the Comptroller General

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).

H. 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 July 12, 1999. 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: April 9, 1999.

David P. Howekamp,

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 F—California

2. Section 52.220 is amended by adding paragraphs (b)(3)(ii) and (c)(6)(xv)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(b) * * *

(3) * * *

(ii) Previously approved on May 31, 1972 and now deleted without replacement Rule 4.13.

* * * * *

(c) * * *

(6) * * *

(xv) * * *

(B) Previously approved on September 22, 1972 and now deleted without replacement Rules 100 to 104, 109, 110, 120, and 130 to 137.

* * * * *

[FR Doc. 99–11825 Filed 5–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 069–1069a; FRL–6340–3]

Approval and Promulgation of Implementation Plans and Approval Under Section 112(l); State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking final action to approve two State Implementation Plan (SIP) revisions submitted by the state of Iowa. These revisions will strengthen the SIP with respect to attainment and maintenance of established air quality standards and with respect to hazardous air pollutants (HAP). The effect of this action is to ensure Federal enforceability of the state's air program rule revisions.

DATES: This direct final rule is effective on July 12, 1999 without further notice, unless EPA receives adverse comment by June 14, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be addressed to Wayne A. Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

Copies of the state submittal are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is a SIP?

What is the Federal approval process for a SIP?

What does Federal approval of a state regulation mean to me?

What is approval under section 112(l)?

What is being addressed in this notice?

What action is EPA taking?

What is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to EPA for approval and incorporation into the Federally enforceable SIP.

Each Federally approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to EPA for inclusion into the SIP. EPA must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by EPA.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled ''Approval and Promulgations of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that EPA has approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, EPA is authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in the CAA.

What Is Approval Under Section 112(l)?

Section 112(l) of the CAA provides authority for EPA to implement a program to regulate HAPs, and to subsequently delegate authority for this program to the states. EPA has delegated authority for this program to Iowa and has approved relevant state HAP rules under this authority. In this action, EPA is approving revisions to the section 112(l) approved state rules.

What Is Being addressed in This Notice?

The Iowa Department of Natural Resources (IDNR) revised a number of its rules in order to maintain equivalency with Federal requirements and to adopt hospital/medical/infectious waste incinerator regulations. The revisions include an update to the definitions rule, to the permitting rules, and to the testing and monitoring rule. The state also adopted by reference the revised Federal National Ambient Air Quality Standards promulgated on July 15, 1997.

The revised rule chapters are: Chapter 20, ''Scope of Title-Definitions-Forms-Rules of Practice''; Chapter 22, ''Controlling Pollution''; Chapter 23,