

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 that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting should do so at this time.

**DATES:** To be considered, comments must be received by February 18, 2000.

**ADDRESSES:** Written comments on this action should be addressed to Randy Terry at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day and reference files TN-156-9934 and TN 146-9935. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Department of Environment and Conservation, 9th Floor L & C Annex, 401 Church St, Nashville, TN 37243-1531

Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Randy Terry, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303. The telephone number is (404) 562-9032.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: August 26, 1999.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*  
[FR Doc. 00-963 Filed 1-18-00; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[FL-74-1-9941b; FRL-6524-8]

#### Approval and Promulgation of Implementation Plans Florida: Approval of Revisions to the Florida State Implementation Plan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to approve a revision to the Florida State Implementation Plan (SIP) submitted on December 26, 1996, by the State of Florida through the Florida Department of Environmental Protection (FDEP). This source-specific revision amends the SIP to include a variance granted to the Harry S. Truman Animal Import Center (HSTAIC) for its incinerator facility located in Monroe County, Florida. The variance allows HSTAIC to operate under the particulate matter standard applicable to biological waste combustion facilities.

In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision 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 in relation to this proposed rule. If 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 on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** To be considered, comments must be received by February 18, 2000.

**ADDRESSES:** Written comments on this action should be addressed to Joey LeVasseur at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file FL-61-2-9823. The Region 4 office may

have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

**FOR FURTHER INFORMATION CONTACT:** Joey LeVasseur at 404/562-9035 (E-mail: levasseur.joey@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: January 3, 2000.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 00-1087 Filed 1-18-00; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA184-0212; FRL-6526-2]

#### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District, South Coast Air Quality Management District, San Diego County Air Pollution Control District, and Monterey Bay Unified Air Pollution Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from automobile refinishing, coating and ink manufacturing and use of cutback asphalt.

The intended effect of proposing approval of these rules is to regulate emissions of VOCs 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. EPA has evaluated each of these rules and is proposing to approve them 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:** Comments must be received on or before February 18, 2000.

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

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also 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, S.W., Washington, D.C. 20460

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

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109

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

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123

**FOR FURTHER INFORMATION CONTACT:**

Andrew Steckel, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1185.

**SUPPLEMENTARY INFORMATION:**

**I. Applicability**

The rules being proposed for approval into the California SIP include: Bay Area Air Quality Management District (BAAQMD) Rule 8.45—Motor Vehicle and Mobile Equipment Coating Operation, South Coast Air Quality Management District (SCAQMD) Rule 1151—Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operation, San Diego County Air Pollution Control District (SDCAPCD) Rule 67.19—Coatings and Printing Inks Manufacturing Operations, and Monterey Bay Unified Air Pollution Control District (MBUAPCD) Rule 425, Use of Cutback Asphalt. These rules were submitted by the California Air Resources Board (CARB) to EPA on August 1, 1997, February 16, 1999, October 18, 1996, and June 3, 1997 respectively.

**II. Background**

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act), that included the San Francisco Bay Area, the South Coast Air Basin, San Diego County, and the North Central Coast Air Basin. 43 FR 8964; 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the above districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies. Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.<sup>1</sup> EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The San Francisco Bay Area, the South Coast Air Basin, and the San Diego Area are all designated nonattainment and are subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on August 1, 1997 (8.45), February 16, 1999 (1151), October 18, 1996 (67.19) and June 3, 1997 (425) including the rules being acted on in this document. This document addresses EPA's proposed action for BAAQMD Rule 8.45—Motor Vehicle and Mobile Equipment Coating Operations, SCAQMD Rule 1151—Motor Vehicle and Mobile Equipment

<sup>1</sup> Among other things, pre-amendment guidance includes those portions of the proposed post-1987 ozone and carbon monoxide policy concerning RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register document" (notice of availability published in the Federal Register on May 25, 1988); and existing control technique guidelines (CTGs).

Non-Assembly Line Coating Operations, SDCAPCD Rule 67.19—Coatings and Printing Inks Manufacturing Operations and MCAPCD Rule 425—Use of Cutback Asphalt. BAAQMD amended Rule 8.45 on November 6, 1996, SCAQMD amended Rule 1151 on December 11, 1998, SDCAPCD amended Rule 67.19 on May 15, 1996 and MBUAPCD adopted Rule 425 on March 26, 1997. These submitted rules were found to be complete on May 6, 1997 (8.45), April 23, 1999 (1151), December 19, 1996 (67.19) and September 5, 1997 (425). Pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V and are being proposed for approval into the SIP.

BAAQMD's Rule 8.45 and SCAQMD's Rule 1151 control emissions of VOCs from the refinishing of automobiles, SDCAPCD's Rule 67.19 controls the emissions of VOCs produced in the manufacturing process of coatings and printing inks, and MBUAPCD's Rule 425 controls VOCs from use of cutback asphalt. VOCs contribute to the production of ground-level ozone and smog. The rules were adopted as part of each district's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for these rules.

**III. EPA Evaluation and Proposed Action**

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions in nonattainment areas. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other

Agency policy, for requiring States to “fix-up” their RACT rules. See section 182(a)(2)(A). The CTG applicable to Rule 425 is entitled, Control of Volatile Organic Compounds from Use of Cutback Asphalt. EPA-450/2/77/037, December 1977. Rules 8.45, 1151, 67.19 control VOCs from source categories for which EPA has not issued a Control Techniques Guideline (CTG). Therefore these rules were evaluated against the general RACT requirements of the Clean Air Act (section 110 and part D), 40 CFR part 51, *Issues relating to VOC Regulation Cutpoints, Deficiencies, and Deviations—Clarifications to Appendix D of November 24, 1978 Federal Register: May 25, 1988* (EPA’s Blue Book) and other EPA policy including the EPA Region 9/CARB document entitled, *Guidance Document for Correcting VOC Deficiencies*. Additionally, Rule 67.19 was evaluated against the technical guidance document, entitled “Control of VOC Emissions from Ink and Paint Manufacturing Processes”—EPA-450/3/92-013, April 1992, and compared for consistency with rules from other districts for the same source category. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

On December 23, 1997, EPA approved into the SIP a version of Rule 8.45—Motor Vehicle and Mobile Equipment Coating Operations that had been adopted by BAAQMD on December 20, 1995. BAAQMD’s submitted Rule 8.45 Motor Vehicle and Mobile Equipment Coating Operations includes the following significant changes from the current SIP:

- Section 231, Volatile Organic Compounds, was amended by adding acetone, parachlorobenzotrifluoride (PCBTF), and cyclic, branched, or linear, fullymethylated siloxanes (VMS) to the list of exempt compounds in conformance with EPA and CARB action.

- Section 601, “Analysis of Samples” was amended by adding BAAQMD method 41 to analyze samples containing PCBTF, and BAAQMD method 43 to analyze samples containing VMS.

- Section 602, “Determination of Emissions” was amended by adding the following sentence: For the purpose of determining abatement device efficiency, any acetone, PCBTF or VMS shall be included as a VOC.

On August 13, 1999, EPA approved into the SIP a version of Rule 1151—Motor Vehicles and Mobile Equipment Non-Assembly Line Coating Operations that had been adopted by SCAQMD on

June 13, 1997. SCAQMD’s submitted Rule 1151—Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations includes the following significant changes from the current SIP:

- Effective December 12, 1998 and until April 1, 1999 the Group II multistage topcoat composite VOC limit was raised to 4.5 lbs/gal. The pre-December 12, 1998 limit of 3.5 lbs/gal limit was reinstated on April 1, 1999.

- A 10% usage limitation on a monthly basis was added for specialty coatings.

- Expanded the prohibition of sale clause.

- Added the requirement that manufacturers must offer for sale by January 1, 1999 clearcoats having VOC content of 2.1 lbs/gal or less.

- Added an exemption for topcoats applied to prototype motor vehicles.

There is currently no version of SDCAPCD’s Rule 67.19—Coatings and Printing Inks Manufacturing Operations in the SIP. The submitted Rule includes the following provisions:

- Applicability section.
- Exemption for sources emitting less than 15 lbs/day.

- Sources emitting less than 50 tons/year are exempted from the requirements of emission control systems.

- Storage tanks of less than 550 gal capacity, or those used exclusively for epoxies or water based coatings are exempted from the requirement of submerged fill pipes.

- A definition section.

- Equipment and workmanship standards.

- Option to comply by using abatement equipment.

- Record keeping provisions, and
- Test methods.

Earlier versions of this rule were adopted on June 7, 1994, and March 7, 1995. While EPA can only act on the most recently submitted version, EPA reviewed relevant materials associated with the superceded versions.

On February 5, 1996, EPA approved into the SIP a version of Rule 425—Use of Cutback Asphalt that had been adopted by MBUAPCD on August 25, 1993. MBUAPCD’s submitted Rule 425—Use of Cutback Asphalt includes the following significant changes from the current SIP:

- Use of the term “petroleum solvent” is now used consistently throughout the rule. Prior to this revision, the term organic solvents and petroleum solvents were used interchangeably leading to confusion in the implementation and enforcement of the rule. The rule has been revised to enhance clarity.

- An additional change was made to the “effective date” section. The rule as revised is now effective on the date of adoption.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, BAAQMD Rule 8-45—Motor Vehicle and Mobile Equipment Coating Operations, SCAQMD Rule 1151—Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations, SDCAPCD Rule 67.19—Coatings and Printing Inks Manufacturing Operations, and MBUAPCD Rule 425—Use of Cutback Asphalt are being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

#### IV. Administrative Requirements

##### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 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 Executive Order 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 Executive Order 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 Executive Order 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 Executive Order 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, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

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

Dated: January 7, 2000.

**Felicia Marcus,**

*Regional Administrator, Region IX.*

[FR Doc. 00-1212 Filed 1-18-00; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[IN 116-1b; FRL-6522-2]

### Approval and Promulgation of Implementation Plans; and Designation of Areas for Air Quality Planning Purposes; Indiana

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a December 21, 1999, request from Indiana for redesignation of the carbon monoxide (CO) nonattainment areas in Lake and Marion Counties, Indiana to attainment of the CO national ambient air quality standards (NAAQS). The EPA is also proposing approval of the plans for maintaining the CO standard in the portions of these counties currently designated as not attaining the CO NAAQS. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision, as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we receive no adverse comments in response to that direct final rule we plan to take no further activity in relation to this proposed rule. If EPA receives significant adverse comments, in writing, which have not been addressed, we will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

**DATES:** Written comments must be received on or before February 18, 2000.

**ADDRESSES:** Send written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs