

to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). EPA has made such a good cause finding, including the reasons therefor, and established an effective date of June 5, 2003. 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 rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 4, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which 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, Intergovernmental regulations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 28, 2003.

Alexis Strauss,

Acting Regional Administrator, Region IX.
[FR Doc. 03-13882 Filed 6-4-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA275-0393a; FRL-7495-1]

Revisions to the California State Implementation Plan, Bay Area Air Quality Management District; San Diego 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 Bay Area Air Quality Management District (BAAQMD) and San Diego County Air Pollution Control District (SDCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from organic liquid storage, equipment leaks at petroleum refineries, and wood product coating operations. 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 4, 2003, without further notice, unless EPA receives adverse comments by July 7, 2003. 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:

Air and Radiation Docket and Information Center, U.S.

Environmental Protection Agency, Room B-102, 1301 Constitution Avenue, NW., (Mail Code 6102T), Washington, DC 20460;
California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814;
Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109; and,
San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbltx.htm>. Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, EPA Region IX, (415) 947-4111.

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 rule revisions?
- II. EPA's Evaluation and Action
 - A. How is EPA evaluating the rules?
 - B. Do the rules meet the evaluation criteria?
 - C. EPA recommendations to further improve the rules
 - D. Public comment and final action
- III. Background Information
 - Why were these rules submitted?
- IV. Stationary and Executive Order Reviews

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 California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

| Local agency | Rule No. | Rule title | Adopted | Submitted |
|---------------|----------|---|----------|-----------|
| SDCAPCD | 67.11.1 | Large Wood Product Coating Operations | 09/25/02 | 11/19/02 |
| BAAQMD | 8-5 | Storage of Organic Liquids | 11/27/02 | 01/21/03 |
| BAAQMD | 8-18 | Equipment Leaks | 11/27/02 | 01/21/03 |

EPA found that these rule submittals met the completeness criteria in 40 CFR part 51, appendix V on February 7, 2003. These completeness criteria must

be met before formal EPA review may begin.

B. Are There Other Versions of These Rules?

We approved versions of BAAQMD Rule 8-5 and 8-18 into the SIP on October 10, 2001 (see 66 FR 51568).

Between these SIP incorporations and today, CARB has made no intervening submittals of these BAAQMD rules. SDCAPCD Rule 67.11.1 has not been approved into the SIP.

C. What Is the Purpose of the Rule Revisions?

SDCAPCD Rule 67.11.1, Large Wood Product Coating Operations, is a rule designed to reduce volatile organic compound (VOC) emissions at industrial sites engaged in preparing and coating wood products such as furniture, cabinets, shutters, frames, and art objects. The rule applies to these industrial sites emitting 25 tons per year or more of VOCs. The provisions of this rule apply to any person who applies, specifies the use of, or supplies coatings for the surface preparation and coating of these wood products.

BAAQMD Rule 8.5, Storage of Organic Liquids is a rule designed to reduce volatile organic compound (VOC) emissions at industrial sites engaged in storing or transferring organic liquids. VOCs are emitted from containment vessels such as tanks and transfer lines due to the high vapor pressure of the processed crude oil and organic liquids.

BAAQMD's November 27, 2002 amendments to Rule 8.5 included significant changes to the 2001 SIP version. While some were editorial, BAAQMD made many of these changes either to correct the deficiencies cited in EPA's October 2001 limited disapproval, or to implement Measure SS-12 from the 2001 Ozone Attainment Plan. Editorial changes included reformatting the section on control requirements, deleting ambiguous or misleading terms, and certain rule sections were relocated to allow for the revised rule's structure. Substantive changes to the rule are described in detail within our TSD and its attached BAAQMD Staff Report.

BAAQMD Rule 8.18, Equipment Leaks is a rule designed to reduce volatile organic compound (VOC) emissions at petroleum refineries by reducing leaking in valves, flanges, connectors, pumps, compressors, and pressure relief valves. Rule 8.18 defines what constitutes a leak and prohibits use of that component until the component is repaired. The rule also specifies inspection schedules for pumps, compressors, and valves.

BAAQMD's November 27, 2002 amendments to Rule 8.18 included limited but significant changes to the 2001 SIP version. BAAQMD made these changes to correct the deficiencies cited in EPA's October 2001 limited disapproval.

—Section 8-18-405 was amended to require that alternative compliance plans be submitted to EPA and approved by EPA prior to action by the Air Pollution Control Officer (APCO).

—Section 8-18-406 was amended to require that a facility comply with all rule requirements until an alternative compliance plan is approved by both EPA and the APCO.

The subject TSD has more information about each rule.

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(l) and 193). The BAAQMD and SDCAPCD regulate an ozone nonattainment area (*see* 40 CFR part 81), so each of the subject rules must fulfill RACT.

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

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

—“Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (the Bluebook);

—“Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (the Little Bluebook);

—“Guideline Series: Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations,” USEPA, April, 1996;

—“Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks,” EPA-450/2-78-047, USEPA, December 1978; and

—“Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks,” EPA-450/2-77-036, USEPA, December 1977.

B. Do the Rules Meet the Evaluation Criteria?

We believe SDCAPCD Rule 67.11.1, BAAQMD Rule 8-5, and BAAQMD Rule 8-18 are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations.

Both BAAQMD Rule 8-5 and Rule 8-18 were subjects of a limited approval and limited disapproval in our October

10, 2001 rulemaking. We believe that the deficiencies that provided cause for our limited disapproval have been corrected.

Specifically, Rule 8-5 corrected the deficiencies related to its inconsistency with EPA's Excess Emission Policy. These deficiencies are described below.

—Revise Rule 8-5 to define “stock change”, “tank cleaning”, and “temporary removal from service” within Section 8-5-111.

—Revise Rule 8-5 to define “roof repair” and “primary seal inspection” within Section 8-5-112.

—Clarify the language in sections 8-5-111 and 8-5-112 to be consistent with the Excess Emissions Policy. Also, demonstrate via a discussion within the Staff Report how these sections are consistent with the policy's requirement that use of the control measure is technically infeasible during the startup and shutdown periods described by these exemptions.

BAAQMD addressed these deficiencies with revisions to Sections 8-5-111, 8-5-112, and added definitions. We believe that these amendments are sufficient to make the rule consistent with the Excess Emissions Policy. Prior to relaxing the control requirements of the rule via the exemptions, sources are required to notify the APCO and explain the work required, why rule requirements must be relaxed, and how they will minimize emissions during the shutdown, repair, or inspection. Given prior notification, the APCO may observe or inspect the work that proceeds under the exemption.

BAAQMD corrected the deficiencies within Rule 8-18 related to “director's discretion” by making the revisions described earlier to sections 8-18-405 and 8-18-406.

C. EPA Recommendations to Further Improve the Rules

The TSD for SDCAPCD Rule 67.11.1 describes additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rules.

D. 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 7, 2003, we will

publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we 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 4, 2003. This action will incorporate these rules into the federally enforceable SIP and terminate permanently all sanction and Federal Implementation Plan obligations associated with our October 10, 2001 limited disapproval action.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Background Information

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. Stationary and Executive Order Reviews

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. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). 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 approves 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 (Pub. L. 104-4).

This rule also does not have tribal implications because it will 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). This action also does not have Federalism implications because it does not 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). This action 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 "Protection of Children from Environmental Health Risks and Safety Risks" (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. 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 4, 2003. 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 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 28, 2003.

Alexis Strauss,

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 (c)(307)(i)(C)(2) and (c)(312) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(307) * * *
(i) * * *
(C) * * *

(2) Rule 67.11.1, adopted on September 25, 2002.

* * * * *

(312) New and amended rules for the following districts were submitted on January 21, 2003, by the Governor's designee.

(i) Incorporation by reference.

(A) Bay Area Air Quality Management District.

(1) Rules 8.5 and 8.18, amended on November 27, 2002, and adopted on January 1, 1978 and October 1, 1980, respectively.

* * * * *

[FR Doc. 03-13883 Filed 6-4-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[DC042-2031a; FRL-7507-4]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Determining Conformity of Federal Actions to State or Federal Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on a State Implementation Plan (SIP) revision submitted by the District of Columbia. The revision includes the District's regulation for conformity, which sets forth policy, criteria and procedures for demonstrating and assuring conformity of transportation and non-transportation related Federal actions to state or Federal implementation plans. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on August 4, 2003 without further notice, unless EPA receives adverse written comment

by July 7, 2003. If EPA receives such comments, it 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: Written comments should be addressed to Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the District of Columbia Department of Public Health, Air Quality Division, 51 N Street, N.E., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Kathleen Anderson, (215) 814-2173, or by e-mail at anderson.kathleen@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

On December 16, 1998, the District of Columbia Department of Health (DCDH) submitted a revision consisting of the District's regulation for determining conformity of Federal actions to state or Federal implementation plans (DCMR Chapter 4, section 403.1). The purpose of this SIP revision is to meet the requirements of 40 CFR part 51, subpart W, which requires states to submit a plan revision containing criteria and procedures for assessing the conformity of Federal actions to the applicable implementation plan. Subpart W is also known as the General Conformity Rule. It pertains to non-transportation related Federal actions.

II. Summary of SIP Revision

The District's regulation at 20 DCMR Chapter 4, section 403.1 incorporates by reference the Federal regulations at 40 CFR part 93, in effect as of September 30, 1997, which establishes requirements for determining conformity of both general and transportation related Federal actions to state or Federal implementation plans. Under 40 CFR part 51, subpart W, states are only required to have SIP-approved general conformity regulations. By incorporating by reference all of 40 CFR part 93, the District has adopted and submitted as a SIP revision a rule that includes regulations for determining conformity of general as well as transportation-related Federal actions.

40 CFR part 51, subpart W and 40 CFR part 93 were promulgated to implement section 176(a) of the Clean

Air Act (CAA), as amended (42 U.S.C. 7401 *et seq.*), which requires that all Federal actions conform to applicable air quality implementation plans. The Federal conformity rule in 40 CFR part 93 establishes standards and procedures to follow when evaluating the conformity of Federal projects to all applicable implementation plans developed pursuant to section 110 and part D of the CAA. This rule only applies to areas designated as nonattainment or maintenance under the CAA. By adopting a rule that incorporates by reference 40 CFR part 93, and submitting this rule to EPA as a SIP revision, the District has satisfied the requirement to submit a plan revision containing criteria and procedures for assessing the conformity of Federal actions to the applicable implementation plan.

III. Final Action

EPA is approving as a SIP revision the District's regulation at Title 20, DCMR Chapter 4, Section 403.1, Determining Conformity of Federal Actions to State or Federal Implementation Plans, submitted as a SIP revision on December 16, 1998.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on August 4, 2003 without further notice unless EPA receives adverse comment by July 7, 2003. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Statutory and Executive Order Reviews**A. General 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. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May