§ 165. 715 Regulated Navigation Areas; Charleston Harbor, Cooper River, S.C.

(a) *Location*—(1) *Highway 17 bridges.* A regulated navigation area is established for the waters around the Highway 17 bridges, to encompass all waters of the Cooper River within a line connecting the following points: 32° 48.23′N, 079° 55.3′W; 32° 48.1′N, 079° 54.35′W; 32° 48.34′N, 079° 55.25′W; 32° 48.2′N, 079° 54.35′W, then back to the point of origin.

(2) *Interstate 526 bridge (Don Holt bridge).* Another fixed regulated navigation area is established for the waters around the Interstate 526 bridge spans (Don Holt bridge) in Charleston Harbor and on the Cooper River encompassing all waters within a line connecting the following points: 32° 53.49′N, 079° 58.05′W; 32° 53.42′N, 079° 57.48′W; 32° 53.53′N, 079° 58.05′W; 32° 53.47′N, 079° 57.47′W, then back to the point of origin. All coordinates reference 1983 North American Datum (NAD 83).

(b) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, vessels are allowed to transit through these regulated navigation areas but are prohibited from mooring, anchoring, or loitering within these zones unless specifically authorized by the Captain of the Port.

(2) All vessel operators shall comply with the instructions of the Captain of the Port or designated on-scene Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard.

Dated: July 29, 2003.

F.M. Rosa,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 03–20196 Filed 8–7–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 259–0368; FRL–7542–2]

Revisions to the California State Implementation Plan, Yolo Solano, Bay Area, and Mojave Desert Air Quality Management Districts and Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the Yolo Solano (YSAQMD), Bay Area (BAAQMD), and Mojave Desert (MDAQMD) Air Quality Management Districts' and to the Monterey Bay Unified (MBUAPCD) Air Pollution Control District's portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from architectural coatings. In accordance with the Clean Air Act as amended in 1990 (CAA or the Act), we are proposing action on local rules that regulate these emission sources. We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by September 8, 2003.

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:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Yolo-Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, CA 95616–4882.

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109–7799.

Mojave Desert Air Quality Management District, 14306 Park Avenue, Victorville, CA 92392–2310.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940–6536.

A copy of the rules may also be available via the Internet at *http://www.arb.ca.gov/drdb/drdbltxt.htm.* Please be advised that this is not an EPA website and may not contain the same version of the rules that were submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, EPA Region IX, (415) 947–4117.

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?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agencies and submitted to us by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local Agency	Rule #	Rule title	Adopted	Submitted
YSAQMD	2.14	Architectural Coatings	11/14/01	01/22/02
BAAQMD	8–3	Architectural Coatings	11/21/01	06/18/02
MDAQMD	1113	Architectural Coatings	02/24/03	04/01/03
MBUAPCD	426	Architectural Coatings	04/17/02	06/18/02

On February 27 and July 23, 2002 and May 13, 2003, these rule submittals were found to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

We approved versions of YSAQMD Rule 2.14, BAAQMD Rule 8–3, and MBUAPCD Rule 426 into the SIP on July 1, 1982, February 18, 1998, and March 24, 2000, respectively. We approved versions of Rule 1113 on June 9, 1982 and January 24, 1985 for various portions of California before those portions were unified as the MDAQMD on July 1, 1993. The YSAQMD, BAAQMD, MDAQMD, and MBUAPCD adopted revisions to the SIP-approved

versions of these rules on November 14, 2001, November 21, 2001, February 24, 2003, and April 17, 2002, respectively. CARB submitted the YSAQMD rule revision to us on January 22, 2002, the BAAQMD and MBUAPCD rule revisions on June 18, 2002, and the MDAQMD revision on April 1, 2003. The YSAQMD rule revision submitted on January 22, 2002 contained errors and omissions and a correct version of the rule was forwarded to us on January 21, 2003.

C. What Is the Purpose of the Submitted Rule Revisions?

The rule revisions primarily modify the rules for consistency with the Suggested Control Measure for Architectural Coatings (SCM). The SCM is a model rule developed by CARB which seeks to provide statewide consistency for the regulation of architectural coatings. The recommended VOC content limits and other provisions of the SCM are the results of an extensive investigation of architectural coatings which included a statewide survey of architectural coatings sold in California and several technology assessments. CARB adopted the SCM on June 22, 2000. The TSDs have more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (*see* section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) in moderate to extreme nonattainment areas for VOC sources covered by a Control Technique Guideline (CTG) and for major sources in nonattainment areas (*see* section 182(a)(2)(A)), must not relax requirements adopted before the 1990 CAA amendments in nonattainment areas (section 193), and must not interfere with attainment, reasonable further progress or other applicable requirements of the CAA (section 110(1)). The YSAQMD and BAAQMD regulate ozone nonattainment areas (*see* 40 CFR part 81), however, because these rules, including MDAQMD and MBUAPCD's, regulate sources that are not covered by a CTG and that are nonmajor area sources, they are not subject to CAA RACT requirements.

Guidance and policy documents that we used to help evaluate these revised rules to ensure enforceability and compliance with other CAA requirements include the following:

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

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook).

3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

4. National Volatile Organic Compound Emission Standards for Architectural Coatings, September 11, 1998 (40 CFR part 59, Subpart D).

5. ''Suggested Control Measure for Architectural Coatings,'' CARB, June 22, 2000.

6. ''Improving Air Quality with Economic Incentive Programs,'' EPA–452/R–01–001, EPA, January 2001 (the EIP).

B. Do the Rules Meet the Evaluation Criteria?

These rules improve the SIP by establishing more stringent emission limits and by clarifying labeling and reporting provisions. They are largely consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. Provisions of the rules which do not meet the evaluation criteria are summarized below and discussed further in the TSDs.

C. What Are the Rules' Deficiencies?

These rules were all based on the same model—the SCM—and, as a result, contain many of the same rule deficiencies. The deficiencies relate to the averaging provisions incorporated into these rules. While we believe the VOC limits contained in these rules to be feasible and substantiated by a significant investigation of architectural coatings, the averaging provisions provide a valuable alternative compliance mechanism for the VOC limits contained in these rules and may reduce the overall economic impact of compliance with the VOC limits on manufacturers. We have identified five specific problems with these provisions. The first four could be addressed through relatively minor changes to the averaging provisions which we have described below. The fifth could also be addressed by relatively minor changes or by clarification of the State's authority. The following provisions common to YSAQMD Rule 2.14, BAAQMD Rule 8–3, MDAQMD Rule 1113, and MBUAPCD Rule 426 conflict with section 110 of the Act and prevent full approval of the SIP revisions.

1. The rules allow for the sell-through of coatings included in approved averaging programs. Because emissions from coatings sold under the sell-through provision cannot be distinguished based on the information explicitly required to be maintained under the rule from emissions from coatings sold under an averaging program, the enforceability of the rules may be compromised by manufacturers claiming that a certain portion of emissions from coatings sold under the sell-through provision should be excluded from averaged emissions. One way to correct this is to clarify that manufacturers with an approved averaging program cannot also use the sell-through provision.

2. The provisions of the averaging compliance option that require manufacturers to describe the records being used to calculate emissions are not specific enough to verify compliance with the rules and represent executive officer discretion. More specificity as to the types of suitable records is needed to verify compliance with the averaging compliance option.

3. The rules' language regarding how violations of the averaging compliance option shall be determined is ambiguous. The language should be clarified to specify that ''an exceedance for each coating that is over the limit shall constitute a separate violation for each day of the compliance period.''

4. The rules allow manufacturers to average coatings based on statewide or district-specific data which makes enforceability more difficult and conflicts with other rule provisions which imply that averaging will only be implemented by CARB and conducted on a statewide basis. The rules should clarify whether emissions from averaging programs will be calculated using statewide or district-specific data.

5. The rules grant the Executive Officer of CARB authority to approve or disapprove initial averaging programs, program renewals, program modifications, and program terminations. This raises jurisdictional issues which could create enforceability problems since CARB has not been granted authority by the state Legislature under the California Health and Safety Code to regulate architectural coatings.

D. EPA Recommendations to Further Improve the Rules

The TSDs describe additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agencies modify the rules.

E. Proposed Action and Public Comment

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is proposing a limited approval of the submitted rules to improve the SIP. If finalized,

this action would incorporate the submitted rules into the SIP, including those provisions identified as deficient. This approval is limited because EPA is simultaneously proposing a limited disapproval of the rules under section 110(k)(3). If this disapproval is finalized, sanctions for the BAAQMD and YSAQMD will be imposed under section 179 of the Act unless EPA approves subsequent SIP revisions that correct the rules' deficiencies within 18 months. These sanctions would be imposed according to 40 CFR 52.31. A final disapproval would also trigger the federal implementation plan (FIP) requirement under section 110(c). MDAQMD and MBUAPCD do not regulate nonattainment areas, so the sanction and FIP implications do not apply. Note that the submitted rules have been adopted by the districts and EPA's final limited disapproval would not prevent the local agencies from enforcing them.

All of the identified deficiencies are associated with the averaging programs in these rules which sunset on January 1, 2005. If we finalize this notice as proposed, the effective date of our action will be after July 1, 2003 and would trigger CAA § 179 sanction clocks that expire 18 and 24 months later. However, we believe that sunsetting the averaging programs effectively corrects all the deficiencies associated with averaging, and revisions to these rules is not needed to avoid associated sanctions.

We will accept comments from the public on the proposed limited approval and limited disapproval for the next 30 days. EPA proposed a similar limited approval and limited disapproval for three other California architectural coating rules on September 20, 2002 (67 FR 59229). While the seven California rules are very similar, we divided them into two proposed actions for internal administrative and workload management reasons. While we received significant negative public comment on the September 20, 2002 proposal, we have not finalized the September 20, 2002 proposal and today's proposal should not be construed as responsive to comments received on the previous proposal. We intend to act on the seven rules consistently, so any comments submitted on the September 20, 2002 proposal will be considered before finalizing action on today's proposal.

III. Background Information

A. Why Were These Rules Submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. EPA has established a National Ambient Air Quality Standard (NAAQS) for ozone. Section 110(a) of the CAA requires states to submit regulations necessary to achieve the NAAQS. Table 2 lists some of the national milestones leading to the submittal of these local agencies' 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.

IV. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Paperwork Reduction Act

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.*).

C. 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 rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and title 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).

D. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995, 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 costs to State, local, or tribal governments in the aggregate, or to the 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 proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve 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.

E. Executive Order 13132, Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will 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, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination with Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, 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. Thus, Executive Order 13175 does not apply to this rule.

EPA specifically solicits additional comment on this proposed rule from tribal officials.

H. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045 (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 and is not ''economically significant'' under Executive Order 12866.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

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

Dated: July 29, 2003.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 03–20306 Filed 8–7–03; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–2346; MB Docket No. 03–168, RM–10747; MB Docket No. 03–169, RM–10748]

Radio Broadcasting Services; Crowell, TX and Florien, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Audio Division requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 293C3 at Crowell, Texas, as the community's first local aural transmission service. Channel 293C3 can be allotted to Crowell in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.7 kilometers (6.6 miles) west to avoid a short-spacing to the application site of Station KBZS, Channel 292C2, Wichita, Texas. The reference coordinates for Channel 293C3 at Crowell are 34–01–11 North Latitude and 99–49–53 West Longitude. The Audio Division also requests comments on a petition filed by Charles Crawford proposing the allotment of Channel 242A at Florien, Louisiana, as the community's first local aural transmission service. Channel 242A can be allotted to Florien in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The reference coordinates for Channel 242A at Florien are 31–26–37 North Latitude and 93–27–26 West Longitude.

DATES: Comments must be filed on or before September 15, 2003, and reply comments on or before September 30, 2003.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Charles Crawford, 4553 Bordeaux Avenue, Dallas, Texas 75205.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket Nos. 03–168 and 03–169, adopted July 23, 2003, and released July 24, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW.,