

and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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.*).

#### *B. 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. Section 804 exempts from section 801 the following types of rules: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for one named source.

#### *C. 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 October 9, 2001. 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 approving the Commonwealth's source-specific RACT requirements to control NO<sub>x</sub> from Latrobe Steel 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, Hydrocarbons, Incorporation by reference, Nitrogen Oxides, Ozone, Reporting and record-keeping requirements.

Dated: August 1, 2001.

**Thomas C. Voltaggio,**

*Deputy Regional Administrator, Region III.*

40 CFR part 52 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 NN—Pennsylvania**

2. Section 52.2020 is amended by adding paragraph (c)(158) to read as follows:

##### **§ 52.2020 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(158) Revision pertaining to NO<sub>x</sub> RACT for the Latrobe Steel Company located in Latrobe Borough, Westmoreland County, submitted by the Pennsylvania Department of Environmental Protection on March 21, 1996.

(i) Incorporation by reference.

(A) Letter submitted on March 21, 1996 by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO<sub>x</sub> RACT determinations.

(B) Operating Permit 65-000-016, effective December 22, 1995, for the Latrobe Steel Company in Latrobe Borough, Westmoreland County, except for the specified Permit Term: 12/22/95-12/22/00.

(ii) Additional Materials—Other materials submitted by the

Commonwealth of Pennsylvania in support of and pertaining to the RACT determination for the source listed in (i)(B), above.

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

[CA179-0243a; FRL-7022-5]

#### **Revisions to the California State Implementation Plan, Kern County Air Pollution Control District and Imperial 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 Kern County Air Pollution Control District (KCAPCD) and the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are approving local rules that address general requirements for source sampling and continuous monitoring systems.

**DATES:** This rule is effective on October 9, 2001 without further notice, unless EPA receives adverse comments by September 10, 2001. 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:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington D.C. 20460.

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

Kern County Air Pollution Control District, 2700 "M" Street, Suite 302, Bakersfield, CA 93301-2370.

Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243-2801.

**FOR FURTHER INFORMATION CONTACT:** Stanley Tong, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 744-1191.

**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. Administrative Requirements

## 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 | Completeness ltr. |
|--------------|----------|------------------------|----------|-----------|-------------------|
| KCAPCD ..... | 108      | Stack Monitoring ..... | 05/02/96 | 07/23/96  | 10/30/96          |
| KCAPCD ..... | 108.1    | Source Sampling .....  | 05/02/96 | 07/23/96  | 10/30/96          |
| ICAPCD ..... | 109      | Source Sampling .....  | 09/14/99 | 05/26/00  | 10/06/00          |
| ICAPCD ..... | 110      | Stack Monitoring ..... | 09/14/99 | 05/26/00  | 10/06/00          |

Table 1 also provides the dates 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 a version of KCAPCD Rules 108 and 108.1 into the SIP for the Kern County Air Pollution Control District on July 6, 1982, and August 22, 1977, respectively. The KCAPCD adopted revisions to the SIP-approved version of Rule 108.1 on May 6, 1991 and CARB submitted them to us on May 30, 1991. The KCAPCD adopted additional revisions to Rule 108.1 on May 2, 1996 and CARB submitted them to us on July 23, 1996. While we can only act on the most recently submitted version, we have reviewed materials provided with previous submittals.

The previous version of ICAPCD Rules 109 and 110 were approved into the SIP for the Imperial County Air Pollution Control District on August 11, 1978 and February 3, 1989, respectively.

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

KCAPCD Rule 108 contains general requirements on the types of sources required to install continuous monitoring systems, the standards of performance, and the reporting and recordkeeping requirements for those systems. KCAPCD Rule 108.1 contains general requirements for preparing and performing stack sampling. ICAPCD Rule 109 contains general requirements for preparing to perform stack sampling. ICAPCD Rule 110 contains general requirements on the types of sources required to install continuous monitoring systems, the standards of

performance, and the reporting and recordkeeping requirements for those systems. The TSDs have more information about these rules.

## II. EPA’s Evaluation and Action

### A. How Is EPA Evaluating the Rules?

These rules describe general provisions that support emission monitoring and testing found in other local agency requirements. Generally, SIP rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). Guidance and policy documents that we used to define specific enforceability requirements include, “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice,” (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

### B. Do the Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. The TSDs have more information on our evaluation.

### C. 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 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 September 10, 2001, 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 October 9, 2001. This will incorporate these rules into the federally enforceable SIP.

## III. Background Information

### Why Were These Rules Submitted?

Section 110(a) of the CAA requires states to submit regulations that control volatile organic compounds, oxides of nitrogen, particulate matter, and other air pollutants which harm human health and the environment. These rules were developed as part of the local agency’s program to control these pollutants.

## IV. Administrative 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 32111, “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 (Public Law 104-4). This rule also does 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), nor will it 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), 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. This rule also is not subject to Executive Order 13045 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR

8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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 October 9, 2001. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compound.

Dated: July 17, 2001.

**Jane Diamond,**

*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)(239)(i)(C)(2) and (279)(i)(A)(4) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*  
(239) \* \* \*  
(i) \* \* \*  
(C) \* \* \*

(2) Rules 108 and 108.1 adopted on May 2, 1996.

\* \* \* \* \*

(279) \* \* \*  
(i) \* \* \*  
(A) \* \* \*

(4) Rules 109 and 110 adopted on September 14, 1999.

\* \* \* \* \*

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[PA101/178-4124a ; FRL-7030-7]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for Five Individual Sources in the Pittsburgh-Beaver Valley Area

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for five major sources of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

**DATES:** This rule is effective on September 24, 2001 without further notice, unless EPA receives adverse written comment by September 10, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register**