

6/7/8 or ASCII file and must be submitted to: ow-docket@epa.gov.

EPA is reopening the comment period for the following documents:

- DCN# 2-007 Energy Information Agency, Department of Energy Forms 860A and 860B-1998
- DCN# 2-010 Energy Information Agency, Department of Energy; Utility Data Institute; Form EIA-767 1994, 1997; Selected Tables from UDI Power Statistics
- DCN# 2-017A & All References Memo Re: Ecological Reasons Why Freshwater River and Reservoir Ecosystems Do Not Normally Experience Substantive Impact As a Result of Impingement and Entrainment (April 27, 2001)
- DCN# 2-018B R2 Computation and Interpretation of Biological Statistics of Fish Populations (1975)
- DCN# 2-019A & All References Memo Re: Scientific Literature On Population Modeling (April 27, 2001)
- DCN# 2-025E Fact Sheet for Draft NJPDES Permit Renewal Including Section 316(a) Variance Determination and Section 316(b) "BTA" Decision (June 24, 1993)
- DCN# 2-036C Draft Steam Plant Energy Penalty Evaluation (April 20, 2001)
- DCN# 2-041A Methods for Sampling Fish Communities as Part of the National Water Quality Assessment Program (1993)

Dated: June 29, 2001.

Diane C. Regas,

Acting Assistant Administrator for Water.
[FR Doc. 01-16949 Filed 7-5-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA245-0242; FRL-7008-4]

Revisions to the California State Implementation Plan, San Joaquin Valley 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 San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from the miscellaneous metal parts source category. We are proposing action on a local rule regulating these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by August 6, 2001.

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; and,

San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Street, Fresno, CA 93726.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 744-1226.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the date that it was adopted by the SJVUAPCD and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULE

Local agency	Rule #	Rule title	Adopted	Submitted
SJVUAPCD	4603	Surface Coating of Metal Parts and Products	09/21/00	12/11/00

On February 8, 2001, EPA found this rule submittal met the completeness criteria in 40 CFR part 51, appendix V. These criteria must be met before formal EPA review can begin.

B. Are there other versions of this rule?

We approved a version of Rule 4603 into the SIP on December 1, 1994. There are no extant submittals of Rule 4603 beyond the submittal in today's action.

C. What is the purpose of the submitted rule revisions?

SJVUAPCD Rule 4603 is a rule designed to reduce volatile organic compound (VOC) emissions at industrial sites engaged in metal coating

operations. VOCs are emitted during the preparation and coating of the metal parts, as well as the drying phase of the coating process. Rule 4603 establishes general emission limits of VOC per liter of coating less water and exempt compounds as applied and allows for the use of add-on emission controls with a combined capture/control efficiency of 90 percent.

SJVUAPCD's September 21, 2000 amendments to Rule 4603 included these significant changes to its 1994 SIP-approved version (adopted May 20, 1993):

—a definition for solid film lubricant was added (section 3.35);

—VOC content and viscosity requirements for dip coating and air drying of steel joists was added (sections 5.1.3.1 & 5.1.3.2);

—a specialty coating limit of 880 grams/liter for solid film lubricant was added (section 5.2); and,

—a recordkeeping requirement for viscosity was added (section 6.2.3.2).

The TSD has more information about this rule.

II. EPA's Evaluation and Action

A. How is EPA evaluating this rule?

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 SJVAPCD regulates an ozone nonattainment area (see 40 CFR part 81), so Rule 4603 must fulfill RACT.

Guidance and policy documents that we used to define specific enforceability and RACT 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; Clarification to Appendix D of November 24, 1987 **Federal Register** document," (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

3. "Control of Volatile Organic Emissions from Existing Stationary Sources Volume VI: Surface Coating of Miscellaneous Metal Parts and Products," USEPA, June 1978, EPA-450/2-78-015.

B. Does the rule meet the evaluation criteria?

This rule improves the SIP by establishing emission and viscosity limits for structural steel dip coating and recordkeeping provisions. This rule is largely consistent with the relevant policy and guidance regarding enforceability, RACT and SIP relaxations. Rule provisions which do not meet the evaluation criteria are summarized below and discussed further in the TSD.

C. What are the rule's deficiencies?

These provisions conflict with section 110 and part D of the Act and prevent full approval of the SIP revision.

1. The language in Section 4.1 allows at least two competing interpretations of the rule. This section should be revised to allow only one interpretation consistent with EPA guidance and policy concerning rule applicability, size cut-offs, and allowable non-compliant coating use. District practice of exempting fifteen pounds per day of non-compliant VOC emissions from all sources contradicts the intent of the size cutoff requirements of EPA's RACT Guidance. Furthermore, this practice is inconsistent with EPA policy providing for no more than 55 gallons of non-compliant coating use per rolling 12 month period.

2. Rule 4603 sets a viscosity limit for dip coating of structural steel components. However, SJVUAPCD did not provide a test method for

determining compliance with this viscosity limit.

3. Rule 4603 incorporates a solid film lubricant specialty category emissions limit of 880 gr/l. This limit exceeds the CTG limit of 420 gr/l.

D. EPA recommendations to further improve the rule

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

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 Rule 4603 to improve the SIP. If finalized, this action would incorporate the submitted rule into the SIP, including those provisions identified as deficient. This approval is limited because EPA is simultaneously proposing a limited disapproval of the rule under section 110(k)(3). If this disapproval is finalized, sanctions will be imposed under section 179 of the Act unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months. These sanctions would be imposed according to 40 CFR 52.31. Also, a final disapproval would trigger the federal implementation plan (FIP) requirement under section 110(c). Unless EPA approves subsequent SIP revisions correcting the rule's deficiencies within 24 months, EPA must produce a FIP. Note that the submitted Rule 4603 has been adopted by the SJVUAPCD, and EPA's final limited disapproval would not prevent the local agency from enforcing it.

We will accept comments from the public on the proposed limited approval and limited disapproval for the next 30 days.

III. Background Information

Why was this rule 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. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13045

Executive Order 13045, entitled 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.

C. Executive Order 13132

Executive Order 13132, entitled Federalism (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 proposed 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 acts on 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 proposed rule.

D. Executive Order 13175

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 6, 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.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and

responsibilities between the Federal government and Indian tribes.”

This proposed rule does not have tribal implications. 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

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 proposed 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 act on 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.

EPA’s proposed disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA’s disapproval of the submittal does not impose any new Federal requirements. Therefore, 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 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 proposed action 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 proposed Federal action acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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.

EPA believes that VCS are inapplicable to today’s proposed action because it 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, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

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

Dated: June 15, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01-16947 Filed 7-5-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 450

[FRL-7008-7]

RIN 2040-AD42

Effluent Limitations Guidelines and New Source Performance Standards for the Construction and Development Point Source Category; Announcement of Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice, announcement of meetings.

SUMMARY: EPA will conduct informational meetings on the upcoming Construction and Development (C&D) Effluent Guidelines proposed rulemaking. The Agency will provide an overview of the C&D project. EPA intends to propose effluent guidelines and standards for the C&D category in March 2002. The meetings are open to the public, and limited seating is available on a first-come, first-served basis.

DATES: See **SUPPLEMENTARY INFORMATION** section for meeting dates.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for meeting locations.

FOR FURTHER INFORMATION CONTACT: Eric Strassler, Engineering and Analysis Division (4303), EPA Office of Water, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone (202) 260-7150; e-mail: strassler.eric@epa.gov.

SUPPLEMENTARY INFORMATION: EPA is developing proposed effluent limitations guidelines and standards for the C&D Point Source Category under authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*). The C&D effluent guidelines will establish technology-based standards for discharges from construction sites regulated by the National Pollutant Discharge Elimination System (NPDES). The C&D rule will cover construction activities associated with new development and re-development. The regulations will address stormwater runoff from construction sites during the active phase of construction, as well as post-construction runoff. The industrial

sectors which are being examined during the rulemaking include residential buildings, non-residential buildings, heavy construction, and land development. Additional information is available on the C&D website at <http://www.epa.gov/ost/guide/construction/>.

The meetings will provide an update on the development of the proposed rule. EPA will discuss the data collection efforts, the potential technology options, and the schedule for the C&D rulemaking. The meetings are not a mechanism for submitting formal comments. The meetings will not be recorded by a reporter nor transcribed for inclusion in the administrative record for the C&D rulemaking. Limited seating is available on a first-come, first-served basis.

A more detailed agenda and other documents related to the C&D project will be available at the meetings. For those unable to attend a meeting, EPA will make documents available at the EPA website listed above, and they can be obtained by an e-mail or telephone request to Eric Strassler at the above address.

Meeting Times and Locations

1. Tuesday, July 24, 2001, 9:00 am to 12:00 noon. EPA Education Center Auditorium, Waterside Mall, 401 M Street, SW., Washington, DC. Directions: The Auditorium is located on the ground floor at the rear of the Waterside Mall complex. Limited parking is available in the vicinity of the mall. EPA recommends that attendees travel by Metro subway to the Waterfront station (Green line). Upon exiting the Metro station, enter Waterside Mall, proceed to the rear exit (I Street), and turn left to reach the EPA Education Center.

2. Wednesday, August 1, 2001, 9:00 am to 12:00 noon. Executive Tower Hotel, 1405 Curtis Street, Denver, CO. For information on accommodations and directions to the hotel, please telephone 800-525-6651 or see the hotel website at <http://www.exectowerhotel.com>.

Dated: June 28, 2001.

Louise P. Wise,

Acting Director, Office of Science and Technology.

[FR Doc. 01-16953 Filed 7-5-01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 46

RIN 0940-AA03

Protection of Human Research Subjects

AGENCY: Department of Health and Human Services (DHHS).

ACTION: Notice of Proposed Rule Making.

SUMMARY: The Department of Health and Human Services (DHHS) is proposing to amend Subpart B of its human subjects protection regulations published on January 17, 2001. These regulations provide additional protections for pregnant women and human fetuses involved in research and pertain to human in vitro fertilization. The rule continues the special protections for pregnant women and human fetuses that have existed since 1975. The Department proposes to amend the regulations by making limited changes in terminology referring to neonates, clarifying provisions for paternal consent when research is conducted on fetuses, and clarifying language that applies to research on newborns of uncertain viability.

DATES: Comments on the proposed regulation must be received on or before September 4, 2001.

ADDRESSES: Comments must be sent to: Irene Stith-Coleman, Ph.D., Office of Human Research Protections (OHRP) 200 Independence Avenue, SW., Room 733-E, Washington, DC, 20201. Telephone 202-260-1587. Email istithco@osophs.dhhs.gov. The Department invites written comments on the proposed regulations and requests that comments identify the specific regulatory provisions to which they relate.

FOR FURTHER INFORMATION CONTACT: Irene Stith-Coleman, Ph.D., Office of Human Research Protections (OHRP) 200 Independence Avenue, SW., Room 733-E, Washington, DC, 20201. Telephone 202-260-1587. Interested persons may obtain a copy of the current regulations for the protection of human subjects, including Subpart B, at <http://ohrp.osophs.dhhs.gov/humansubjects/guidance/45cfr46.htm>.

SUPPLEMENTARY INFORMATION:

Background

The Department of Health and Human Services (DHHS) regulates research involving human subjects conducted or supported by the agency through regulations codified at Title 45, part 46,