or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of April 8, 2002. 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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental regulations, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 1, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 02–8286 Filed 4–5–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 259–0332a; FRL–7158–7]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). This revision concerns the emission of particulate matter (PM–10) from open fires. We are approving local rules that regulate this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on June 7, 2002 without further notice, unless EPA receives adverse comments by May 8, 2002. If we receive such comments, 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.

You can inspect copies of the submitted rule revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted rule revisions and TSD at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

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

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

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

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 we are approving with the date that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD	208	Permit and Burn Authorization for Open Burning	12/21/01	01/22/02
SCAQMD	444	Open Fires	12/21/01	01/22/02

On February 26, 2002, this submittal was 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 into the SIP on November 8, 1999 (64 FR 60687) a version of Rule 208, adopted on January 5, 1990. We approved into the SIP on July 26, 2000 (65 FR 45912) a version of Rule 444, adopted on October 2, 1987.

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

The purpose of the submitted revised Rules 208 and 444 is to remedy the deficiencies cited in the limited approval of Rule 444 on July 26, 2000 (65 FR 45912).

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 CAA) and must not relax existing requirements (see sections 110(l) and 193). Section 189(b) of the CAA requires serious nonattainment areas with significant PM–10 sources to adopt best available control measures (BACM), including best available control technology (BACT). SCAQMD is a serious PM–10 nonattainment area and must meet the requirements of BACM/BACT. BACM/BACT is not required for source categories that are not significant (*de minimus*) and there are no major sources. See *Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,* 59 FR 41998 (August 16, 1994).

The following guidance documents were used for reference:

• *Requirements for Preparation, Adoption, and Submittal of Implementation Plans,* U.S. EPA, 40 CFR part 51.

• *General Preamble Appendix C3—Prescribed Burning Control Measures* (57 FR 18072, April 28, 1992).

• *Prescribed Burning Background Document and Technical Information Document for Best Available Control Measures* (EPA–450/2–92–003).

• *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,* 57 FR 13498, 13540 (April 16, 1992).

• *Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,* 59 FR 41998 (August 16, 1994).

• *PM–10 Guideline Document*, EPA–452/R–93–008.

B. Do the Rules Meet the Evaluation Criteria?

We believe the rules are consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and fulfilling BACM/BACT. All of the deficiencies identified in our previous limited approval and limited disapproval action on Rule 444 have been adequately addressed as follows:

• (An overall approach should be used for approving burns based on an evaluation of the airshed's capacity/capability to disperse emissions on permissive-burn days so that cumulative PM–10 emissions from all burns and other PM–10 sources in the airshed will not cause or contribute to violations of the PM–10 National Ambient Air Quality Standards.) Alternatively, the District related the airshed's capacity/capability to disperse emissions to specific meteorological conditions in specific air basins. 444(c)(10 and 11). Open burning is prohibited, unless permissive-burn day or marginal-burn day requirements, related to meteorological conditions and to the California 1-hr ozone standard, are met. 444(c)(14). We have determined that this approach fulfills BACM requirements.

• (The rule should encourage burners to complete voluntary burning training and to use emission reduction techniques by offering incentives, such as priority permission to burn on a permissive-burn day.) The rule requires prioritizing authorization of burn requests based on the burner's demonstrated level of burning training and on measures identified in the smoke management plan to reduce emissions. 444(d)(7)(E). We have determined that these incentives fulfill BACM requirements.

Other revisions that improve Rule 444 are as follows:

• Thresholds were established for maximum daily burn acreage.

• The permissible window for burning was refined.

• Smoke management plans are required for projects larger than 10 acres.

• Many definitions were added.

• The rule applicability and prohibition on residential burning were clarified.

• Exemptions for fire suppression training, burning of Russian thistle, and ignition of pyrotechnics were clarified.

Exemptions were added to Rule 444 for fireworks, pyrotechnic displays, explosive detonations and fire effects. This includes special effects used for filming, video recordings, and theatrical productions, although fire effects are limited to 30 minutes and clean fuels. These source categories are *de minimus,* therefore section 110(l) of the CAA is not violated.

Rule 208 was revised to be consistent with Rule 444 as follows:

• Authority for the local fire protection agency to issue a burn permit, in addition to the Executive Officer, was added.

• The requirement to obtain burn authorization from the Executive Officer for each day of burning was added. The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval 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 May 8, 2002, 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 June 7, 2002. This will incorporate these rules into the federally-enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this direct final 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 Was This Rule Submitted?

PM–10 harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control PM–10 emissions. Table 2 lists some of the national milestones leading to the submittal of local agency PM–10 rules.

TABLE 2.—PM–10 NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the Clean Air Act, as amended in 1977. 43 FR 8964; 40 CFR 81.305.
July 1, 1987	EPA replaced the TSP standards with new PM standards applying only up to 10 microns in diameter (PM–10). 52 FR 24672.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted, Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671*q*.
November 15, 1990	PM–10 areas meeting the qualifications of section 107(d)(4)(B) of the CAA were designated nonattainment by operation of law and classified as moderate pursuant to section 188(a). States are required by section 110(a) to submit rules regulating PM–10 emissions in order to achieve the attainment dates specified in section 188(c).

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 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 (Public Law 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 CAA. 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 CAA. 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 CAA. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 7, 2002. 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, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 1, 2002.

Keith Takata,

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 paragraph (c) (293) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(293) New and amended regulations for the following APCDs were submitted on January 22, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(*1*) Rules 208 and 444, adopted on December 21, 2001.

* * * * *

[FR Doc. 02–8287 Filed 4–5–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[KY 116; KY 119–200214(c); FRL–7166–5]

Approval and Promulgation of Air Quality Implementation Plans; Kentucky; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On February 12, 2002 (67 FR 6411), EPA published a direct final approval of a revision to the Kentucky State Implementation Plan (SIP) which pertained to the Kentucky portion of the Cincinnati-Hamilton non-attainment area. The direct final action was published without prior proposal because EPA anticipated no adverse comment. EPA stated in the direct final rule that if EPA received adverse comment by March 14, 2002, EPA would publish a timely withdrawal in the **Federal Register**. EPA subsequently received adverse comments on the direct final rule. Therefore, EPA is withdrawing the direct final approval. EPA will address the comments in a subsequent final action based on the parallel proposal also published on February 12, 2002 (67 FR 6459). As stated in the parallel proposal, EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule published on February 12, 2002, is withdrawn as of April 8, 2002.

FOR FURTHER INFORMATION CONTACT: Randy Terry at (404) 562–9032, or by electronic mail at *Terry.randy@epa.gov*.