

eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or

adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. A preliminary "Environmental Analysis Check List" supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T08–0272 to read as follows:

### § 165.T08–0272 Security Zone; Patapsco River, Middle Branch, Baltimore, MD.

(a) *Location.* The following area is a security zone: All waters of the Patapsco River, Middle Branch, from surface to bottom, encompassed by lines connecting the following points, beginning at 39°15'40" N., 076°35'23" W., thence to 39°15'24" N., 076°35'18" W., thence to 39°15'25" N., 076°35'54" W., thence to 39°15'43" N., 076°35'58" W., located approximately 1,600 yards east of the Hanover Street (SR–2) Bridge. These coordinates are based upon North American Datum 1983.

(b) *Definitions.* As used in this section, for purposes of enforcing the security zone identified in paragraph (a) of this section, *designated representative* means on-scene Coast

Guard patrol personnel, including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by the Captain of the Port Baltimore.

(c) *Regulations.* (1) All persons are required to comply with the general regulations governing security zones found in § 165.33 of this part.

(2) Entry into or remaining in the security zone described in paragraph (a) of this section is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore, Maryland or his or her designated representative.

(3) Persons desiring to transit the area of the security zone may contact the Captain of the Port Baltimore at telephone number 410–576–2674 or on marine band radio VHF–FM channel 16 (156.8 MHz) to seek permission to transit the area. On-scene Coast Guard patrol personnel operating Coast Guard vessels may be contacted on marine band radio VHF–FM channel 16 (156.8 MHz) to seek permission to transit the area. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Baltimore or his or her designated representative.

(d) *Effective period.* This rule is effective from 4 p.m. through 11 p.m. on August 9, 2008.

Dated: April 10, 2008.

**Brian D. Kelley,**

*Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.*

[FR Doc. E8–8728 Filed 4–22–08; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2008–0313; FRL–8557–3]

### Revisions to the California State Implementation Plan; Pesticide Element; Ventura County

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

**ACTION:** Proposed rule.

**SUMMARY:** Under the Clean Air Act, EPA is proposing to approve a revision of the California State Implementation Plan submitted by the California Air Resources Board on November 30, 2007. The revision would in part, and temporarily, relax a commitment to

reduce emissions of volatile organic compounds in Ventura County caused by the application of pesticides. EPA is proposing this action under the Clean Air Act obligation to take action on submittals of revisions to state implementation plans.

**DATES:** Any comments must arrive by May 23, 2008.

**ADDRESSES:** Submit comments, identified by docket number EPA–R09–OAR–2008–0313, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

- *E-mail:* [chavira.raymond@epa.gov](mailto:chavira.raymond@epa.gov).
- *Mail or deliver:* Raymond Chavira (AIR–2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

**Instructions:** All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

**Docket:** The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business

hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below.

**FOR FURTHER INFORMATION CONTACT:** Raymond Chavira, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 947–4218, [chavira.raymond@epa.gov](mailto:chavira.raymond@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to EPA.

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#### I. Background

Under the Clean Air Act, as amended in 1990 (CAA or “Act”), many parts of the country, including California’s Ventura County, were designated as nonattainment for the ozone national ambient air quality standard (NAAQS), which, at the time, was 0.12 ppm, 1-hour average. Under the Act, States with nonattainment areas were required to develop, adopt and submit SIP revisions that included sufficient control measures to attain the 1-hour ozone NAAQS by deadlines also established in the Act. In response, in 1994, the State of California developed, adopted and submitted an ozone State Implementation Plan (SIP) (“1994 Ozone SIP”) to provide for attainment of the ozone NAAQS in all areas of California.

As part of the 1994 Ozone SIP, California adopted a Pesticide Element that committed the State to reduce volatile organic compound (VOC) emissions resulting from the application of agricultural and structural pesticides in certain ozone nonattainment areas. For the Ventura County nonattainment area (Ventura), the California Department of Pesticide Regulation (DPR) committed to adopt and submit to EPA by June 15, 1997, any regulations necessary to reduce VOC emissions from agricultural and structural

pesticides by 20 percent of the 1990 base year emissions by 2005. California further defined DPR’s commitment in Ventura under the Pesticide Element in terms of VOC emissions reductions of 2.4 tons per day by 2005.<sup>1</sup> See 62 FR 1150, at 1169–1170 and at 1187 (January 8, 1997); and 40 CFR 52.220(c)(204)(i)(A)(6) and 52.220(c)(236). In 1997, we approved the 1994 Ozone SIP, including the Pesticide Element. See 62 FR 1150, at 1169–1170 (January 8, 1997). In today’s document, we propose to approve a revision by California of the Pesticide Element for Ventura County.<sup>2</sup>

Meanwhile, EPA has replaced the 0.12 ppm, 1-hour ozone NAAQS with 0.08 ppm, 8-hour ozone NAAQS (62 FR 38856, July 18, 1997). EPA has also designated all areas of the country with respect to the 8-hour ozone NAAQS. In so doing, EPA designated Ventura County as nonattainment for ozone with a classification of “moderate” (69 FR 23889, April 30, 2004). On February 14, 2008,<sup>3</sup> California requested EPA to reclassify Ventura County from “moderate” to “serious” with a new attainment date of 2012. EPA has not taken action yet on the State’s voluntary request to reclassify Ventura County to “serious,” but is mandated under the CAA to grant such request, and thus, is reviewing the subject SIP revision assuming that Ventura’s classification for the 8-hour ozone NAAQS will in the near future become “serious.” See CAA section 181(b)(3). Under EPA’s phase I implementation rule for the 8-hour ozone NAAQS, certain “applicable requirements” that applied under 1-hour ozone NAAQS planning requirements continue to apply to 8-hour ozone nonattainment areas. See 40 CFR 51.900(f). The “Pesticide Element” is not one of the applicable requirements under our phase I rule for the 8-hour ozone NAAQS but represents, instead, a “discretionary” measure, which means that California may relax or repeal it through a SIP revision so long as generally applicable procedural and substantive requirements for such revisions are met.

#### II. The State’s SIP Revision Submittal

##### A. What revisions did the State submit?

Table 1 lists the revision we are proposing to approve with the dates that

<sup>1</sup> Tonnage commitment is 2.37 tons per day per letter dated June 13, 1996, from James D. Boyd to David Howekamp, including “Corrections to State and Local Measures” (Attachment A) and “Summary Emission Reduction Spreadsheets” (Attachment C).

<sup>2</sup> Several environmental groups successfully sued the State of California for failure to adopt

regulations necessary to achieve the VOC emissions reduction committed to under the Pesticide Element. See *El Comite v. Helliher*, 416 F. Supp. 2d 912 (E.D.Cal. 2006). The ensuing court order has led DPR to adopt a regulation that achieves all of the VOC emission reductions previously committed to for Ventura County beginning with the peak ozone season (May through October) in 2008. We are not taking action on DPR’s regulation in today’s action,

but rather, are taking action on a revision of the Pesticide Element that, if finalized as proposed, will allow California to seek a modification to the court order followed by conforming changes to DPR’s rule.

<sup>3</sup> See February 14, 2008 letter from CARB Executive Officer James Goldstene to Wayne Nastri, EPA Region 9 Regional Administrator.

it was revised and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED SIP REVISION PROPOSED FOR FULL APPROVAL

State agency	SIP revision	Amended	Submitted
CARB .....	Revised Proposed Revision to the Pesticide Element of the 1994 Ozone SIP for the Ventura County Nonattainment Area (August 13, 2007).	November 30, 2007 .....	November 30, 2007.

CARB's November 30, 2007 SIP revision submittal package includes the "Revised Proposed Revision to the Pesticide Element of the 1994 Ozone SIP for the Ventura County Nonattainment Area (August 13, 2007)" ("Revised Pesticide Element for Ventura") as attachment 3 to Executive Order S-07-003.<sup>4</sup> The November 30, 2007 SIP revision submittal also includes a copy of CARB's Resolution 07-42, dated September 27, 2007, approving the Revised Pesticide Element for Ventura, and evidence of public participation including CARB's response to public comments and a public hearing held on September 27, 2007.

As noted above, under the Pesticide Element of the 1994 Ozone SIP, DPR committed to adopt and submit to EPA by June 15, 1997, any regulations necessary to reduce VOC emissions resulting from agricultural and structural pesticides in Ventura by 20 percent of the 1990 base year emissions, and by 2.4 tons per day, by 2005. Under the Revised Pesticide Element for Ventura, CARB commits to substitute specific "surplus" emissions reductions for a portion of the existing Pesticide Element commitment for Ventura. See Table 3 of the Revised Pesticide Element for Ventura. Under the Revised Pesticide Element for Ventura, CARB reduces the amount of the substitution each year such that no substitution is made in year 2012 and thereafter, thus restoring the full VOC commitment under the Pesticide Element of the 1994 Ozone SIP. CARB cites California's ongoing mobile source emission control program, which, in CARB's view, has achieved greater-than-expected VOC emissions reductions, as the source for the substitute VOC emissions reductions.

#### *B. Are there other versions of this SIP element?*

As discussed above, we approved the Pesticide Element, including the

specific emissions reduction commitments, as part of the 1994 California Ozone SIP (62 **Federal Register** 1169–1170, January 8, 1997). We have yet to approve DPR's regulation implementing the Pesticide Element of the 1994 Ozone SIP and do not propose to do so as part of this action.

#### *C. What is the purpose of the SIP revision?*

Section 110(a) of the CAA requires states to submit regulations that control volatile organic compounds, nitrogen oxides, particulate matter, and other air pollutants which harm human health and the environment. Ozone is formed by the interaction of directly-emitted precursor emissions, VOCs and oxides of nitrogen (NO<sub>x</sub>), in the presence of sunlight under the influence of meteorological and topographical features of an area. California adopted the Pesticide Element as one of the commitments to help attain the ozone NAAQS in the State of California. As part of the Pesticide Element of the 1994 Ozone SIP, California adopted specific VOC emissions reduction commitments for Ventura County in support of the attainment demonstration for the ozone NAAQS in that area. California has now revised the Pesticide Element to reduce in part, and temporarily, the VOC emissions reduction commitments for Ventura County to avoid short-term, but potentially significant, economic losses by strawberry farmers and the potential for long-term loss of farmland to urban development. The State has submitted the Revised Pesticide Element for Ventura to EPA for approval as a revision of the California SIP.

#### **III. EPA's Evaluation of the SIP Revision**

##### *A. How is EPA evaluating the revision?*

Generally, SIP rules must be enforceable and must not interfere with an area's progress towards attainment or any other requirement of the Act. See CAA sections 110(a), 110(l); see also CAA section 193 (antibacksliding requirements for pre-1990 control measures). CAA section 110(l) directs EPA to disapprove any SIP revision that

would interfere with any applicable requirement concerning attainment or reasonable further progress or any other applicable requirement of the Act. CAA section 193 does not apply to this action because the Pesticide Element was not part of the pre-1990 California SIP and thus, a revision to the Pesticide Element does not modify a control requirement in effect before passage of the Clean Air Act Amendments of 1990.

##### *B. Does the revision meet the evaluation criteria?*

CAA section 110(l) provides: "Each revision to an implementation plan submitted by a State under this chapter shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title) or any other applicable requirement of this chapter." The term "reasonable further progress" (RFP) is defined in section 7501 (CAA section 171) as "such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date." We interpret CAA section 110(l) as requiring EPA to ensure that the state, in seeking a revision to its SIP, does not impair its compliance with the statutory mandates applicable to the SIP.

As noted above, under the Revised Pesticide Element for Ventura, CARB substitutes "surplus" VOC emissions reductions from California's mobile source emission control program for a portion of the State's VOC emissions reduction commitments from application of pesticides. Because emissions reductions from California's mobile source emissions control program are included in the baseline for 8-hour ozone planning purposes, we do not view the emissions reductions as "surplus" With respect to RFP and attainment of the 8-hour ozone NAAQS. Rather, we view the Revised Pesticide

<sup>4</sup> The Revised Pesticide Element for Ventura is also referred to as "Appendix H" because it was originally included as such for the Proposed State Strategy for California's 2007 State Implementation Plan, but was subsequently pulled from that document for separate SIP processing.

Element for Ventura as simply a reduction in the State's emissions reduction commitments leading to an increase, albeit temporarily, in VOC emissions in Ventura relative to what otherwise would occur. Specifically, we view the Revised Pesticide Element for Ventura as reducing the State's commitments by 1.3 tons per day in 2008, 1.0 tons per day in 2009, 0.7 tons per day in 2010, and 0.3 tons per day in 2011, and thereby allowing corresponding increases in VOC in those years. Under the Revised Pesticide Element for Ventura, we note that there

would be no reduction in the State's SIP commitment by year 2012 and thereafter.

We have developed two tables to present the effects of the Revised Pesticide Element for Ventura. Table 2 compares the emissions reduction commitments under the existing SIP with those that would exist under the Revised Pesticide Element and shows how CARB's substitutions link the two sets of emissions reduction commitments. Table 3 converts the emissions reduction commitments shown in Table 2 into corresponding

VOC emissions estimates in Ventura County resulting from application of pesticides. As shown in Table 3, allowable VOC emissions under the different emissions reduction commitments would increase from 3.7 to 4.3 tons per day in 2008 under the Revised Pesticide Element from 2.4 to 3.0 tons per day under the existing Pesticide Element. The increase would decline in stages to the ultimate VOC emissions cap from this source category under the emissions reduction commitments of 2.5 (rounded from 2.45) tons per day in 2012.

TABLE 2.—COMMITMENTS FOR VOC EMISSION REDUCTIONS (IN TONS PER DAY) FROM PESTICIDES UNDER THE EXISTING SIP AND REVISED PESTICIDE ELEMENT FOR VENTURA

Year	Pesticide element in existing SIP <sup>a</sup>			CARB substitution of VOC emission reductions under revised pesticide element	Revised pesticide element <sup>b</sup>		
	20 Percent reduction		Tonnage		20 Percent reduction		Tonnage
	1990	1991	2005		1990	1991	2005
2008 .....	1.8	2.2	2.4	1.3	0.5	0.9	1.1
2009 .....	1.8	2.2	2.4	1.0	0.8	1.2	1.4
2010 .....	1.8	2.2	2.4	0.6	1.2	1.6	1.8
2011 .....	1.8	2.2	2.4	0.3	1.5	1.9	2.1
2012+ .....	1.8	2.2	2.4	0.0	1.8	2.2	2.4

<sup>a</sup> The emissions reductions shown for 1990 and 1991 under the percent reduction commitment represent the differences between current VOC pesticide emissions (assumed to be the same as 2004, *i.e.*, 4.826 tpd) and 80 percent of 1990 (3.756 tpd) and 1991 (*i.e.*, 3.293 tpd), respectively. DPR's September 29, 2007 memorandum from Terrell Barry, Ph.D., Research Scientist III, DPR, et al to John Sanders, Ph.D., Chief, Environmental Monitoring Branch, DPR is the source for 1990, 1991, and 2004 emissions estimates. The 1994 Ozone SIP anticipated that 1991 pesticide use records would be used to adjust emissions for 1990. It is not clear whether DPR's September 29, 2007 VOC emissions estimates for 1990 or 1991 reflect the calculation method described in the 1994 Ozone SIP.

<sup>b</sup> Calculated by subtracting CARB's substitution from the emission reduction commitments in the Pesticide Element of the Existing SIP.

TABLE 3.—VOC EMISSIONS FROM APPLICATION OF PESTICIDES IN VENTURA COUNTY UNDER EXISTING SIP COMMITMENTS AND UNDER THE REVISED PESTICIDE ELEMENT FOR VENTURA

Year	Pesticide element in existing SIP <sup>a</sup>			CARB substitution of VOC emission reductions under revised pesticide element	Revised pesticide element <sup>b</sup>		
	20 Percent reduction		Tonnage		20 Percent reduction		Tonnage
	1990	1991	2005		1990	1991	2005
2008 .....	3.0	2.6	2.5	1.3	4.3	3.9	3.8
2009 .....	3.0	2.6	2.5	1.0	4.0	3.6	3.5
2010 .....	3.0	2.6	2.5	0.6	3.6	3.2	3.1
2011 .....	3.0	2.6	2.5	0.3	3.3	2.9	2.8
2012+ .....	3.0	2.6	2.5	0.0	3.0	2.6	2.5

<sup>a</sup> The emissions estimates shown in these columns subtract the emission reduction commitments shown in Table 2 under the existing SIP with emissions estimated for 2004 (and assumed for planning purposes by California thereafter until 2012, *i.e.*, 4.82 tpd). See page C-2 of the Final Draft Ventura County 2007 Air Quality Management Plan (March 2008).

<sup>b</sup> Calculated by adding CARB substitutions to the VOC emissions estimates for pesticides under the existing SIP.

Thus, the Revised Pesticide Element for Ventura would have an impact on air quality in the short term as it would slow down slightly the improvement in ozone levels as compared to fully achieving the commitments for pesticide emission reductions in the 1994 Ozone SIP. However, the revision phases out over four years ensuring that it would not interfere with Ventura's ability to attain the 8-hour ozone NAAQS by the serious area deadline in

2012. In 2012, the emissions reduction commitments are 2.4 tpd (rounded from 2.37).

For ozone, the Revised Pesticide Element would not affect attainment of the 8-hour ozone NAAQS because the revision would be phased-out by 2012. In other words, under the Revised Pesticide Element, the emissions reduction commitments under the 1994 Ozone SIP would be fully restored by 2012. Therefore, our approval of the revision would not interfere with

Ventura's attainment of the 8-hour ozone NAAQS.

The only remaining question with respect to ozone is whether the Revised Pesticide Element would interfere with 8-hour ozone RFP. Ventura has completed its Final Draft 8-hour ozone SIP, including an RFP plan,<sup>5</sup>

<sup>5</sup> See Ventura County Air Pollution Control District "Final Draft 2007 Air Quality Management Plan", March 2008, pp. 71–74, included in the docket for this proposed rule.

demonstrating attainment of the 8-hour ozone NAAQS by the “serious” area deadline. The RFP plan includes an air quality analysis that demonstrates RFP toward attaining the 8-hour ozone NAAQS without the attribution of VOC emission reductions from pesticides. Based on the air quality analysis contained in the RFP plan, Ventura meets the RFP milestone year reductions and the three percent contingency requirements for “serious” areas in 2008, 2011, and 2012 with a combination of VOC and NO<sub>x</sub> reductions. The State adjusted the milestone year emissions for local and state control measures already adopted through December 31, 2006. These adjustments do not include any adjustment for VOC emission reductions from pesticides.<sup>6</sup>

EPA approved Ventura’s 15 percent rate-of-progress plan for the 1-hour ozone NAAQS on January 8, 1997 (see 62 FR 1169). EPA’s final 8-hour ozone RFP rule does not require serious and above 8-hour ozone nonattainment areas with approved 15 percent rate-of-progress VOC plans for the 1-hour ozone standard to do another 15 percent VOC-only reduction for the 8-hour ozone standard. See 70 FR 71612 (November 29, 2005) and 73 FR 15418–9 (March 24, 2008). Rather, those areas must reduce VOC and/or NO<sub>x</sub> emissions by an average of three percent per year for the first six-year period following the baseline year plus all remaining three-year periods out to their attainment dates. Therefore the RFP plan includes a combination of VOC and NO<sub>x</sub> reductions. The RFP plan also includes transport contributions from the Los Angeles-South Coast Air Basin within 100 kilometers of Ventura. The State followed guidance in EPA’s fine particulate matter Implementation Rule for crediting VOC and NO<sub>x</sub> reductions from outside the nonattainment area for RFP purposes.<sup>7</sup> See 72 FR 20586 (April 25, 2007) and 73 FR 15418–9 (March 24, 2008).

This SIP revision only concerns VOC emissions. Emissions of VOCs contribute to the formation of ozone. Therefore, given that Ventura is unclassifiable/attainment for all NAAQS

other than ozone,<sup>8</sup> we conclude non-interference of the SIP revision with continued attainment of NAAQS other than ozone<sup>9</sup> in Ventura.

Accordingly, we conclude that this SIP revision would not interfere with any applicable requirements for attainment and reasonable further progress or any other applicable requirement of the CAA and is thus approvable under CAA section 110(l).

#### IV. Public Comment and Final Action

Under section 110(k) of the Clean Air Act, we are proposing to approve the Revised Pesticide Element for Ventura, submitted to EPA on November 30, 2007 by CARB. We intend to defer final action on this proposed approval until we receive a SIP revision submittal from California containing the final 8-hour ozone Ventura RFP Plan. We will consider the final plan and any related public comments on the plan, as well as comments on this proposal, before we take final action on the Pesticide Element SIP Revision.

#### V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this Action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- 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);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 52

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

Dated: April 15, 2008.

**Wayne Nastri,**

*Regional Administrator, Region IX.*

[FR Doc. E8–8812 Filed 4–22–08; 8:45 am]

**BILLING CODE 6560–50–P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 63

[EPA–HQ–OAR–2003–0138, FRL–8557–2]

RIN 2060–AO99

#### National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to amend the National Emission Standards for Hazardous Air Pollutants: Organic

<sup>6</sup> For all milestone years, the RFP plan assumes 4.82 tons per day from pesticides. In contrast, if the RFP plan had relied on emission reductions commitments in the Pesticide Element of the 1994 Ozone SIP or the Revised Pesticide Element proposed for approval herein, the VOC emissions from this source category would have ranged from 2.5 tons per year to 4.3 tons per day depending upon specific commitment and year. See Table 3 of this document.

<sup>7</sup> See Harnett-Zaw-Mon RFP memo, October 11, 2007.

<sup>8</sup> EPA has promulgated NAAQS for the following pollutants: carbon monoxide, lead, nitrogen oxides, particulate matter, ozone and sulfur oxides (sulfur dioxide), see 40 CFR 50.

<sup>9</sup> The applicable ozone NAAQS is the 8-hour standard. The 1-hour ozone NAAQS was revoked effective June 25, 2005, see 70 FR 44470.