

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[CA 153-0195a; FRL-6958-1]

Revisions to the California State Implementation Plan, Butte County Air Quality Management District**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions are rules from the Butte County Air Quality Management District (BCAQMD) 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 or rescinding local rules that address general permitting requirements for stationary sources in the BCAQMD.

DATES: These revisions are effective on July 2, 2001 without further notice, unless EPA receives adverse comments by June 1, 2001. If EPA receives such comment, it will publish a timely withdrawal **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Mail comments to Gerardo Rios, Permits Office Chief (AIR-3), Air Division, 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 documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted rule revisions at the following locations:

Permits Office (AIR-3), Air Division, Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

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.

Butte County Air Quality Management District, 2525 Dominic Drive, Suite J, Chico, CA 95928.

A courtesy copy of the rules may be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. However, these versions of the rules may be different than the versions submitted to EPA for approval. Readers are cautioned to verify that the adoption date of the rule listed is the same as the

rule submitted to EPA for approval. The official submittal is only available at the agency addresses listed above.

FOR FURTHER INFORMATION CONTACT:

David Wampler, Permits Office, (Air-3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; (415) 744-1256.

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 are the changes in the submitted rules?
- II. EPA's Evaluation and Action
 - A. How is EPA evaluating the rules?
 - B. Do the rules meet the evaluation criteria?
 - C. 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 or rescinded 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 or rescinded	Submitted
BCAQMD	403	Permit to Operate	11/09/93	06/16/95
BCAQMD	422	Required Information	09/18/90	03/26/96
BCAQMD	424	State Implementation Plan	08/06/85	03/26/96
BCAQMD	1105	Request for Designated Non-Major Source Status	02/15/96	05/10/96
BCAQMD	4-3	Permit Fee	08/20/85	05/10/96
		Rescinded		
BCAQMD	4.5A	Standards for Granting Applications	08/06/85	05/10/96
		Rescinded		
BCAQMD	4.5B	Conditional Approval	08/06/85	05/10/96
		Rescinded		
BCAQMD	4.6	State Ambient Air Quality Standards	07/26/83	05/10/96
		Rescinded		
BCAQMD	4-6A	State Implementation Plan	07/26/83	05/10/96
		Rescinded		
BCAQMD	4.9	Action on Applications	08/06/85	05/10/96
		Rescinded		
BCAQMD	4-11	Appeals	08/20/85	05/10/96
		Rescinded		

On July 31, 1995, the submittal of Rule 403 was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. On May 15, 1996, the submittal of Rules 422 and 424 were found to meet the completeness criteria. On July 19, 1996, the submittal of Rule 1105 and the rescission submittals of

Rules 4-3, 4.5A, 4.5B, 4-6, 4-6A, 4.9, and 4-11 were found to meet the completeness criteria.

Rules 4-3 and 4-11 were previously submitted on April 11, 1983 and approved on November 18, 1983. Rules 4.5A and 4.5B were previously submitted on February 25, 1980 and approved on May 27, 1982. Rules 4-6

and 4-6A were previously submitted on August 6, 1982 and approved on June 1, 1983. Rule 4.9 was previously submitted on July 10, 1980 and approved on May 27, 1982.

B. Are There Other Versions of These Rules?

On February 3, 1987, EPA approved into the SIP versions of Rules 403 and 422. Today's action will approve the only revision to these rules since our 1987 action.

On June 1, 1983, EPA approved into the SIP Rule 4.6. This rule is not related in the SIP, because it only relates to non-SIP Rule 4-5.

On June 1, 1983, EPA approved into the SIP Rule 4.6A. Submitted Rule 424 revises and recodifies SIP-approved Rule 4.6A. There are no other versions of Rules 424 or 4.6A that have been submitted to us since our 1983 approval of Rule 4.6A. Today's action will rescind Rule 4.6A and replace it with Rule 424.

There is currently no version of Rule 1105 in the SIP, nor has there been earlier versions of 1105 submitted for SIP-approval.

On November 18, 1983, EPA approved into the SIP Rule 4-3. Rule 4-3 is submitted for rescission without replacement, because the collection of local fees by BCAQMD is inappropriate for EPA to enforce in the SIP.

On May 27, 1982, EPA approved into the SIP Rules 4.5A, 4.5B, and 4.9. BCAQMD revised and recodified these rules with new Rules 420, 421, and 423, respectively, which were approved into the SIP on February 3, 1987.

On November 18, 1983, EPA approved into the SIP Rule 4-11. BCAQMD revised and recodified this rule with new Rule 425, which was SIP-approved on February 3, 1987. BCAQMD has not revised this rule since that time.

C. What Are the Changes in the Submitted Rules?

Rule 403 includes the following significant additions to the current SIP Rule 403:

- Any equipment in existence prior to June 15, 1982 emitting a controlled pollutant must obtain a permit to operate.
- Equipment subject to Title V of the CAA of 1990 must obtain a Title V permit.

Rule 422 includes the following significant additions to the current SIP Rule 422:

- The APCO may require information that will disclose the nature, extent, quantity, or degree of air contaminants that may be discharged into the atmosphere.

Rule 424 includes the following change to the current SIP Rule 4-6A:

- The rule references Rule 430 instead of Rule 4.5.

Rule 1105 is a new rule that includes the following provisions:

- The owner or operator of a specified stationary source, that would otherwise be a major source, would be allowed under Rule 1105 to request and accept federally-enforceable limits such that the annual potential to emit would be below major-source thresholds in order to allow the source to be considered a "designated non-major source."
- The limits to the potential to emit must be approved by EPA and must be permanent, quantifiable, and practically-enforceable.
- A designated non-major source would not be subject to the permitting requirements of Rule 1101, Title V—Federal Operating Permits or of Title V of the Clean Air Act of 1990.

The TSD has more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

All of the Rules in today's action except Rule 1105 describe administrative provisions and definitions that support the New Source Review permitting rules found in other BCAQMD requirements. In combination with the other requirements, these rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). In general, EPA evaluated these rules and has determined that each rule is consistent with the CAA, EPA regulations and EPA policy.

Rule 1105 was evaluated using EPA policy describing options sources have for limiting their potential under section 112 and Title V of the CAA. This policy is generally described in EPA's 1995 "Transition Policy"—a January 25, 1995 policy memorandum entitled, "Options for Limiting the Potential to Emit of a Stationary Source Under section 112 and Title V of the Clean Air Act" from John Seitz, Director of EPA's Office of Air Quality Planning and Standards, to EPA's Regional Air Division Directors.

B. Do the Rules Meet the Evaluation Criteria?

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

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules and rescissions 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 rule section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by June 1, 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 July 2, 2001. This will incorporate these rules into or rescind rules from the federally enforceable SIP.

III. Background Information

Why Were These Rules Submitted?

Sections 172 and 173 of the CAA require that permits be obtained for affected sources, major sources, and any sources required by parts C and D of the CAA. CARB submitted revised and updated administrative rules to support this permitting requirement, and submitted for rescission redundant administrative rules that were already replaced with revised SIP rules. CARB also submitted a rule that allows a source to be not considered a major source.

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. 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). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government, as specified in Executive Order 13132 (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 July 2, 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, Incorporation by reference, Intergovernmental relations, Permitting, and Reporting and recordkeeping requirements.

Dated: February 9, 2001.

Laura Yoshii,

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)(54)(viii)(C), (c)(86)(ii)(B), (c)(124)(xii)(B), (c)(138)(i)(B), (c)(168)(i)(A)(4), (c)(222)(i)(E), (c)(230)(i)(E), and (c)(231)(i)(D) to read as follows:

§ 52.220 Identification of plan.

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- (c) * * *
- (54) * * *
- (viii) * * *

(C) Previously approved on May 27, 1982 in paragraph (viii)(B) of this section and now deleted Rules 4.5A and 4.5B.

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- (86) * * *
- (ii) * * *

(B) Previously approved on May 27, 1982 in paragraph (ii)(A) of this section and now deleted Rule 4.9.

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- (124) * * *
- (xii) * * *

(B) Previously approved on June 1, 1983 in paragraph (xii)(A) of this section and now deleted Rules 4–6 and 4–6A.

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- (138) * * *

(i) * * *

(B) Previously approved on November 18, 1983 in paragraph (i)(A) of this section and now deleted without replacement Rules 4–3 and Rule 4–11.

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(168) * * *

(i) * * *

(A) * * *

(4) Rule 424, adopted on August 6, 1985.

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(222) * * *

(i) * * *

(E) Butte County Air Quality Management District.

(1) Rule 403, adopted on November 9, 1993.

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(230) * * *

(i) * * *

(E) Butte County Air Quality Management District.

(1) Rule 422, adopted on September 18, 1990.

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(231) * * *

(i) * * *

(D) Butte County Air Quality Management District.

(1) Rule 1105, adopted on February 15, 1996.

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[FR Doc. 01–10649 Filed 5–1–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL–6968–6]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is granting a petition submitted by BMW Manufacturing Corporation, Greer, South Carolina (BMW), to exclude (or "delist") a certain hazardous waste from the lists of hazardous wastes. BMW will generate the petitioned waste by treating wastewater from BMW's automobile assembly plant when aluminum is one of the metals used to manufacture automobile bodies. The waste so generated is a wastewater treatment sludge that meets the definition of F019. BMW petitioned EPA to grant a "generator-specific" delisting because BMW believes that its F019 waste does