

336.2603 Documents available for inspection and copying; R 336.2604 Document inspection and copying procedures; tape recording transcriptions; R 336.2605 Functions; R 336.2608 Hearings and informal conferences; R 336.2301 Definition of air pollution episode; R 336.2302 Definition of air pollution forecast; R 336.2303 Definition of air pollution alert; R 336.2304 Definition of air pollution warning; R 336.2305 Definition of air pollution emergency; R 336.2306 Declaration of air pollution episodes; R 336.2307 Episode emission abatement programs; and R 336.2308 Episode orders. The rules incorporated below contain revisions to degreasing, perchloroethylene dry cleaning, petroleum refinery, synthetic organic chemical manufacturing, and delivery vessel loading rules.

(i) *Incorporation by reference.* The following sections of the Michigan Administrative Code are incorporated by reference.

(A) R 336.1611 Existing cold cleaners, effective June 13, 1997.

(B) R 336.1612 Existing open top vapor degreasers, effective June 13, 1997.

(C) R 336.1613 Existing conveyorized cold cleaners, effective June 13, 1997.

(D) R 336.1614 Existing conveyorized vapor degreasers, effective June 13, 1997.

(E) R 336.1619 Standards for perchloroethylene dry cleaning equipment, effective June 13, 1997.

(F) R 336.1622 Emission of volatile organic compounds from existing components of petroleum refineries; refinery monitoring program, effective June 13, 1997.

(G) R 336.1628 Emission of volatile organic compounds from components of existing process equipment used in manufacturing synthetic organic chemicals and polymers; monitoring program, effective June 13, 1997.

(H) R 336.1651 Standards for Degreasers, effective June 13, 1997.

(I) R 336.1706 Loading delivery vessels with organic compounds having a true vapor pressure of more than 1.5 psia at new loading facilities handling 5,000,000 or more gallons of such compounds per year, effective June 13, 1997.

(J) R 336.1707 New cold cleaners, effective June 13, 1997.

(K) R 336.1708 New open top vapor degreasers, effective June 13, 1997.

(L) R 336.1709 New conveyorized cold cleaners, effective June 13, 1997.

(M) R 336.1710 New conveyorized vapor degreasers, effective June 13, 1997.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 226-0159a FRL-6376-3]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District and Yolo-Solano Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the California State Implementation Plan. The revisions concern rules from the following: South Coast Air Quality Management District (SCAQMD) and Yolo-Solano Air Quality Management District (YSAQMD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from organic liquid loading, pharmaceutical and cosmetics manufacturing operations, and polyester resin operations. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This rule is effective on September 20, 1999 without further notice, unless EPA receives adverse comments by August 20, 1999. If EPA receives such comment, it will publish a timely withdrawal **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

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

Yolo-Solano Air Pollution Control District, 1947 Galileo Court, Suite 103, Davis, CA 95616.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1135.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP include: SCAQMD Rule 462, Organic Liquid Loading, SCAQMD rule 1103, Pharmaceuticals and Cosmetics Manufacturing Operations, and YSAQMD rule 2.30, Polyester Resin Operations. These rules were submitted by the California Air Resources Board to EPA on June 3, 1999, May 13, 1999, and June 3, 1999, respectively.

II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the South Coast Air Basin Area (SCABA) and Yolo County and part of Solano County (43 FR 8964, 40 CFR 81.305). On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the above districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules

pursuant to pre-amended section 172 (b) as interpreted in pre-amendment guidance.¹ EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. SCABA, which includes the SCAQMD, is classified as extreme nonattainment for ozone. Yolo County and part of Solano County are classified as severe-15 nonattainment for ozone.² Therefore, these areas were subject to the RACT fix-up requirement and the May 15, 1991 deadline. u

The State of California submitted many revised RACT rules for incorporation into its SIP, including the rules being acted on in this document. This document addresses EPA's direct-final action for SCAQMD rule 462, Organic Liquid Loading, adopted on May 14, 1999, and found to be complete on June 24, 1999 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, Appendix V³ and is being finalized for approval into the SIP; SCAQMD rule 1103, Pharmaceuticals and Cosmetics Manufacturing Operations, adopted on March 12, 1999, and found to be complete on June 10, 1999; and YSAQMD Rule 2.30, Polyester Resin Operations, adopted on April 14, 1999, and found to be complete on June 24, 1999.

SCAQMD rule 462 is intended to control emissions of VOCs of greater than 1.5 psia (77.5 mm Hg) from loading into tank trucks, trailers, or railroad tank cars. SCAQMD Rule 1103 is intended to control VOC emissions from the manufacture of pharmaceuticals, cosmetics, antibiotics, vitamins, botanic and biological products, tablets, and capsules. EPA granted limited approval and limited disapproval to SCAQMD rules 462 and 1103 on November 13, 1997, 62 FR 60784. Today's direct final rule approves revisions to these rules, that have been amended to address the deficiencies identified in the 1997 disapprovals. Any sanctions now in effect as a result of the 1997 action will

be terminated on the effective date of this direct final rule.

YSAQMD rule 2.30 is intended to control VOC emissions from fabrication operations using polyester resin. EPA proposed limited approval and limited disapproval of a version of YSAQMD rule 2.30 on December 8, 1994, 49 FR 63286. This action was never finalized. Today's direct final rule approves the rule after being corrected for the deficiencies that were identified in the proposed limited disapproval.

VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of California's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and final action for these rules.

III. EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents that are applicable to certain VOC rules. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules according to section 182(a)(2)(A). The CTG applicable to SCAQMD rule 1103 is entitled, "Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products", EPA 450/2-78-029. CTGs applicable to SCAQMD rule 462 are entitled, "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals", EPA-450/2-77-026; "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems",

EPA-450/2-78-051; and "Control of Volatile Organic Emissions from Bulk Gasoline Plants", EPA 450/2-77-035. There are no CTGs applicable to YSAQMD. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

On November 13, 1997 (62 FR 60784), EPA granted limited approval and limited disapproval a version of SCAQMD rule 462, Organic Liquid Loading, that had been adopted by SCAQMD on June 9, 1995. Submitted SCAQMD rule 462 includes the following significant changes from the current SIP rule:

- The definition of "facility vapor leak" and other definitions were revised for clarity.
- Methods were provided for determining vapor leak and compliance to emission limits.
- Obsolete compliance dates were eliminated.

On November 13, 1997 (62 FR 60784), EPA granted limited approval and limited disapproval a version of SCAQMD rule 1103, Pharmaceuticals and Cosmetics Manufacturing Operations, that had been adopted by SCAQMD on December 7, 1990. Submitted SCAQMD rule 1103 includes the following significant changes from the current SIP rule:

- Methods were described for determination of control device efficiency and of surface condenser efficiency, instead of director's discretion.
- Operating requirements were specified and vacuum vents were required over 1.5 psia, instead of director's discretion.
- The calculation method for composite total pressure and the test method for weight of VOC were added.
- "Leak" is defined relative to the allowed time from detection to repair.

On December 8, 1994 (59 FR 63286), EPA proposed limited approval and limited disapproval a version of YSAQMD Rule 2.30, Polyester Resin Operations, that had been adopted by YSAQMD on August 25, 1993. This action was never finalized. Submitted YSAQMD Rule 2.30 includes the following significant change from the proposed rule:

- The test method for monomer content is specified as the SCAQMD Test Method 312, Percent Monomer in Polyester Resins, for restricting the monomer content to no more than 35 percent by weight.

¹ Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice" (Blue Book) (notice of availability was published in the Federal Register on May 25, 1988); and the existing control technique guidelines (CTGs).

² SCAQMD and YSAQMD, respectively, retained their designation of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

³ EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, SCAQMD rule 462, Organic Liquid Loading; SCAQMD rule 1103, Pharmaceutical and Cosmetics Manufacturing Operations; and YSAQMD rule 2.30, Polyester Resin Operations, are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective September 20, 1999 without further notice unless the Agency receives adverse comments by August 20, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule is effective on September 20, 1999 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal

governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

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 E.O. 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 E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to

issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

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 final 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 approve 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. 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 annual 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 approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves 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. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 20, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, and Volatile Organic Compounds. Note: Incorporation by reference of the State Implementation Plan for the State of

California was approved by the Director of the Federal Register on July 1, 1982.

Dated: June 29, 1999.

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) (263) and (264) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(263) New and amended regulations for the following APCDs were submitted on May 13, 1999, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(1) Rule 1103, adopted on March 12, 1999.

* * * * *

(264) New and amended regulations for the following APCDs were submitted on June 3, 1999, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(1) Rule 462, adopted on May 14, 1999.

(B) Yolo-Solano Air Quality Management District.

(1) Rule 2.30, adopted on April 14, 1999.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[AD-FRL-6400-9]

Technical Correction to Partial Withdrawal of Direct Final Rule, "Protection of Stratospheric Ozone: Reconsideration of Petition Criteria and Incorporation of Montreal Protocol Decisions"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule, technical correction.

SUMMARY: This technical action corrects two typographical errors in the October 5, 1998, partial withdrawal of a direct final rule (63 FR 53290). The errors are in the CFR citations referring to the Part affected by that paragraph. 40 CFR 80.4 was printed instead of 40 CFR 82.4, the part of the Code which addresses stratospheric ozone protection.

EFFECTIVE DATE: July 21, 1999.

ADDRESSES: Comments and materials supporting the rulemaking are contained in Public Docket No. A-92-13. The docket is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M-1500, first floor, 401 M Street SW, Washington, DC 20460, or by calling 202/260-7548 or 260-7549. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Tom Land, U.S. Environmental Protection Agency, Program Implementation Branch, Stratospheric Protection Division, Office of Atmospheric Programs, 6205J 401 M Street, SW, Washington, DC 20460, 202/564-9185.

SUPPLEMENTARY INFORMATION:

I. Background

On August 4, 1998, EPA promulgated a direct final rule consisting of a variety of amendments to the accelerated phaseout regulation, intended to: reflect changes in U.S. obligations under the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol); ensure compliance through the petition system for importation of used ozone-depleting substances; and change various requirements to ease the burden on affected companies. EPA received numerous comments on various sections of the rule. Where adverse comments were received, EPA withdrew those specific provisions, proposed the withdrawn provisions, and will ultimately promulgate a final rule that addresses the provisions. The **Federal Register** notice withdrawing the provisions was published on October 5, 1998, through a Partial Withdrawal of Direct Final Rule.

II. Correction to 63 FR 53290

In the October 5, 1998 withdrawal, 63 FR 53290, paragraphs (6) and (7) under the section entitled, **DATES**, the Code of Federal Regulations (CFR) cite is incorrectly published as 40 CFR 80.4. The numbers after "CFR" indicate the part of the Code of Federal Regulations where the regulation can be found. The corrected part is 82.4 in both (6) and (7).