

Office published a Notice of Proposed Rulemaking which announced the proposed rules for giving copyright owners reasonable notice that their sound recordings are being used under the statutory digital performance right license, and set forth rules for maintaining records of use and making them available to copyright owners. 67 FR 5761 (February 7, 2002). The notice also included proposed rules concerning notice and recordkeeping requirements associated with the use of a second statutory license which provides for the making of the ephemeral phonorecords needed to effectuate the transmission of the sound recordings. 17 U.S.C. 112.

On March 1, 2002, counsel for Sirius Satellite Radio Inc., Clear Channel Communications, Salem Communications Corp., and the National Religious Broadcasters Music License Committee asked the Copyright Office to extend the filing deadline for this proceeding. Subsequently, the Office was notified that the recording industry and the webcasters supported the broadcasters' request for an extension of time. These parties seek an extension for filing the requested comments so that they can engage in detailed discussions concerning the issues raised in the Notice of Proposed Rulemaking.

In recognition of the complexity of the proposed rulemaking and the possibility for productive discussions among interested parties, the Office is extending the period for filing comments and replies in this proceeding. Comments shall be due on April 5, 2002, and reply comments shall be due on Friday, April 26, 2002.

Dated: March 6, 2002.

**Marilyn J. Kretsinger,**

*Assistant General Counsel.*

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**BILLING CODE 1410-31-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA247-0299; FRL-7149-4]

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

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a limited approval and limited disapproval of revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from several source categories such as aerospace manufacturing and coating, metal parts coating, wood products coating, and fiberglass composite manufacturing. We are proposing action on a local rule, Rule 1132, regulating these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by April 8, 2002.

**ADDRESSES:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations: California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814; and, South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765-4182.

**FOR FURTHER INFORMATION CONTACT:** Jerald S. Wamsley, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 947-4111.

#### SUPPLEMENTARY INFORMATION:

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

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#### I. The State's Submittal

##### A. What Rule Did the State Submit?

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

TABLE 1.—SUBMITTED RULE

| Local agency | Rule No. | Rule title  | Adopted  | Submitted |
|--------------|----------|---|----------|-----------|
| SCAQMD ..... | 1132     | Further Control of VOC Emissions from High-Emitting Spray Booth Facilities. | 01/19/01 | 05/08/01  |

On July 20, 2001, EPA found this rule submittal met the completeness criteria in 40 CFR Part 51 Appendix V. These criteria must be met before formal EPA review can begin.

#### B. Are There Other Versions of This Rule?

There is no previous version of Rule 1132 in the SIP and there are no extant submittals of Rule 1132 beyond the submittal in today's action.

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

SCAQMD Rule 1132 is a rule designed to reduce volatile organic compound (VOC) emissions at industrial sites engaged high emitting spray booth operations such as aerospace manufacturing facilities, miscellaneous metal parts coating operations, wood products coating operations, and fiberglass composite manufacturing facilities. VOCs are emitted during the preparation and

coating of the given substrate, as well as the drying phase of the coating process. Rule 1132 establishes a 65% VOC emission reduction requirement either by add-on controls, by coating formulation, or a combination of either technique. SCAQMD's Rule 1132 includes the following provisions:

- Rule purpose and applicability;
- Definitions of terms used within the rule;
- Emission reduction requirements;
- Alternative compliance plans;
- Compliance schedules;

—Test methods for determining compliance with the rule;  
 —Record keeping to demonstrate compliance with the rule; and,  
 —Exemptions from the rule.  
 The TSD has more information about this rule.

## II. EPA's Evaluation and Action

### A. How Is EPA Evaluating This Rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). The SCAQMD regulates an ozone nonattainment area (see 40 CFR 81), so Rule 1132 must fulfill RACT.

Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice," (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

### B. Does the Rule Meet the Evaluation Criteria?

This rule improves the SIP by seeking additional VOC emission reductions from these high VOC emitting facilities. This rule is mostly consistent with the relevant policy and guidance regarding enforceability, RACT and SIP relaxations. However, there are Rule

1132 provisions which do not meet the evaluation criteria; these provisions are summarized below and discussed further in the TSD.

### C. What Are the Rule's Deficiencies?

These provisions conflict with section 110 and part D of the Act and prevent full approval of the SIP revision. In general, Section (d) Alternative Compliance Plans allows for "director's discretion." This section does not specify the emission estimation protocols needed to evaluate alternative compliance plans for compliance with the rule. Specific section (d) provisions are discussed below.

1. Section (d)(1) describes a series of actions that composite manufacturing facilities must comply with as part of submitting an Alternative Compliance Plan. SCAQMD states that these measures can be expected to achieve a facility average of 40% reductions while new techniques are developed by 2004 that will achieve the 65% VOC reduction requirement of the rule. However, the rule needs to specify how compliance with the 65% requirement will be demonstrated.

2. Section (d)(3) does not delimit "director's discretion" in any manner. Such discretion should be delimited by emission estimation protocols and specific criteria for judging compliance.

As an alternative to specific estimation protocols and emission factors, Section (d) can be amended to include language specifying EPA review and approval of all alternative compliance plans.

### D. EPA Recommendations to Further Improve the Rule

The TSD describes additional rule revisions that do not affect EPA's current action but are recommended for

the next time the local agency modifies the rule.

### E. Proposed Action and Public Comment

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is proposing a limited approval of Rule 1132 to improve the SIP. If finalized, this action would incorporate the submitted rules into the SIP, including those provisions identified as deficient. This approval is limited because EPA is simultaneously proposing a limited disapproval of the rules under section 110(k)(3). If this disapproval is finalized, sanctions will be imposed under section 179 of the Act unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months. These sanctions would be imposed according to 40 CFR 52.31. A final disapproval would also trigger the federal implementation plan (FIP) requirement under section 110(c). Note that Rule 1132 has been adopted by the SCAQMD, and EPA's final limited disapproval would not prevent the local agency from enforcing it.

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

## III. Background Information

### A. Why Was This Rule Submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

| Date                    | Event   |
|-------------------------|---|
| March 3, 1978 .....     | EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.  |
| May 26, 1988 .....      | EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP—Call). See section 110(a)(2)(H) of the pre-amended Act. |
| November 15, 1990 ..... | Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.   |
| May 15, 1991 .....      | Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.   |

## IV. Administrative Requirements

### A. Executive Order 12866

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

### B. Executive Order 13211

This proposed rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 Fed. Reg. 28355 (May 22, 2001)) because it is not

a significant regulatory action under Executive Order 12866.

### C. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is

determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

#### *D. Executive Order 13132*

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of

power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

#### *E. Executive Order 13175*

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.”

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

#### *F. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

EPA’s proposed disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA’s disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

#### *G. Unfunded Mandates*

Under section 202 of the Unfunded Mandates Reform Act of 1995 (“Unfunded Mandates Act”), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed action does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This proposed Federal action acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### *H. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical

standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

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

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

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

Dated: October 4, 2001.

**Sally Seymour,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 02-5601 Filed 3-7-02; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[IN139-1b; FRL-7155-4]

#### Approval and Promulgation of Implementation Plans; Indiana

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve, through direct final procedure, a negative declaration submitted by the State of Indiana which indicates there is no need for regulations covering existing Small Municipal Waste Combustors (MWC) in the State. The State's negative declaration regarding this category of sources was submitted in letters dated November 7, 2001, and December 3, 2001, and was based on a systematic search of the State's internal data bases. The intent of the State's action is to satisfy a Federal requirement to develop a plan to control emissions from small MWCs or to declare there are no sources of this type in the State.

In the Final Rules section of this **Federal Register**, EPA is approving the State's negative declaration request as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. The rationale for approval is set forth in the direct final rule. If no written adverse comments are

received in response to the direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives meaningful written adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. If no adverse written comments are received, the direct final rule will take effect on the date stated in that document and no further activity will be taken on this proposed rule. Any party interested in commenting on this negative declaration should do so at this time.

**DATES:** Comments on this action must be received by April 8, 2002.

**ADDRESSES:** Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of the State's negative declaration request is available for inspection at the above address.

**FOR FURTHER INFORMATION CONTACT:** John Paskevicz, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6084.

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" are used we mean the EPA.

I. What Actions Are EPA Taking Today?

II. Where Can I Find More Information About This Proposal and Corresponding Direct Final Rule?

#### I. What Actions Are EPA Taking Today?

The EPA is proposing to approve a negative declaration submitted by the State of Indiana which indicates there is no need for regulations to control emissions from small Municipal Waste Combustors in the State. The State performed an analysis which shows that there are no small MWCs in Indiana.

#### II. Where Can I Find More Information About This Proposal and Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

**Authority:** 42 U.S.C. 4201-7601q.

Dated: February 28, 2002.

**Norman Niedergang,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 02-5599 Filed 3-7-02; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Chapter I

[IB Docket No. 02-18, FCC 02-28]

#### Enforcement of Other Nations' Prohibitions Against the Uncompleted Call Signaling Configuration of International Call-back Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document solicits comments on the Commission's international comity-based call-back enforcement policy. The Commission initiated this proceeding because the changes in the international telecommunications market warrant a review of the policy. The Commission believes that this proceeding will promote competition in the international telecommunications market.

**DATES:** Comments are due on or before April 15, 2002, and reply comments are due on or before May 15, 2002.

**ADDRESSES:** Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Room TW-B204F, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Belinda Nixon, International Bureau, (202) 418-1460.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making (NPRM), FCC 02-28, adopted on January 30, 2002, and released on February 13, 2002. The full text of this document is available for inspection and copying during normal business hours in the Office of Media Relations, Reference Operations Division, (Room CY-A257) of the Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. The document is also available for download over the Internet at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-02-28A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-02-28A1.pdf). The complete text of this document also may be purchased from the Commission's copy contractor, Qualex, Portals II, 445 12th St., SW., Room CY-B402, Washington, DC 20054, telephone (202) 863-2893.

#### Summary of Notice of Proposed Rulemaking

1. On February 13, 2002, the Commission released a Notice of Proposed Rulemaking (NPRM) to review the Commission's international call-back enforcement policy. International call-back arrangements allow foreign