Drug Abuse Prevention and Control Act of 1970, as amended. * * *

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Dated: January 8, 1999.

Janet Reno,

Attorney General.

[FR Doc. 99–1900 Filed 1–27–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–71–1–7311a; FRL–6222–1]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Multiple Air Contaminant Sources or Properties

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves the State Implementation Plan (SIP) revision to 30 TAC Chapter 101, Section 101.2(b) concerning Multiple Air Contaminant Sources. The SIP revision was submitted by the Governor to EPA on January 10, 1996. The revision to the rule eliminates the 50,000 population limitation and is now applicable statewide to all counties regardless of population. The revision also limits the use of the provision to a property under the control of a single entity which has been or will be divided and placed under the control of separate entities, creating a new property line configuration for properties operated, or intended to be operated, as an integrated plant or plants where individual facilities are owned by separate entities, but all facilities are under the control of a single entity. The approval of these Texas SIP revisions make the revisions federally enforceable.

DATES: This rule is effective on March 29, 1999 without further notice, unless EPA receives adverse comment by March 1, 1999. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission (TNRCC), Office of Air Quality, 12100 Park Circle, Austin, Texas 78753.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW.,Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Boyce, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202, telephone: (214) 665–7259.

SUPPLEMENTARY INFORMATION:

I. Background

The original 1967 regulation regarding multiple air contaminant sources allowed two or more property holders in an area to petition to have their properties designated as a single entity for the purpose of controlling air emissions. The rule applies to properties which are contiguous except for intersecting roads, railroads, rights-of-way, canals, and watercourses which are considered a part of the area for purposes of this provision. The rule required that the petition describe the manner in which the combined emissions will be administered and it shall name the responsible party or parties. In 1972, the regulation was limited in applicability to counties with a population less than 50,000 as determined by the most recent census.

The amendment to the rule eliminates the 50,000 population limitation and it limits the use of the provision to properties under the control of a single entity. The proposal would require the parties dividing ownership to establish which of them is responsible for emissions related impacts. Also, the definition of an eligible facility is further narrowed to exclude property previously divided by a canal, bayou, waterway, or public right-of-way.

II. Analysis of State Submission

The EPA had no adverse comments regarding the proposed rule change, provided that each petition be accompanied by a statement indicating ownership, control, and clarified responsibility. In its response to comments, Texas agreed that the petition would clearly indicate ownership, control, and responsibility.

III. Final Action

The EPA is approving the revisions to the Texas SIP regarding Multiple Air Contaminant Sources or Properties. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, the proposed section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective on March 29, 1999 unless EPA receives adverse comment by March 1, 1999. If adverse or critical comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent action that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective March 29, 1999 and no further action will be taken on the proposed rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific, technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Orders (E.O.) 12866 and 13045

The Office of Management and Budget has exempted this regulatory action from review under Executive Order E.O. 12866, entitled ''Regulatory Planning Review.''

B. Executive Order 12875

Under Executive Order 12875, 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. If the mandate is unfunded, EPA must 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 written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 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.''

This 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 3(b) of E.O. 13084 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 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 13084

Under Executive Order 13084, 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. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 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 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 Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The 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, 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.

The 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. The 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 Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 29, 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations,

Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and record keeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 18, 1998.

Jerry Clifford,

Acting Regional Administrator, Region 6.

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 SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(112) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(112) Revision to the Texas State Implementation Plan submitted by the Governor on January 10, 1996.

(i) Incorporation by reference.

(A) Texas Natural Resource Conservation Commission (TNRCC) General Rules (30 TAC Chapter 101), Section 101.2(b), adopted by TNRCC on December 13, 1995, effective January 8, 1996.

(B) TNRCC Docket No. 95–0849–RUL issued December 13, 1995, for adoption of amendments to 30 TAC Chapter 101, Section 101.2(b), regarding Multiple Air Contaminant Sources or Properties and revision to the SIP.

(ii) Additional materials.

A letter from the Governor of Texas dated January 10, 1996, submitting revisions to 30 TAC Chapter 101, Section 101.2(b), for approval as a revision to the SIP.

[FR Doc. 99–1912 Filed 1–27–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6222–7]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; Perchloroethylene Air Emission Standards for Dry Cleaning Facilities; State of California; Yolo-Solano Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to section 112(l) of the Clean Air Act (CAA) and through the California Air Resources Board, the Yolo-Solano Air Quality Management District (YSAQMD) requested approval to implement and enforce its ''Rule 9.7: Perchloroethylene Dry Cleaning Operations'' (Rule 9.7) in place of the ''National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities'' (dry cleaning NESHAP) for area sources under YSAQMD's jurisdiction. The Environmental Protection Agency (EPA) has reviewed this request and has found that it satisfies all of the requirements necessary to qualify for approval. Thus, EPA is hereby granting YSAQMD the authority to implement and enforce Rule 9.7 in place of the dry cleaning NESHAP for area sources under YSAQMD's jurisdiction.

DATES: This rule is effective on March 29, 1999 without further notice, unless EPA receives adverse comments by March 1, 1999. If EPA receives such comment, then it will publish a timely withdrawal in the Federal Register informing the public that this rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 29, 1999.

ADDRESSES: Written comments must be submitted to Andrew Steckel at the EPA Region IX office listed below. Copies of YSAQMD's request for approval are available for public inspection at the following locations:

U.S. Environmental Protection Agency, Region IX, Rulemaking Office (AIR–4), Air Division, 75 Hawthorne Street, San Francisco, California 94105–3901. Docket # A–96–25.

California Air Resources Board, Stationary Source Division, 2020 ''L'' Street, P.O. Box 2815, Sacramento, California 95812–2815.

Yolo-Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, California 95616.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901, (415) 744–1200.

SUPPLEMENTARY INFORMATION:

I. Background

On September 22, 1993, the Environmental Protection Agency (EPA) promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for perchloroethylene dry cleaning facilities (*see* 58 FR 49354), which was codified in 40 CFR Part 63, Subpart M, ''National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities'' (dry cleaning NESHAP). On May 21, 1996, EPA approved the California Air Resources Board's (CARB) request to implement and enforce section 93109 of Title 17 of the California Code of Regulations, ''Airborne Toxic Control Measure for Emissions of Perchloroethylene from Dry Cleaning Operations'' (dry cleaning ATCM), in place of the dry cleaning NESHAP for area sources (*see* 61 FR 25397). This approval became effective on June 20, 1996.

Thus, under Federal law, from September 22, 1993, to June 20, 1996, all dry cleaning facilities located within the jurisdiction of the Yolo-Solano Air Quality Management District (YSAQMD) that used perchloroethylene were subject to and required to comply with the dry cleaning NESHAP. Since June 20, 1996, all such dry cleaning facilities that also qualify as area sources are subject to the Federally-approved dry cleaning ATCM; major sources, as defined by the dry cleaning NESHAP, remain subject to the dry cleaning NESHAP and the Clean Air Act (CAA) Title V operating permit program.

On April 25, 1997, EPA received, through CARB, YSAQMD's request for approval to implement and enforce its ''Rule 9.7: Perchloroethylene Dry Cleaning Operations'' (Rule 9.7), as the Federally-enforceable standard for area sources under YSAQMD's jurisdiction. YSAQMD's request, however, does not include the authority to determine equivalent emission control technology for dry cleaning facilities in place of 40 CFR 63.325. On November 14, 1997, YSAQMD withdrew its request to make revisions to Rule 9.7. YSAQMD subsequently revised Rule 9.7 on November 13, 1998, and resubmitted the rule on December 21, 1998, for EPA's approval.

II. EPA Action

A. YSAQMD's Dry Cleaning Rule

Under CAA section 112(l), EPA may approve state or local rules or programs to be implemented and enforced in place of certain otherwise applicable CAA section 112 Federal rules, emission standards, or requirements. The Federal regulations governing EPA's approval of state and local rules or programs under section 112(l) are located at 40 CFR part 63, Subpart E (*see* 58 FR 62262, dated November 26, 1993). Under these regulations, a local air pollution control agency has the option to request EPA's approval to substitute a local rule for the applicable Federal rule. Upon approval, the local agency is given the authority to implement and enforce its rule in