Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Although this regulation prevents traffic from transiting a portion of the Upper New York Bay, Federal Anchorage 20C during the event, the effect of this regulation will not be significant for several reasons: the minimal time that vessels will be restricted from the area, that vessels may safely anchor to the north and south of the zone, that vessels may still transit through Anchorage Channel during the event, and advance notifications which will be made to the local maritime community by the Local Notice to Mariners, and marine information broadcasts.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For reasons stated in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 13132 and has determined that this proposed rule does not have implications for federalism under that Order.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) [Pub. L. 104–4, 109 Stat. 48] requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for rules that contain Federal mandates. A ''Federal mandate'' is a new or additional enforceable duty imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, $100 million or more in any one year, the UMRA analysis is required. This proposed rule would not impose Federal mandates on any State, local, or tribal governments, or the private sector.

Environment

The Coast Guard has considered the environmental impact of this proposed rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A written Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

Proposed Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–182 to read as follows:

§ 165.T01–182 Safety Zone: New York Cruise Lines Fireworks, New York Harbor, Upper Bay.

(a) *Location.* The following area is a safety zone: All waters of New York Harbor, Upper Bay within a 360-yard radius of the fireworks barge in approximate position 40°41′16.5″N 074°02′23″W (NAD 1983), approximately 360 yards east of Liberty Island, New York.

(b) *Effective period.* This section is effective from 10:30 p.m. Friday, December 31, 1999, to 12:45 a.m. Saturday, January 1, 2000. If the event is canceled due to inclement weather, then this section would be effective from 10:30 p.m. Saturday, January 1, 2000, to 12:45 a.m. Sunday, January 2, 2000.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. 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.

Dated: November 9, 1999.

R.E. Bennis,

Captain, U. S. Coast Guard, Captain of the Port, New York.

[FR Doc. 99–30268 Filed 11–18–99; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 235–184; FRL–6478–2]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Tehama County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes a limited approval of revisions to the California State Implementation Plan (SIP) concerning control of volatile organic compound (VOC) emissions from organic solvents.

The intended effect of proposing limited approval of this rule is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990

(CAA or the Act). EPA's final action on this proposed rulemaking will incorporate this rule into the federally approved SIP. EPA has evaluated the rule and is proposing a limited approval under provisions of the CAA regarding EPA action on SIP submittals and general rulemaking authority because these revisions, while strengthening the SIP, also do not fully meet the CAA provisions regarding plan submissions.

DATES: Comments must be received on or before December 20, 1999.

ADDRESSES: Comments may be mailed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule and EPA's evaluation report of the rule is available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule is also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814.

Tehama County Air Pollution Control District, 1750 Walnut Street, P.O. Box 38, Red Bluff, CA 96080.

FOR FURTHER INFORMATION CONTACT: Andrew Steckel, Rulemaking Office, (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901; Telephone: (415) 744–1185.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rule being proposed for limited approval into the California SIP is: Tehama County Air Pollution Control District (THCAPCD) Rule 4.22, Industrial Use of Organic Solvents. This rule was submitted by the California Air Resources Board (CARB) to EPA on November 25, 1987.

II. Background

40 CFR 81.305 provides the attainment status designations for air districts in California. Tehama County is listed as being in attainment for the national ambient air quality standard (NAAQS)for ozone. Therefore for the purpose of controlling ozone, this rule only needs to comply with section 110 of the Act.

The State of California submitted many revised rules to EPA for incorporation into its SIP on November 25, 1987, including the rule being acted on in this document. This document addresses EPA's proposed action for Rule 4.22, Industrial Use of Organic Solvents. Tehama County adopted Rule 4.22 on August 4, 1987. This submitted rule is being proposed for limited approval. Rule 4.22 controls the emission of volatile organic compounds (VOCs) from industrial use of organic solvents. VOCs are a precursor for ozone. The following is EPA's evaluation and proposed action for THCAPCD Rule 4.22.

III. EPA Evaluation and Proposed 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 of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittals of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in various EPA policy guidance documents.[1] THCAPCD's Rule 4.22 applies to a source category that is not covered by an applicable CTG and therefore state and local agencies may determine what controls are required by reviewing the operation of facilities subject to the regulation and evaluating regulations for similar sources in other areas. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, the EPA guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP. While Tehama County is in attainment with the ozone NAAQS, many of the general SIP requirements regarding enforceability, for example, are still appropriate for this rule.

There is currently no version of THCAPCD, Rule 4.22, Industrial use of Organic Solvents in the SIP. The submitted rule includes the following significant provisions:

- *Section (a)* a prohibition of discharges of more than 15 lbs of VOCs from any article, machine, equipment or contrivance in which organic solvents or any material containing organic solvents comes into contact with flame or is baked, heat cured, or heat polymerized, in the presence of oxygen at temperatures above 400°F.
- *Section (b)* a prohibition against discharging more than 40 lbs of VOCs from any article, machine, equipment or contrivance used under conditions other than described under (a).
- The rule allows the use of emission control equipment to reduce the discharge to no more than the limits specified in sections (a) and (b).
- *Section (d)(1)* establishes a VOC daily maximum emission limit of 450 lbs for facilities applying polyester resins in fiberglass reinforced plastic fabrication.
- Incorporates by reference VOC emission limits and other provisions contained in 40 CFR 52.254, November 12, 1973, Volume 38, No. 217.

EPA has evaluated THCAPCD's submitted Rule 4.22 for consistency with the CAA, EPA regulations, and EPA policy and has found that the rule will strengthen the SIP. However the rule contains the following deficiencies:

- A director's discretion to choose and approve test methods to determine conformance,
- Lack of specified test methods or monitoring protocol,
- No recordkeeping provisions.

A detailed discussion of the rule deficiencies can be found in the Technical Support Document for THCAPCD Rule 4.22, which is available from the U.S. EPA, Region IX office.

Because the deficiencies identified in this rule may cause enforceability problems, EPA cannot grant full approval under 110(k)(3). Also, because the submitted rule is not composed of separable parts which meet all the applicable parts of the CAA, EPA cannot grant partial approval of the rule under section 110(k)(3). However, EPA may grant a limited approval of the submitted rule under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations to advance the Act's air quality protection goals by strengthening the SIP. In order to strengthen the SIP by advancing the ozone air quality protection goal of the Act, EPA is proposing a limited approval of THCAPCD's Rule 4.22 under sections 110(k)(3) and 301(a) of the Act. However this limited approval would not approve Rule 4.22 as satisfying any other specific requirement of the act, nor would it constitute full approval of Rule 4.22 pursuant to section 110(k)(3). Rather, a limited approval of this rule by EPA would mean that the emission limitations and other control measure requirements become part of the California SIP and are federally enforceable by EPA. See, *e.g.* sections 302(q) and 113 of the Act.

[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** document'' (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

It should be noted that the rule covered by this proposed rulemaking has been adopted by and is currently in effect in TCAPCD. EPA's final limited approval action will not prevent THCAPCD or EPA from enforcing this 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 13132

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. Thus, the requirements of section 6 of the Executive Order 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 is 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping

requirements, Volatile organic compounds.

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

Dated: November 5, 1999.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 99–30237 Filed 11–18–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–035b; UT–001–0023b; WY–001–0004b; FRL–6471–5]

Approval and Promulgation of Air Quality Implementation Plans; States of Colorado, Utah and Wyoming; General Conformity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of the State Implementation Plan (SIP) revisions submitted by the States of Colorado, Utah and Wyoming incorporating the General Conformity provisions of 40 CFR part 51, subpart W, and 40 CFR part 93, subpart B. The implementation plan revisions were submitted by these States to satisfy the requirements of section 176(c) of the Clean Air Act for revisions to the SIP which contain criteria and procedures for assessing the conformity of Federal actions to the applicable implementation plan. These States have incorporated the Federal General Conformity provisions into their SIPs by reference. Additional information is available at the address indicated below. In the Final Rules section of this **Federal Register**, EPA is approving the States' SIP revisions as a direct final rule without prior proposal because the Agency views these as noncontroversial revisions and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives 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. 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.

DATES: Comments on this proposed rule must be received in writing by December 20, 1999.

ADDRESSES: Written comments should be addressed to: Richard R. Long, Director, Air & Radiation Program (8P–AR), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday at the following office: United States Environmental Protection Agency, Region 8, Air & Radiation Program, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

FOR FURTHER INFORMATION CONTACT: Jeff Houk, Air & Radiation Program (8P–AR), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466; ph. (303) 312–6446.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules section of this **Federal Register**.

Dated: October 13, 1999

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 99–30233 Filed 11–18–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[FRL–6478–3]

Outer Continental Shelf Air Regulations Consistency Update for California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; consistency update.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf (''OCS'') Air Regulations. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (''COA''), as mandated by section 328(a)(1) of the Clean Air Act, as amended in 1990 (''the Act''). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the Santa Barbara County Air Pollution Control District (Santa Barbara County APCD) and Ventura County Air Pollution Control District (Ventura County APCD) are the designated COAs. The intended effect of approving the OCS requirements for the above Districts, contained in the Technical Support Document, is to regulate emissions from OCS sources in accordance with the requirements onshore. The changes to the existing requirements discussed below are proposed to be incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations.

DATES: Comments on the proposed update must be received on or before December 20, 1999.

ADDRESSES: Comments must be mailed (in duplicate if possible) to: EPA Air Docket (Air-4), Attn: Docket No. A–93–16 Section XIX, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

DOCKET: Supporting information used in developing the rule and copies of the documents EPA is proposing to incorporate by reference are contained in Docket No. A–93–16 Section XIX. This docket is available for public inspection and copying Monday–Friday during regular business hours at the following locations:

EPA Air Docket (Air-4), Attn: Docket No. A–93–16 Section XIX, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

EPA Air Docket (LE–131), Attn: Air Docket No. A–93–16 Section XIX, Environmental Protection Agency, 401 M Street SW, Room M–1500, Washington, DC 20460.

A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Air Division (Air-4), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1197.

SUPPLEMENTARY INFORMATION:

I. Background

On September 4, 1992, EPA promulgated 40 CFR part 55, [1] which established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for

[1] The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.