

and 1.8 ton/day NO_x) exceed the cumulative reductions committed to in the 1994 SIP (8.1 ton/day VOC and 0.9 ton/day NO_x) for the replacement measures.

The SJVUAPCD has adopted rules 4601, 4662, 4692, 4623, 4663 and 4703. These rules, with minor exceptions,² were all implemented by or before November 2002.

III. Evaluation of the 2001 Amendment

Section 110(l) of the CAA prohibits EPA from approving SIP revisions that would "interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act." EPA believes that the 2001 Amendment, in conjunction with 14 CCR 1774 and 13 CCR 2450–2466, does not interfere with the statutory attainment date for the San Joaquin Valley area, no later than November 15, 2005, because it results in cumulative emission reductions of 5.8 tons/day VOC and 0.9 ton/day NO_x beyond those to be achieved by the measures committed to in the 1994 SIP. Furthermore, since the commitments in the 2001 Amendment have been generally implemented, there will be no adverse impact on reasonable further progress requirements for the area.³

IV. The Non-Implementation Finding

As discussed above, EPA issued its November 8, 2001, non-implementation finding (66 FR 56476) because SJVUAPCD had failed to adopt and implement six control measures committed to in the 1994 SIP. The non-implementation finding stated that " * * * the SJVUAPCD is obliged by its existing SIP to meet the specific requirements of its commitments. However, CARB and the District have the opportunity to amend the SIP by showing that reasonable further progress and other requirements of the CAA can be met with a revised schedule of controls and associated emission reductions." Based on the above evaluation, EPA believes that these requirements have been met and that the adoption and implementation of

rules 4601, 4662, 4692, 4623, 4663 and 4703 in the 2001 Amendment and 14 CCR 1774 and 13 CCR 2450–2466 are tantamount to the adoption and implementation of the analogous rules in the 1994 SIP.

While our November 8, 2001, non-implementation finding specified that adoption and implementation of the six measures in the 1994 SIP would terminate sanctions, the measures in the 2001 Amendment should also be submitted to EPA for SIP approval. With the exception of rules 4411 and 4412, all measures in Table 1 have been submitted and found complete. While we concur with the SJVUAPCD that it is not necessary to duplicate 17 CCR 1774 and 13 CCR 2450–2466 requirements by adopting rules 4411 and 4412, we believe these state requirements should be submitted for incorporation into the federally enforceable SIP. Based on discussions with CARB, we believe these requirements will be submitted to EPA in the next few months.

V. Proposed Action

We are proposing to fully approve the 2001 Amendment under CAA section 110(k)(3) because EPA believes that approval is consistent with section 110(l) of the CAA. We are also proposing to find that the deficiencies that resulted in our November 8, 2001, non-implementation finding have been corrected by the adoption and implementation of rules 4601, 4662, 4692, 4623, 4663 and 4703 in the 2001 Amendment and 14 CCR 1774 and 13 CCR 2450–2466.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

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

B. Paperwork Reduction Act

This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

C. 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 the SIP approval and associated finding 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 and terminate sanctions clocks. 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).

D. Unfunded Mandates Reform Act

Under sections 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 the 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 Federal action proposes to approve pre-existing requirements under State or local law and proposes to find that portions of the state implementation plan have been implemented and, as such, imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

² See footnote 3.

³ All of the requirements found in the 2001 Amendment rules have been implemented with the following exceptions: An aerospace exemption under rule 4662 expires in 2006; a requirement for retrofitting tanks under rule 4623 does not have to be implemented until 11/15/03; technology-forcing requirements for cleaning solvents under rule 4663 do not have to be implemented until 11/15/03; and a technology forcing requirement for photochemical resins under rule 4663 does not have to be implemented until 6/30/05. EPA believes that the emissions reductions associated with these future implementation dates are small and do not impact attainment and reasonable further progress.