

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

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 BAAQMD regulates an ozone nonattainment area (see 40 CFR part 81), so these rules must fulfill RACT.

Guidance and policy documents that we used to help evaluate specific enforceability and RACT requirements consistently include the following items listed below.

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," EPA, May 25, 1988 (the Bluebook).

3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

4. "Control of Volatile Organic Emissions from Existing Stationary Sources Volume III: Surface Coating of Metal Furniture," USEPA, December 1977, EPA-450/2-77-032.

5. "Control of Volatile Organic Emissions from Existing Stationary Sources Volume V: Surface Coating of Large Appliances," USEPA, December 1977, EPA-450/2-77-034.

6. "Control of Volatile Organic Emissions from Existing Stationary Sources Volume VI: Surface Coating of Miscellaneous Metal Parts and Products," USEPA, June 1978, EPA-450/2-78-015.

7. Alternative Control Technique Document: Surface Coating of Automotive/Transportation and Business Machine Plastic Parts (EPA 453/R-94-017, 2/94).

8. "Control Techniques Guidelines (CTG) for Shipbuilding and Ship Repair Operations (Surface Coating)," USEPA, 61 **Federal Register** 44050-44057, August 27, 1996.

B. Do the Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The emissions allowed by the limited exemptions within these rules are outweighed by the emission reductions generated by each rule. BAAQMD staff provided the following supporting rationale for the limited

exemptions: (1) Some solvent cleaning is idiosyncratic to the ink, coating, or adhesive being removed and could not be achieved without considering their formulation; (2) these surface preparation and cleaning solvents are used in very small amounts; (3) a specific clean-up solvent or surface preparation agent is either required, or has no workable substitute given the specific task at hand. Overall, these amendments to these Regulation 8 rules will result in a VOC emission reduction of 2.2 tons per day including the emission effects of the limited exemptions (note that 1.7 tons per day of these emission reductions are derived from Rule 8-4, adopted simultaneously with these other rules).

The subject TSD has more information on our evaluation each rule.

C. EPA Recommendations to Further Improve the Rules

We have no additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rules.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by December 1, 2003, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on December 29, 2003. This will incorporate these rules into the federally enforceable SIP. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Stationary and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For

this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action merely approves 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. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the