

Dated: March 8, 2004.

Marybeth Peters,

Register of Copyrights.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 115-CMT; FRL-7635-3]

#### Approval and Promulgation of Implementation Plans for California—San Joaquin Valley PM-10 Nonattainment Area; Serious Area Plan for Attainment of the 24-Hour and Annual PM-10 Standards; Reopening of Public Comment Period

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

**ACTION:** Proposed rule; extension of public comment period.

**SUMMARY:** EPA is reopening the comment period for the proposed rule published February 4, 2004 (69 FR 5412), proposing to approve the “2003 PM10 Plan, San Joaquin Valley Plan to Attain Federal Standards for Particulate Matter 10 Microns and Smaller,” submitted on August 19, 2003, and Amendments to that plan submitted on December 30, 2003, as meeting the Clean Air Act requirements applicable to the San Joaquin Valley, California PM-10 (particulate matter of 10 microns or less) nonattainment area. The original comment period closed on March 5, 2004.

**DATES:** The comment period on the proposed rule is reopened and comments must be received by March 19, 2004.

**ADDRESSES:** Mail comments to Doris Lo, Planning Office (AIR2), EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105. Comments may also be submitted electronically to [lo.doris@epa.gov](mailto:lo.doris@epa.gov) or through hand delivery/courier.

**FOR FURTHER INFORMATION CONTACT:** Doris Lo, Planning Office (AIR2), U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, California, 94105. (415) 972-3959, email: [lo.doris@epa.gov](mailto:lo.doris@epa.gov).

Dated: March 4, 2004.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 04-5509 Filed 3-10-04; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[TX-165-1-7610; FRL-7635-1]

#### Approval and Promulgation of Implementation Plans; Texas; Revisions to Regulations for Control of Air Pollution by Permits for New Sources and Modifications Including Incorporation of Marine Vessel Emissions in Applicability Determinations

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve revisions to the Texas State Implementation Plan (SIP). This includes revisions that the Texas Commission on Environmental Quality (TCEQ) submitted to EPA on September 16, 2002, to revise the definitions of “building, structure, facility, or installation” and “secondary emissions” as defined in section 116.12 and section 116.160. This also includes revisions to section 116.160 and section 116.162 to incorporate updated Federal regulation citations. This action is being taken under section 110 of the Federal Clean Air Act, as amended (the Act or CAA). **DATES:** Comments on the proposed action must be received by April 12, 2004.

**ADDRESSES:** Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in the General Information section of the **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Kordzi of the Air Permits Section at (214) 665-7520, or [kordzi.stephanie@epa.gov](mailto:kordzi.stephanie@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” or “our” means EPA.

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#### I. What State Rules Are Being Addressed in This Document?

In today’s action we are proposing to approve into the Texas SIP revisions to Title 30 of the Texas Administrative Code (30 TAC) sections 116.12,

Nonattainment Review Definitions; 116.160, Prevention of Significant Deterioration Requirements; and 116.162, Evaluation of Air Quality Impacts. The TCEQ adopted these revisions on October 10, 2001, and submitted the revisions to us for approval as a revision to the SIP on September 16, 2002.

30 TAC section 116.12—Nonattainment Review. The previous State version of this section, which is the existing SIP-approved version (see 65 FR 43994, July 17, 2000), excludes the “activities of any vessel” from the definition of “building, structure, facility, or installation.” The revised version that the State adopted on October 10, 2001, and that the State has submitted for EPA’s approval, deletes the “except the activities of any vessel” clause from 116.12(4). Texas has explained that this change will allow the inclusion of marine vessel emissions in applicability determinations for nonattainment permits.

30 TAC section 116.160—Prevention of Significant Deterioration Requirements. The previous State version of this section, which is the existing SIP-approved version (see 67 FR 58697, September 18, 2002), incorporates by reference the Federal Prevention of Significant Deterioration (PSD) regulations at 40 CFR 52.21, as amended June 3, 1993. Those regulations excluded the “activities of any vessel” from the definition of “building, structure, facility, or installation.” The revised version that the State adopted on October 10, 2001, and that the State has submitted for EPA’s approval, excludes the CFR definition of “building, structure, facility, or installation,” because the CFR definition includes language vacated by the court in *Natural Resources Defense Council v. EPA*, 725 F.2d 761 (D.C. Cir. 1984) (see discussion below under “Legal Background”). Instead, the revised version of section 116.160 defines “building, structure, facility, or installation” consistent with the definition in revised section 116.12, discussed above. Texas has explained that this change will allow the inclusion of marine vessel emissions in applicability determinations for PSD permits. In addition, the revised section 116.160 replaces the definition of “secondary emissions” at 40 CFR 52.21 with language consistent with the NRDC decision.

The revised section 116.160 otherwise incorporates the version of the Federal PSD air quality regulations promulgated at 40 CFR 52.21 in 1996, as well as the most recent version of 40 CFR 51.301 (amended 1999).

Finally, revised subsections 116.160(d) and (e) make minor changes such as clarifying references to the "administrator" and "executive director."

30 TAC section 116.162, Evaluation of Air Quality Impacts. EPA approved the previous State version of this section into the SIP on August 19, 1997. 62 FR 44083. The new version submitted to EPA contains only minor typographical and citation changes.

## II. What Is the Legal Basis for EPA's Proposed Approval of These State Rules?

Section 110 of the Act requires States to develop air pollution regulations and control strategies to ensure that State air quality meets the National Ambient Air Quality Standards. Each State must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP. In order for State regulations to be incorporated into the Federally-enforceable SIP, States must formally adopt these regulations and control strategies consistent with State and Federal requirements. Section 116 of the Act provides that the States retain the authority to adopt measures no less stringent than federal requirements, unless otherwise preempted.

Once a State adopts a rule, regulation, or control strategy, the State may submit it to us for inclusion into the SIP in accordance with section 110 of the Act. We must then decide on an appropriate Federal action, provide public notice and seek additional comment regarding the proposed Federal action on the State submission. If we receive relevant adverse comments, we must address them before taking a final action.

Under section 110 of the Act, when we approve all State regulations and supporting information, those State regulations and supporting information become a part of the federally approved SIP.

Additional details on the legal basis for this proposed rule may be found in the Technical Support Document (TSD) for this action.

## III. Have the Requirements for Approval of a SIP Revision Been Met?

Currently, the State of Texas issues and enforces PSD permits directly in all areas of the State without final approval by EPA, with the exception of Indian lands and situations where the applicability determinations would be affected by dockside emissions of vessels. As currently approved, Chapter 116 incorporates the PSD/ Nonattainment (NA) review permitting requirements and definitions from the

vacated 1982 regulations in section 116.12(4) for NA and section 116.160(a) for PSD.

Final approval of the changes to section 116.12 and section 116.160(c) will grant full approval of the State's preconstruction permitting SIP for all sources, except for those sources located on land under the control of Indian governing bodies. These changes to section 116.12 are not inconsistent with the requirements of the Clean Air Act.

## IV. What Action Is EPA Taking?

We are approving as a revision to the Texas SIP revisions of 30 TAC sections 116.12, Nonattainment (NA) Review Definitions; 116.160, Prevention of Significant Deterioration Requirements; and 116.162, Evaluation of Air Quality Impacts, which Texas submitted on September 16, 2002.

We are also proposing to revise 40 CFR 52.2303, Significant deterioration of air quality, as follows. First, we are proposing to remove paragraph (d), which retained applicable requirements of 40 CFR 52.21 for new major sources or major modifications to existing stationary sources for which applicability determinations of PSD would be affected by dockside emissions of vessels. Because the regulations that we are approving today enable Texas to make PSD applicability determinations for such sources, paragraph (d) is no longer necessary. Second, we are proposing to revise and reorganize paragraph (a) to reflect the current information concerning Texas' PSD program and to make paragraph (a) easier to understand.

## V. General Information

### A. How Can I Get Copies of This Document and Other Related Information?

1. The Regional Office has established an official public rulemaking file available for inspection at the Regional Office. EPA has established an official public rulemaking file for this action under TX-165-1-7610. The official public rulemaking file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the official public rulemaking file does not include Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. The official public rulemaking file is available for public viewing at the Air Permitting Section, EPA Region 6, 1445 Ross Avenue, Dallas, TX. EPA requests that if at all possible you contact the

person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Offices official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

2. Copies of the State submittal and EPA's Technical Support Document are also available for public inspection during normal business hours, by appointment at the State air agency: Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

3. Electronic Access. You may access this **Federal Register** document electronically through the Regulations.gov Web site at <http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment. For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information the disclosure of which is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

### B. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number, TX-165-1-7610, in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you wish to submit comments electronically (via e-mail, Regulations.gov, or on disk or CD-ROM), EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any

cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. The EPA's policy is that EPA will not edit your comments. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the public rulemaking file. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

a. *E-mail* Comments may be submitted by electronic mail (e-mail) to Ms. Stephanie Kordzi at [kordzi.stephanie@epa.gov](mailto:kordzi.stephanie@epa.gov), Subject "Public comment on ID No. TX-165-1-7610." In contrast to the Regulations.gov Web site, EPA's e-mail system is not an "anonymous" system. If you send an e-mail comment directly to EPA, your e-mail address will be automatically captured and included as part of the comment that is placed in the official public rulemaking file.

b. *Regulations.gov*. Comments may be submitted electronically at the Regulations.gov Web site, the central online rulemaking portal of the United States government. Every effort is made to ensure that the Web site includes all rule and proposed rule notices that are currently open for public comment. You may access the Regulations.gov Web site at <http://www.regulations.gov>. Select "Environmental Protection Agency" at the top of the page and click on the "Go" button. The list of current EPA actions available for comment will be displayed. Select the appropriate action and follow the online instructions for submitting comments. Unlike EPA's e-mail system, the Regulations.gov Web site is an "anonymous" system, which means that any personal information, e-mail address, or other contact information will not be collected unless it is provided in the text of the comment. See the Privacy Notice at the Regulations.gov Web site for further information. Please be advised that EPA cannot contact you for any necessary clarification unless your contact information is included in the body of comments submitted through the Regulations.gov Web site.

c. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to: Mr. David Neleigh, Chief, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Please include the text "Public comment on ID No. TX-165-1-

7610" on the disk or CD ROM. These electronic submissions will be accepted in WordPerfect, Word, or ASCII file format. You should avoid the use of special characters and any form of encryption.

2. *By Mail*. Send your comments to: Mr. David Neleigh, Chief, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Please include the text "Public comment on ID No. TX-165-1-7610" in the subject line of the first page of your comments.

3. *By Hand Delivery or Courier*. Deliver your written comments or comments on a disk or CD ROM to: Mr. David Neleigh, Chief, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, Attention "Public comment on ID No. TX-165-1-7610." Such deliveries are only accepted during official hours of business, which are Monday through Friday, 8:30 a.m. to 4:00 p.m., excluding Federal holidays.

4. *By Facsimile*. Fax your comments to: (214) 665-7263, Attention "Public comment on ID No. TX-165-1-7610."

#### C. How Should I Submit CBI to the Agency?

You may assert a business confidentiality claim covering CBI included in comments submitted by mail or hand delivery in either paper or electronic format. CBI should not be submitted via e-mail or at the Regulations.gov Web site. Clearly mark any part or all of the information submitted which is claimed as CBI at the time the comment is submitted to EPA. CBI should be submitted separately, if possible, to facilitate handling by EPA. Submit one complete version of the comment that includes the properly labeled CBI for EPA's official administrative record and one copy that does not contain the CBI to be included in the public rulemaking file. If you submit CBI on a disk or CD ROM, mark the outside of the disk or the CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI. Also submit a non-CBI version if possible. Information which is properly labeled as CBI and submitted by mail or hand delivery will be disclosed only in accordance with procedures set forth in 40 CFR part 2. For comments submitted by EPA's e-mail system or through the Regulations.gov Web site, no CBI claim may be asserted. Do not submit CBI to the Regulations.gov Web site or via EPA's e-mail system. Any claim of CBI will be waived for comments received

through the Regulations.gov Web site or EPA's e-mail system. For further advice on submitting CBI to the Agency, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

#### D. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate ID No. in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

#### VI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed 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 proposes to approve State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed 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 proposes to approve 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 proposed 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 requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. 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.*).

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

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 24, 2004.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

[FR Doc. 04-5511 Filed 3-10-04; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA211-4224; FRL-7634-8]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Control of Volatile Organic Compound Emissions From AIM Coatings

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision pertains to the control of volatile organic compound (VOC) emissions from architectural and industrial maintenance (AIM) coatings.

**DATES:** Written comments must be received on or before April 12, 2004.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be mailed to Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in Part III of the **SUPPLEMENTARY INFORMATION** section. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Rose Quinto, (215) 814-2182, or by e-mail at [quinto.rose@epa.gov](mailto:quinto.rose@epa.gov).

**SUPPLEMENTARY INFORMATION:** On December 3, 2003, the Pennsylvania Department of Environmental Protection (PADEP) submitted a formal revision to its SIP. The SIP revision consists of the standards and requirements to control VOC emissions from AIM coatings.

#### I. Background

In December 1999, EPA identified emission reduction shortfalls in several 1-hour ozone nonattainment areas in the

Ozone Transport Region (OTR) and required those areas to address the shortfalls. The Ozone Transport Commission (OTC) developed model rules of control measures for a number of source categories and estimated the emission reduction benefits from implementing those model rules. The OTC AIM coatings model rule was based on the existing rules developed by the California Air Resources Board, which were analyzed and modified by the OTC workgroup to address VOC reduction needs in the OTR. The standards and requirements contained in Pennsylvania's AIM coatings rule are consistent with the OTC model rule. Versions of this same model rule to control VOC emissions from AIM coatings has been or is currently being adopted in several states in the Northeastern and Mid-Atlantic regions of the United States. As such this regulation does not impose requirements unique to the Commonwealth of Pennsylvania.

#### II. Summary of SIP Revision

The Pennsylvania AIM coatings rule (Chapter 130, subpart C) applies to any person who supplies, sells, offers for sale, or manufactures, blends or repackages an AIM coating for use within the Commonwealth of Pennsylvania, as well as a person who applies or solicits the application of an AIM coating within the Commonwealth. The rule does not apply to the following: (1) Any AIM coating that is sold or manufactured for use outside the Commonwealth or for shipment to other manufacturers for reformulation or repackaging; (2) any aerosol coating product; or (3) any architectural coating that is sold in a container with a volume of one liter (1.057 quarts) or less. The rule sets specific VOC content limits, in grams per liter, for AIM coating categories with a compliance date of January 1, 2005. Manufacturers would ensure compliance with the limits by reformulating coatings and substituting coatings with compliant coatings that are already in the market. The rule contains VOC content requirements for a wide variety of field-applied coatings, including graphic arts coatings, lacquers, primers and stains. The rule also contains provisions for a variance from the VOC content limits, which can be issued only after public hearing and with conditions for achieving timely compliance. In addition, the rule contains administrative requirements for labeling and reporting. There are a number of test methods that would be used to demonstrate compliance with this rule. Some of these test methods include those promulgated by EPA and