

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior 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.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million;

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 23, 2005.

James M. Taitt,

Acting Regional Director, , Appalachian Regional Coordinating Center.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA-307-0482; FRL-7924-3]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). This revision concerns particulate matter (PM) emissions from fluid catalytic cracking units at oil refineries. We are proposing to approve SCAQMD Rule 1105.1 to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by July 14, 2005.

ADDRESSES: Send comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901 or e-mail to steckel.andrew@epa.gov, or submit comments at <http://www.regulations.gov>.

You can inspect copies of the submitted SIP revisions, EPA's technical support documents (TSDs), and public comments at our Region IX office during normal business hours by appointment. You may also see copies of the submitted SIP revisions by appointment at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814; and

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765-4182.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT:

Jerald S. Wamsley, EPA Region IX, at either (415) 947-4111, or wamsley.jerry@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What Rule Did the State Submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD	1105.1	Reduction of PM10 and Ammonia Emissions From Fluid Catalytic Cracking Units (FCCU).	11/07/03	06/03/04

On June 30, 2004, EPA found this rule submittal met the completeness criteria in 40 CFR part 51 Appendix V. These criteria must be met before formal EPA review can begin.

B. Are There Other Versions of This Rule?

There are no previous versions of Rule 1105.1 in the SIP.

C. What Is the Purpose of the Submitted Rule?

SCAQMD Rule 1105.1 is designed to limit particulate matter less than 10 microns (PM10) and ammonia emissions from fluid catalytic cracking units at oil refineries. The rule sets emission limits for filterable PM10 and ammonia slip. PM10 and ammonia emissions result from the combination of FCCU emissions and ammonia injection used with electrostatic precipitators (ESP) to control FCCU emissions. Once in the atmosphere, ammonia emissions react with other compounds to produce secondary aerosol PM10. Oil refineries are expected to implement several control technologies to meet the emissions limits, including but not limited to, dry and wet ESPs, sulfur oxide reducing agents, selective catalytic reduction, selective non-catalytic reduction, and wet gas scrubbers.

The TSD has more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rule?

Generally, PM10 SIP rules must be enforceable (see section 110(a) of the Act), must meet Reasonably Available Control Measure (RACM) requirements for nonattainment areas (see section 189), and must not relax existing requirements (see sections 110(l) and 193). The SCAQMD regulates a serious PM nonattainment area (see 40 CFR part 81), so Rule 1105.1 must fulfill RACM and Best Available Control Measure (BACM) requirements.

Guidance and policy documents that we used to help evaluate enforceability and RACM requirements consistently include the following documents.

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; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice," (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

B. Does the Rule Meet the Evaluation Criteria?

We believe the rule is consistent with the relevant policy and guidance regarding enforceability, and SIP relaxations. Section 189 of the Clean Air Act Amendments of 1990 (CAA) required that serious PM nonattainment areas, such as SCAQMD, implement in a stepwise manner all RACM and BACM rules for all major sources and significant PM-10 source categories. The SCAQMD's plan for attaining the PM-10 NAAQS is the regulatory vehicle for determining RACM and BACM rules. For Rule 1105.1, the SCAQMD PM-10 plan defines the FCCU source category as "de minimis" or producing emissions less than or equal to 5% of the PM standard. Consequently, Rule 1105.1 is not designated as either a RACM, or BACM rule in the SCAQMD PM-10 plan. Consequently, our review is limited to enforceability and SIP relaxation criteria. The TSD has more information on our evaluation.

C. EPA Recommendations to Further Improve the Rule

We have no additional recommendations regarding Rule 1105.1

D. Public Comment and Final Action

Because EPA believes Rule 1105.1 fulfills all relevant requirements, we are proposing to fully approve it as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate Rule 1105.1 into the federally enforceable SIP.

III. 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 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 proposed 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, 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 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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: April, 20, 2005.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 05-11718 Filed 6-13-05; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[TRI-2005-0004; FRL-7532-4]

RIN 2025-AA17

Addition of Diisononyl Phthalate Category; Community Right-to-Know Toxic Chemical Release Reporting; Notice of Data Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule, notice of data availability.

SUMMARY: On September 5, 2000, EPA issued a proposed rule, in response to a petition filed under section 313(e)(1) of the Emergency Planning and Community Right-to-Know Act (EPCRA), to add a diisononyl phthalate (DINP) category to the list of toxic chemicals subject to the reporting requirements under EPCRA section 313 and section 6607 of the Pollution Prevention Act (PPA). EPA proposed to add this chemical category to the EPCRA section 313 toxic chemical list pursuant to its authority to add chemicals and chemical categories because EPA believes this category meets the EPCRA section 313(d)(2)(B) toxicity criterion. The purpose of

today's action is to inform interested parties that, in an effort to ensure adequate opportunities for input from all affected parties, EPA is making available for public comment a revised hazard assessment for DINP.

DATES: Comments must be received on or before September 12, 2005.

ADDRESSES: Submit your comments, identified by Docket ID No. TRI-2005-0004, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *Agency Web site:* <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- *E-mail:* oei.docket@epa.gov.
- *Mail:* Office of Environmental Information (OEI) Docket, Environmental Protection Agency, Mail Code: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. TRI-2005-0004.

- *Hand Delivery:* EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, 20004, telephone: 202-566-1744, Attention Docket ID No. TRI-2005-0004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. TRI-2005-0004. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, [regulations.gov](http://www.regulations.gov), or e-mail. The EPA EDOCKET and the Federal [regulations.gov](http://www.regulations.gov) Web sites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic

comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the EDOCKET index at: <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the OEI Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202-566-1744, and the telephone number for the OEI Docket is 202-566-1752.

FOR FURTHER INFORMATION CONTACT:

Daniel R. Bushman, Toxics Release Inventory Program Division, Office of Information Analysis and Access (2844T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202-566-0743; fax number: 202-566-0741; e-mail: bushman.daniel@epamail.epa.gov, for specific information on this proposed rule, or for more information on EPCRA section 313, the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Toll free: 1-800-424-9346, in Virginia and Alaska: 703-412-9810 or Toll free TDD: 1-800-553-7672.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Notice Apply To Me?

You may be potentially affected by this notice if you manufacture, process, or otherwise use DINP. Potentially affected categories and entities may include, but are not limited to: