ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA157–0050a; FRL–5907–7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve Santa Barbara County Air Pollution Control District's (Santa Barbara or District) Rule 370 ''Potential to Emit—Limitations for Part 70 Sources'' (prohibitory rule) under Clean Air Act (CAA) sections 110 and 112(l). This rule creates federally-enforceable limits on potential to emit for sources with actual emissions less than 50 percent of the major source thresholds. This approval action will incorporate Rule 370 into the federally-approved State Implementation Plan (SIP) for California. The rule was submitted by the State to satisfy certain Federal requirements for an approvable SIP. EPA is finalizing the approval of this rule into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas. EPA is taking this action without prior proposal because the Agency views this action as a non-controversial amendment and anticipates no adverse comments.

DATES: This action is effective on December 15, 1997 unless adverse or critical comments are received by November 14, 1997. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to: John Walser, Permits Office (AIR–3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Copies of the rule and EPA's Technical Support Document for the rule are available for public inspection at the following locations:

Permits Office (AIR–3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, 17th Floor, San Francisco, CA 94105

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, B–23, Goleta, CA 93117.

Copies of the regulations being incorporated by reference in today's rule are available for inspection at the following location: Air Docket (6102), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: John Walser (telephone 415/744–1257), Permits Office (AIR–3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. Background

On June 15, 1995, the Santa Barbara County Air Pollution Control District adopted Rule 370: Potential to Emit—Limitations for Part 70 Sources. The purpose of the rule is to exempt small sources from the requirements of the federal operating permit program (see 60 FR 55460 dated November 1, 1995).

EPA determines which sources are subject to the federal operating permit requirements based on their ''potential to emit.'' Under Rule 370, Santa Barbara County sources that would otherwise be required to obtain a federal permit would be exempt if their ''actual'' 12-month (rolling average) emissions are less than 50 percent of their ''potential to emit.'' Sources below specified emission levels would also be exempt. Federal recordkeeping and reporting requirements will vary for businesses with different operational levels.

On August 10, 1995, the California Air Resources Board (CARB) submitted to EPA, on behalf of the District, the District's prohibitory rule (Rule 370), adopted on June 15, 1995. On September 20, 1995, EPA reviewed this rule for completeness and found that the rule conformed to the completeness criteria in 40 CFR part 51, Appendix V.

II. EPA Evaluation and Action

The EPA has evaluated the submitted rule and has determined that it is consistent with 40 CFR part 70 and with section 112(l) of the Act. The following is a brief analysis of the key regulatory revisions being acted on in today's notice. (Please refer to the Technical Support Document for a complete analysis of the submission.)

A. Analysis of Submission

Rule 370 ''Potential to Emit—Limitation for Part 70 Sources''

On August 10, 1995, CARB submitted for approval into Santa Barbara's portion of the California State Implementation Plan (SIP), Rule 370 ''Potential to Emit—Limitations for Part 70 Sources.'' This Rule creates a streamlined process for limiting the potential to emit of sources that emit less than 50 percent of major source levels but whose potential to emit is above those levels. Sources complying with this Rule will have federally-enforceable limits on their potential to emit and will avoid being subject to Title V.

The basic requirement for approving into the SIP rules to limit potential to emit is that the limits in the rule are practically enforceable. For a discussion of general principle of practical enforceability, see Memorandum from John Seitz to Regional Air Directors, ''Options for Limiting the Potential to Emit (PTE) of a Stationary source Under section 112 and Title V of the Clean Air Act (Act),'' January 25, 1995, found in the docket for this rulemaking. Rule 370 meets the requirements for practical enforceability for limiting potential to emit through general prohibitory rules in SIPs. Please refer to the TSD for further analysis of the Rule.

CARB also submitted Rule 370 for approval under section 112(l) of the Act. The request for approval under section 112 (l) is necessary because the proposed SIP approval discussed above only provides a mechanism for controlling criteria pollutants. EPA has determined that the practical enforceability criterion for SIPs is also appropriate for evaluating and approving Rule 370 under section 112(l). In addition, Rule 370 must meet the statutory criteria under section 112(l)(5). For a discussion of EPA's authority to approve rules under section 112(l), see 59 FR 60944 (November 29, 1994).

EPA proposes approval of Rule 370 under section 112(l) because the Rule meets all of the approval criteria specified in section 112(l)(5) of the Act. EPA believes Rule 370 contains adequate authority to assure compliance with section 112 because it does not waive any section 112 requirements applicable to non-major sources. Regarding adequate resources, Rule 370 is a supporting element of the district's title V program which has demonstrated adequate funding. Furthermore, EPA believes that Rule 370 provides for an expeditious schedule for assuring compliance because it provides a streamlined approval that allows sources to establish limits on potential to emit and avoid being subject to a federal Clean Air Act requirement applicable on a particular date. Finally, Rule 370 is consistent with the objectives of the section 112 program

because its purpose is to enable sources to obtain federally enforceable limits on potential to emit to avoid major source classification under section 112. The EPA believes this purpose is consistent with the overall intent of section 112.

Rule 370 is modeled on the California model prohibitory rule developed by the California Association of Air Pollution Control Officers, CARB and EPA. In its agreement on the model rule, EPA expressed certain understandings and caveats. See letter from Lydia Wegman, Deputy Director, Office of Air Quality Planning and Standards, U.S. EPA to Peter Venturini, Chief, Stationary Source Division, CARB, January 11, 1995. A copy of this letter is in the docket for this rulemaking.

Part 70 Requirements

The definition of ''potential to emit'' in Santa Barbara's Rule 370 is consistent with the definition of ''potential to emit'' as defined in 40 CFR 70.2 ''Definitions—Potential to Emit.'' The requirements of Rule 370 do not conflict or overlap with those of Santa Barbara's interim-approved Part 70 operating permit program.

B. Final Action and Implications

The EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is also proposing approval of Santa Barbara's rule revision should adverse or critical comments be filed. The final action will be effective December 15, 1997, unless, within 30 days of its publication, adverse or critical comments are received.

If EPA receives such comments, the final action would be withdrawn before the effective date by publishing a subsequent notice. This action would then serve as a proposed rule only. All public comments received after this action would then be addressed in a subsequent final rule. The 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. If no such comments are received, the public is advised that this action will be effective December 15, 1997.

Rule 370 ''Potential to Emit—Limitations for Part 70 Sources''

EPA is promulgating approval of Rule 370 submitted to EPA by CARB on August 10, 1995.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements

A. Docket

Copies of Santa Barbara's submittal and other information relied upon for the direct final actions are contained in docket number CA–SB–97–001 maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this direct final rulemaking. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over population of less than 50,000.

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address revisions to Santa Barbara's existing operating permits program that was submitted to satisfy the requirements of 40 CFR part 70. Because these approval actions do not impose any new requirements, they do not have a significant impact on any small entities affected.

C. 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 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 approval action promulgated today 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 approves pre-existing requirements under state or local law, and imposes no new federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, are anticipated to result from this action.

D. Executive Order 12866

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

E. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to Publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

F. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 18, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: September 26, 1997.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(224)(i)(E) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

(224) * * *

(i) * * *

(E) Santa Barbara County Air Pollution Control District.

(*1*) Amended Rule 370 adopted on June 15, 1995.

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[FR Doc. 97–27265 Filed 10–14–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD 040–3017a; FRL–5906–1]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Volatile Organic Compound Emissions From Yeast Manufacturing, Screen Printing, Expandable Polystyrene Operations, and Bakeries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Maryland on July 12, 1995. These revisions establish reasonable available control technology (RACT) volatile organic compound (VOC) emission reduction requirements for yeast manufacturing, screen printing, expandable polystyrene operations (EPOs), and bakeries throughout the State of Maryland. The intended effect of this action is to approve these amendments to the Maryland SIP, in accordance with the SIP submittal and revision provisions of the Clean Air Act (the Act). This action is being taken under section 110 of the Act.

DATES: This final rule is effective December 15, 1997, unless by November 14, 1997, adverse or critical comments are received. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone/CO and Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107 and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Carolyn M. Donahue, (215) 566–2095, at the EPA Region III office address listed above, or via e-mail at donahue.carolyn@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: On July 12, 1995, the Maryland Department of the Environment (MDE) submitted new regulations to EPA as SIP revisions. These regulations control VOC emissions throughout the state. MDE submitted these SIP revision requests pursuant to the rate-of-progress (ROP) and RACT requirements of section 182 and 184 of the Act. Specifically, Maryland has adopted VOC control measures for yeast manufacturing, screen printing, EPOs and bakeries.

Background

Section 182(b)(1) of the Act requires states with ozone nonattainment areas classified as moderate or above to reduce VOC emissions 15% from 1990 baseline levels. States were required to achieve the 15% VOC emission reduction by 1996. This ROP requirement, known as the 15% plan, was due to EPA as a SIP revision by November 15, 1993.

In Maryland, 15% plans were required for the Baltimore severe ozone nonattainment area, the Maryland portion of the Philadelphia severe ozone nonattainment area, and the Maryland portion of the Washington, DC serious ozone nonattainment area. Maryland submitted the required 15% plans to EPA as SIP revisions on July 12, 1995. In these 15% plans, Maryland takes credit for the emission reductions achieved through the VOC regulations that Maryland submitted as SIP revisions on July 12, 1995, including Maryland's yeast manufacturing, screen printing, EPO, and bakery regulations. Furthermore, the VOC emission reductions achieved by these regulations are needed to achieve the 15% reduction in the Baltimore plan.

Section 184(b)(1)(B) of the Act requires areas in the Ozone Transport Region (OTR) to implement RACT regulations for all VOC sources that have the potential to emit 50 TPY or more. In addition, section 182(b)(2) requires states to implement RACT regulations on all ''major'' sources of VOC in moderate or above ozone nonattainment areas. Major VOC sources are those with the potential to emit at least 100 TPY in moderate areas, 50 TPY in serious areas, and 25 TPY in severe areas. Because Maryland is in the OTR, the State is required to implement RACT regulations for all sources with the potential to emit 50 TPY or more, throughout the state. Furthermore, in Maryland's severe ozone nonattainment areas, RACT is required for all VOC sources with the potential to emit 25 TPY or more. States were required to submit these RACT regulations to EPA as SIP revisions by November 15, 1992. Sources were required to comply with RACT by May 31, 1995.

Maryland submitted a generic VOC RACT regulation to EPA as a SIP revision on April 5, 1991. On June 8, 1993, Maryland submitted amendments to this regulation to EPA as a SIP revision. The generic RACT regulation does not contain any specific emission limitations or requirements for major sources, but instead allows the establishment of RACT through the SIP revision process for individual sources or source categories. Maryland's July 12, 1995 SIP revision submittals address the RACT requirement for the following four source categories: yeast manufacturing, screen printing, expandable polystyrene operations, and bakeries.

Summary of SIP Revisions

Control of VOC Emissions from Yeast Manufacturing (COMAR 26.11.19.17)

General Provisions

This new regulation establishes standards for controlling VOC emissions from yeast manufacturing. This regulation establishes definitions for the following terms: ''fermentation batch,'' ''first generation fermenter,'' ''stock fermenter,'' ''trade fermenter,'' and ''yeast manufacturing installation.'' An owner or operator of a yeast manufacturing installation at a premises that has a potential to emit of 25 or more tons/year from all yeast manufacturing installations is subject to this regulation. Compliance with this regulation was