ACTION: Notice of proposed rulemaking cross referenced to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Bureau of Alcohol, Tobacco and Firearms (ATF) is issuing temporary regulations to implement sections 908, 910 and 1415 of the Taxpayer Relief Act of 1997. The new law made changes in the excise tax on hard cider, clarified the authority to use semi-generic designations on wine labels, and repealed the requirement for wholesale dealers in liquors to post signs. The wine regulations are amended to incorporate the new cider tax rate and to recognize the labeling changes relative to the designation of hard cider. These regulations are also amended to incorporate the semi-generic wine designations, and the liquor dealers' regulations are amended to eliminate the requirement for posting a sign. Clarifying changes are made to parts 19, 250 and 251. In this notice of proposed rulemaking, ATF invites comments on the temporary rule.

DATES: Written comments must be received on or before October 20, 1998.

ADDRESSES: Send written comments to: Chief, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, PO Box 50221, Washington, DC 20091–0221, Attention: Notice Number 859.

FOR FURTHER INFORMATION CONTACT: Marjorie D. Ruhf, Regulations Branch, 650 Massachusetts Avenue, NW, Washington, DC 20226; (202) 927–8230; or mdruhf@atfhq.atf.treas.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory assessment is not required.

Regulatory Flexibility Act

It is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The revenue effects of this rulemaking on small businesses flow directly from the underlying statute. Likewise, any secondary or incidental effects, and any reporting, recordkeeping, or other compliance burdens flow directly from the statute. Pursuant to 26 U.S.C. 7805(f), this proposed regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Public Participation

ATF requests comments on the temporary regulations from all interested persons. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practicable to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

Comments may be submitted by facsimile transmission (FAX) to (202) 927–8602, provided the comments: (1) Are legible, (2) are 8½″ × 11″ in size, (3) contain a written signature, and (4) are three pages or less in length. This limitation is necessary to assure reasonable access to the equipment. Comments sent by FAX in excess of three pages will not be accepted. Receipt of FAX transmittals will not be acknowledged. Facsimile transmitted comments will be treated as originals.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure. During the comment period, any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right, in light of all circumstances, to determine if a public hearing is necessary.

The temporary regulations in this issue of the **Federal Register** amend the regulations in 27 CFR Parts 4, 19, 24, 194, 250 and 251. For the text of the temporary regulations see T.D. ATF–398, published in the Rules and Regulations section of this issue of the **Federal Register**.

Drafting Information

The principal author of this document is Marjorie D. Ruhf, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of ATF and the Treasury Department participated in developing the document.

Signed: July 23, 1998.

John W. Magaw,

Director.

Approved: July 23, 1998.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 98–22502 Filed 8–20–98; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 184–0094; FRL–6149–4]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a disapproval of revisions to the California State Implementation Plan (SIP). These revisions concern the potential exemption of sources from applicable emission limits contained in permits and in source category specific rules when excess emissions occur due to an unavoidable malfunction. EPA has evaluated these revisions and is proposing to disapprove them because they contain deficiencies that, if approved, would weaken the SIP.

DATES: Comments on this proposed action must be received in writing on or before September 21, 1998.

ADDRESSES: Comments may be mailed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule and EPA's evaluation report of the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket (6102), 401 M Street, SW., Washington, DC 20460.

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

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Thomas C. Canaday, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1202.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rule being proposed for disapproval is South Coast Air Quality Management District (SCAQMD) Rule 430—Breakdown Provisions. Rule 430

was submitted to EPA by the SCAQMD on October 18, 1996.

II. Background

This document addresses EPA's proposed action for South Coast Air Quality Management District (SCAQMD) Rule 430—Breakdown Provisions. SCAQMD adopted Rule 430 on July 12, 1996, and submitted it to EPA on October 18, 1996. Rule 430 was found to be complete on April 23, 1997, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V.[1]

III. EPA Evaluation and Proposed Action

In determining the approvability of a rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). EPA's interpretation of these requirements, which forms the basis for this action, appears in EPA policy guidance documents. EPA policy on excess emissions resulting from unavoidable malfunctions is contained in a memorandum dated February 15, 1983, entitled ''Policy on Excess Emissions During Startup, Shutdown, Maintenance, and Malfunctions'' (the Bennett Memo). In general, the guidance document cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted rules meet Federal requirements, are fully enforceable, and strengthen or maintain the SIP.

There is currently no version of South Coast Air Quality Management District (SCAQMD) Rule 430—Breakdown Provisions in the SIP. The submitted rule includes the following provisions:

- General provisions establishing the applicability of the rule and providing for certain exceptions.
- Requirements for facilities seeking relief under Rule 430. Facilities shall report breakdowns within one hour, shall shut down malfunctioning equipment within twenty-four hours of a breakdown, and shall submit a detailed Breakdown Emissions Report within thirty days.
- Provisions authorizing the SCAQMD Executive Officer to investigate reported breakdowns and to determine whether relief under Rule 430 shall be granted.
- Provisions allowing a source the option of operating malfunctioning equipment past the twenty-four hour time limit provided a petition for an emergency variance has been filed.

SCAQMD Rule 430 requires the source to demonstrate to the satisfaction of the SCAQMD Executive Officer that a malfunction did not result from improper operation or maintenance procedures in order to obtain relief from enforcement. Rule 430 provides that if these criteria are met, then no violation of the rule or permit condition containing the applicable emission limit will have occurred. The Bennett memo explains that it is EPA policy to approve SIP revisions concerning excess emissions due to malfunction which contain an ''enforcement discretion approach.'' Under this approach, even if the source demonstrates that the excess emissions are due to an unavoidable malfunction, these emissions still constitute a violation of the applicable requirement. This distinction is significant because the occurrence of a violation gives rise to EPA enforcement prerogatives in addition to the power to impose penalties, namely the power to seek an injunction against the source. It is EPA policy that even if a malfunction is determined by EPA to have been unavoidable according to the criteria set forth in the Bennett memo, EPA may still seek to enjoin the facility from further operation if such an injunction is necessary in order to preserve the National Ambient Air Quality Standards (NAAQS), Prevention of Significant Deterioration (PSD) increments, or other air quality related values. A further deficiency of SCAQMD Rule 430 is that it provides complete discretion to the Executive Officer to determine whether penalties shall be imposed in response to excess emissions due to a malfunction. It is EPA policy that the Agency cannot be bound by the decision of the District from seeking penalties for a violation of the SIP.

Rules submitted to EPA for approval as revisions to the SIP must be fully enforceable, must maintain or strengthen the SIP, and must conform with EPA policy in order to be approved by EPA. As described above, SCAQMD Rule 430 contains deficiencies related to the preservation of EPA's injunctive prerogative, as well as to the rule's binding of EPA to the Executive Officer's discretion with respect to the imposition of penalties. SCAQMD Rule 430, if approved, would create a potential exemption of sources from applicable emissions limits contained in the SIP. While EPA policy allows for the creation of such potential exemptions, the deficiencies identified in Rule 430 undermine the prerogatives retained by EPA for protecting the NAAQS, PSD increments, and other air quality related values in those instances where exemptions are allowed. Thus the submitted Rule 430 would, if approved, weaken the SIP. A more detailed discussion of EPA's evaluation of SCAQMD Rule 430 can be found in the Technical Support Document, dated July 30, 1998, prepared by EPA for the rule.

Because of the identified deficiencies, EPA cannot grant approval of SCAQMD Rule 430 under section 110(k)(3) and part D. Therefore, in order to maintain the SIP, EPA is proposing a disapproval of this rule because it contains deficiencies which must be corrected in order to fully meet the requirements of sections 182(a)(2), 182(b)(2), 182(f), and part D of the CAA. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: Highway funding and offsets. The 18 month period referred to in section 179(a) will begin on the effective date of EPA's final disapproval. Moreover, the final disapproval triggers the Federal Implementation Plan (FIP) requirement under section 110(c).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State 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.

IV. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The proposed rules are not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because they are not ''economically significant'' actions under E.O. 12866.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare

[1] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

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 populations of less than 50,000.

SIP approvals under sections 110 and 301, and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its action 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).

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 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 proposed 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, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 13, 1998.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 98–22531 Filed 8–20–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 136–0082b; FRL–6140–7]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District, Yolo-Solano Air Quality Management District, and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from screen printing operations, and graphic arts.

The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no relevant adverse comments are received no further activity is contemplated in relation to this proposed rule. If EPA receives relevant adverse comments, the direct final rule will not take effect and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time.

DATES: Comments must be received in writing by September 21, 1998.

ADDRESSES: Written comments should be addressed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814

South Coast AQMD, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182

Yolo-Solano AQMD, 1947 Galileo Court, Suite 103, Davis, CA 95616

Ventura County APCD, 669 County Square Drive, Ventura, CA 93003

FOR FURTHER INFORMATION CONTACT: Andrew Steckel, Rulemaking Section (AIR–4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1185.

SUPPLEMENTARY INFORMATION: This document concerns South Coast Air Quality Management District Rule 1130.1, Screen Printing Operations, submitted to EPA on March 3, 1997, Yolo-Solano Air Quality Management District Rule 2.29, Graphic Arts Printing Operations, submitted to EPA on November 30, 1994, and Ventura County Air Pollution Control District Rule 74.19.1, Screen Printing Operations, submitted to EPA on October 18, 1996 by the California Air Resources Board. For further information, please see the information provided in the Direct Final action that is located in the Rules Section of this **Federal Register**.

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

Dated: July 31, 1998.

Felicia Marcus,

Regional Administrator, Region 9.

[FR Doc. 98–22336 Filed 8–20–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 27

[WT Docket No. 98–136; FCC 98–142]

Services in the 2.3 GHz and 47 GHz Bands

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: On June 30, 1998, the Federal Communications Commission