Civil Justice Reform (Executive Order 12988)

According to Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act (NEPA) of 1969

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required.

Government-to-Government Relationship With Tribes

According to the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have determined that there are no effects from this action on federally recognized Indian tribes.

Civil Justice Reform (Executive Order 12988)

According to Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of section 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act (NEPA) of 1969

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required.

Government-to-Government Relationship With Tribes

According to the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have determined that there are no effects from this action on federally recognized Indian tribes.

List of Subjects in 30 CFR Part 260

Bidding system, Continental shelf, Oil and gas leasing, Reporting requirements, Restricted joint bidder, Royalty suspension.

Dated: January 30, 2002.

James E. Cason,

Acting Deputy Secretary.

For the reasons stated in the preamble, the Minerals Management Service (MMS) proposes to amend 30 CFR part 260 as follows:

PART 260—OUTER CONTINENTAL SHELF OIL AND GAS LEASING

1. The authority citation for part 260 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*

2. In § 260.114, paragraph (d) is revised to read as follows:

§ 260.114 How does MMS assign and monitor royalty suspension volumes for eligible leases?

* * * * *

(d) When production (other than test production) first occurs from any of the eligible leases in a field, we will determine what royalty suspension volume applies to the lease(s) in that field. We base the determination for eligible lease(s) on the royalty suspension volumes specified in paragraph (b) of this section and the water depths of eligible leases specified in § 260.117(a).

* * * * *

3. In § 260.124, paragraph (b)(1) is revised to read as follows:

§ 260.124 How will royalty suspension apply if MMS assigns a lease issued in a sale held after November 2000 to a field that has an eligible or pre-Act lease?

* * * * *

(b) * * *

(1) Royalty-free production from your RS lease shares from and counts as part of any royalty suspension volume under § 260.114(d) for the field to which we assign your lease; and

* * * * *

[FR Doc. 02–3275 Filed 2–11–02; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 191–0315; FRL–7142–6]

Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District and South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the Ventura County Air Pollution Control District (VCAPCD) and South Coast Air Quality Management District (SCAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from adhesives and sealants. We are proposing action on local rules that 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 March 14, 2002.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

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

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Ventura County Air Pollution Control District, 669 County Square Dr., 2nd Fl., Ventura, CA 93003.

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

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 947–4117.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What Rules 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 #	Rule title	Adopted	Submitted
VCAPCD	74.20	Adhesives and Sealants	01/14/97	03/03/97
SCAQMD	1168	Adhesive and Sealant Applications	09/15/00	03/14/01

On August 12, 1997 and May 25, 2001, Rules 74.20 and 1168 were respectively found to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

We approved versions of Rules 74.20 and 1168 into the SIP on July 18, 1996 and August 31, 1999, respectively. The VCAPCD and SCAQMD adopted revisions to the SIP-approved versions of Rules 74.20 and 1168 on January 14, 1997 and September 15, 2000, respectively. The CARB submitted Rules 74.20 and 1168 to us on March 3, 1997 and March 14, 2001, respectively.

C. What Is the Purpose of the Rule Revisions?

Amendments to these rules primarily revise definitions and VOC limits. The TSDs have more information about these rules.

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 VCAPCD and SCAQMD regulate ozone nonattainment areas (see 40 CFR 81), so these rules must fulfill RACT.

Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following:

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**.

3. The CARB's ''Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Adhesives and Sealants,'' December 1998.

B. Do the Rules Meet the Evaluation Criteria?

These rules improve the SIP by establishing more stringent emission limits and by clarifying labeling requirements and rule language. These rules are largely consistent with the relevant policy and guidance regarding enforceability, RACT and SIP relaxations. Rule provisions which do not meet the evaluation criteria are summarized below and discussed further in the TSD.

C. What Are the Rule Deficiencies?

Provisions of Rule 74.20 that conflict with section 110 and part D of the Act and prevent full approval of the SIP revision include:

1. The VOC limits in Sections B1–2 for certain adhesives and sealants do not meet RACT.

2. An inappropriate test method is cited in Section E3.

The provision of Rule 1168 that conflicts with section 110 and part D of the Act and prevents full approval of the SIP revision is an exemption for light curable products.

D. EPA Recommendations To Further Improve the Rules

The TSD describes additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rules.

E. Proposed Action and Public Comment

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is proposing a limited approval of the submitted rules to improve the SIP. If finalized, this action would incorporate the submitted rules into the SIP, including those provisions identified as deficient. This approval is limited because EPA is simultaneously proposing a limited disapproval of the rules under section 110(k)(3). If this disapproval is finalized, sanctions will be imposed under section 179 of the Act unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months. These sanctions would be imposed according to 40 CFR 52.31. A final disapproval would also trigger the federal implementation plan (FIP) requirement under section 110(c). Note that the submitted rules have been adopted by the VCAPCD and SCAQMD, and EPA's final limited disapproval would not prevent the local agency from enforcing them.

We will accept comments from the public on the proposed limited approval and limited disapproval for the next 30 days.

III. Background Information

A. Why Were These Rules Submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990 ...	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, Regulatory Planning and Review.

B. Executive Order 13211

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

C. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will 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, because it merely acts on 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. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

E. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. EPA's proposed disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions 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).

G. 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 proposed action 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 proposed Federal action acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

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

Dated: January 30, 2002.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 02–3347 Filed 2–11–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[KY–116; KY–119–200214b; FRL–7141–8]

Approval and Promulgation of Implementation Plans Reinstatement of Redesignation of Area for Air Quality Planning Purposes; Kentucky Portion of the Cincinnati-Hamilton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Cincinnati-Hamilton moderate 1-hour ozone nonattainment area (Cincinnati-Hamilton area) includes the Ohio Counties of Hamilton, Butler, Clermont, and Warren and the Kentucky Counties of Boone, Campbell, and Kenton. In a **Federal Register** notice published June 19, 2000, the Cincinnati-Hamilton area was redesignated to attainment for the 1-hour ozone National Ambient Air Quality Standard (NAAQS) effective July 5, 2000. On September 11, 2001, the United States Court of Appeals for the 6th Circuit vacated EPA's redesignation of the Cincinnati-Hamilton area, after concluding that EPA erred in one respect that pertained solely to the Ohio portion of the area. *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001). Therefore, in response to the Court's findings, EPA is proposing to reinstate our redesignation to attainment for the 1-hour ozone NAAQS for the Kentucky portion of the Cincinnati-Hamilton area, to become effective as of the effective date of the original redesignation action. EPA is addressing the remand relating to the Ohio portion of the Cincinnati-Hamilton area in a separate rulemaking action. In the Final Rules section of this **Federal Register**, EPA is taking this reinstatement action as a direct final rule without prior proposal, because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the reinstatement is set forth in the direct final rule. If no adverse comments relating to the reinstatement are received in response to this action, no further activity is contemplated. EPA does not intend to reconsider any comments that were, or could have been, presented regarding our original redesignation rulemaking. If EPA receives adverse comments related to the reinstatement, the direct final rulemaking will be withdrawn 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 document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments must be received on or before March 14, 2002.

ADDRESSES: All comments should be addressed to: Raymond Gregory, Regulatory Development Section, Air Planning Branch, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303.

Copies of the Cabinet's original redesignation request, the Court's ruling and other information are available for inspection during normal business hours at the following locations: U.S. Environmental Protection Agency, Region 4, Air Planning Branch, Regulatory Development Section, 61 Forsyth Street, SW., Atlanta, Georgia 30303; Commonwealth of Kentucky, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601–1403. Persons wishing to examine these documents should make an appointment at least 24 hours before the visiting day and reference file KY–116.

FOR FURTHER INFORMATION CONTACT: Raymond Gregory, Environmental Scientist, Regulatory Development Section, Air Planning Branch, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–9116, (*gregory.ray@epa.gov*).

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Final Rules section of this **Federal Register**.

Dated: January 22, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 02–3356 Filed 2–11–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI15

Endangered and Threatened Wildlife and Plants; Listing Roswell springsnail, Koster's tryonia, Pecos assiminea, and Noel's amphipod as Endangered With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to