

| 40 CFR citation | OMB control No. |
|-----------------|-----------------|
| 721.10152 | 2070-0012 |
| 721.10153 | 2070-0012 |
| 721.10154 | 2070-0012 |
| * * * | * * |
| * * * | * * |

■ 19. In § 9.1, the table is amended by removing all entries (723.50–723.250) under the undesignated center heading “Premanufacture Notification Exemptions” and adding in their place “Part 723” to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

| 40 CFR citation | OMB control No. |
|---|-----------------|
| * * * | * * |
| Premanufacture Notification Exemptions | |
| Part 723 | 2070-0012 |
| * * * | * * |

■ 20. In § 9.1, the table is amended by removing the entry “725.1075” under the undesignated center heading “Reporting Requirements and Review Processes for Microorganisms” and adding in its place “Part 725” to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

| 40 CFR citation | OMB control No. |
|---|-----------------|
| * * * | * * |
| Reporting Requirements and Review Processes for Microorganisms | |
| Part 725 | 2060-0012 |
| * * * | * * |

■ 21. In § 9.1, the table is amended by removing all entries (Part 749, subpart D and 749.68) under the undesignated center heading “Water Treatment Chemicals” and adding in their place “Part 749” to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

| 40 CFR citation | OMB control No. |
|----------------------------------|-----------------|
| * * * | * * |
| Water Treatment Chemicals | |
| Part 749 | 2060-0193 |
| * * * | * * |

■ 22. In § 9.1, the table is amended by removing all entries (761.20–761.398) under the undesignated center heading “Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions” and adding in their place “Part 761” to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

| 40 CFR citation | OMB control No. |
|---|-----------------|
| * * * | * * |
| Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions | |
| Part 761 | 2060-0112 |
| * * * | * * |

■ 23. In § 9.1, the table is amended by removing the entry “766.35(d) Form” under the undesignated center heading “Dibenzo-para-dioxin/Dibenzofurans.”

■ 24. In § 9.1, the table is amended by amending by removing all entries (790.5–790.99) under the undesignated center heading “Procedures Governing Testing Consent Agreements and Test Rules” and adding in their place “Part 790” to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

| 40 CFR citation | OMB control No. |
|---|-----------------|
| * * * | * * |
| Procedures Governing Testing Consent Agreements and Test Rules | |
| Part 790 | 2060-0033 |
| * * * | * * |

■ 25. In § 9.1, the table is amended by removing the entry “795.45” under the undesignated center heading “Provisional Test Guidelines.”

■ 26. In § 9.1, the table is amended by removing all entries (799.1053–799.5115) under the undesignated center heading “Identification of Specific Chemical Substance and Mixture Testing Requirements” and adding in their place “Part 799” to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

| 40 CFR citation | OMB control No. |
|---|-----------------|
| * * * | * * |
| Identification of Specific Chemical Substance and Mixture Testing Requirements | |
| Part 799 | 2060-0033 |
| * * * | * * |

[FR Doc. 2010-15863 Filed 6-29-10; 8:45 am]
BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2009-0080; FRL-9169-3]

Disapproval of California State Implementation Plan Revisions, Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing disapproval of a revision to the Monterey Bay Unified Air Pollution Control District (MBUAPCD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on March 22, 2010. This revision concerns opacity standards related to multiple pollutants, including particulate matter (PM) emissions, from a wide variety of sources. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action identifies a deficiency that precludes approval of this SIP revision.

DATES: *Effective Date:* This rule is effective on July 30, 2010.

ADDRESSES: EPA has established docket number EPA-R09-OAR-2009-0080 for this action. The index to the docket is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all

documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT:
Joanne Wells, EPA Region IX, (415) 947-4118, wells.joanne@epa.gov.

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

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- I. Proposed Action
- II. Public Comments and EPA Responses

- III. EPA Action
- IV. Statutory and Executive Order Reviews

I. Proposed Action

On March 22, 2010(75 FR 13468), EPA proposed to disapprove the following rule that was submitted for incorporation into the California SIP.

| Local agency | Rule No. | Rule title | Revised | Submitted |
|---------------|----------|-------------------------|----------|-----------|
| MBUAPCD | 400 | Visible Emissions | 12/15/04 | 03/07/08 |

We proposed to disapprove this rule because one rule provision does not satisfy the requirements of section 110 and part D of the Act. Specifically:

- New section 3.2.3 places no time limitation on opacity between 20% and 40% for gas turbines except as defined in the District permit pursuant to new section 2.5. This is inconsistent with long-standing national policy on excess emissions, which explains that SIP rules must ensure that emissions during startup conditions are minimized. We believe this could be addressed by adding rule text establishing appropriate time limitations on gas turbine startup, requiring sources to minimize time and emissions during startup, and demonstration in the staff report that the rule minimizes emissions during startup.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

II. Public Comments and EPA Responses

EPA’s proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, EPA is finalizing a full disapproval of the submitted rule. As a result, this action will retain the version of Rule 400 approved in 2005 in the SIP. Sanctions will not be imposed under section 179 of the Act, because revision of Rule 400 is not a required submittal under the CAA and the Monterey Bay area continues to meet the NAAQS for multiple pollutants, including ozone and PM. A final disapproval would similarly not trigger the federal implementation plan (FIP) obligation under section 110(c).

IV. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled “Regulatory Planning and Review.”

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Burden is defined at 5 CFR 1320.3(b).

C. 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 rule will not have a significant impact on a substantial number of small entities because SIP disapprovals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply disapprove requirements that the State is already imposing. Therefore, because the Federal SIP disapproval 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.

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).

D. Unfunded Mandates Reform Act

Under sections 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 disapproval action promulgated 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 disapproves 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.

E. Executive Order 13132, Federalism

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 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 disapproves 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 rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 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.” This final rule does not have tribal implications, as specified in Executive Order 13175. 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. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety

risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because it disapproves a State rule implementing a Federal standard.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This 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.

I. 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.

The EPA believes that VCS are inapplicable to this action. Today’s action does not require the public to perform activities conducive to the use of VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations.

Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States. The Executive Order has informed the development and implementation of EPA’s environmental justice program and policies. Consistent with the Executive Order and the associated Presidential Memorandum, the Agency’s environmental justice policies promote environmental protection by focusing attention and Agency efforts on

addressing the types of environmental harms and risks that are prevalent among minority, low-income and Tribal populations.

This action will not have disproportionately high and adverse human health or environmental effects on minority, low-income or Tribal populations because it maintains the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. section 804(2). This rule will be effective July 30, 2010.

L. 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 August 30, 2010. 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 (*see* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 14, 2010.

Jared Blumenfeld,

Regional Administrator, Region IX.

■ 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 *et seq.*

Subpart F—California

■ 2. Section 52.242 is amended by adding paragraph (a)(6) to read as follows:

§ 52.242 Disapproved rules and regulations.

(a) * * *

(6) Monterey Bay Unified Air Pollution Control District

(i) Rule 400, Visible Emissions, submitted on March 7, 2008. Rule 400

submitted on January 15, 2004, is retained.

[FR Doc. 2010–15759 Filed 6–29–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2003–0146; FRL–9169–7]

RIN 2060–AO55

National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: On October 28, 2009, we promulgated general control requirements to control emissions of hazardous air pollutants from heat

exchange systems at petroleum refineries. These requirements were published as amendments to the national emission standards for petroleum refineries. In this notice, we are correcting typographical errors and inadvertent errors in section references.

DATES: This correction is effective on July 30, 2010.

SUPPLEMENTARY INFORMATION:

I. Summary of Amendments

On October 28, 2009, we promulgated general control requirements to control emissions of hazardous air pollutants from heat exchange systems at petroleum refineries. 74 FR 55670 (40 CFR part 63, subpart CC). In this action, we are correcting technical errors in the promulgated rule.

Table 1 below describes the miscellaneous technical corrections we are making to 40 CFR part 63, subpart CC.

TABLE 1—TECHNICAL CORRECTIONS TO 40 CFR PART 63, SUBPART CC

| Section | Technical correction and reason |
|--------------------------------------|--|
| 63.646(j) | Replace “§ 63.654(f)” with “§ 63.655(f)” to correct a section reference. |
| 63.646(k) | Replace “§ 63.654(g)” with “§ 63.655(g)” to correct a section reference. |
| 63.654(f) | Replace “paragraphs (f)(1) through (3) of this section” with “paragraphs (f)(1) and (2) of this section” to remove the reference to a nonexistent paragraph. |
| 63.655(i)(1)(ii) | Replace “§ 63.654(e)” with “§ 63.655(e)” to correct a section reference. |
| Table 4, first column heading | Replace “subpart Y” with “subpart R” to correct a section reference. |
| Table 6, entry for 63.8(c)(4) | Replace “is “once every hour rather” than” with “is “once every hour” rather than” to correct a typographical error. |
| Table 6, entry for 63.10(b)(1) | Replace “§ 63.644(d)” with “§ 63.655(i)” to correct a section reference. |

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency, for good cause, finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment because only simple typographical errors are being corrected and these corrections do not substantially change the Agency actions taken in the final rule. Thus, notice and public procedure are unnecessary and we find that this constitutes good cause under 5 U.S.C. 553(b)(B). (See also the final sentence of section 307(d)(1) of the Clean Air Act (CAA), 42 U.S.C. 307(d)(1), indicating that where the good cause exception is invoked pursuant to section 553(b)(B) of the APA, the procedures in section 307(d) in subsection 553(b) of the APA,

the procedures in section 307(d) of the CAA do not apply.)

II. Statutory and Executive Order Reviews

Under Executive Order 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and is, therefore, not subject to review by the Office of Management and Budget. This action is not a “major rule” as defined by 5 U.S.C. 804(2). The technical corrections do not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

Because EPA has made a “good cause” finding that this action is not subject to notice and comment requirements under the APA or any other statute (*see* Section I of this preamble), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not

significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA.

This technical correction does not have substantial direct effects on the States, or 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, Federalism (64 FR 43255, August 10, 1999).

This action does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000). This correction 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.