

experiences in using or designing accessible machines and the benefits and costs associated with the proposed requirements.

Impact on Small Entities

The Board is interested in receiving comments on the potential impact of this rule on small entities pursuant to the Regulatory Flexibility Act (RFA). In particular, the Board is seeking input on the numbers of small entities that may be impacted by this rulemaking, and the potential compliance costs to these small entities. Section 601 of the RFA defines small entities as small businesses (defined by the U.S. Small Business Administration), small not-for-profit organizations, and small governmental jurisdictions with a population of less than 50,000. The Board is also seeking comment on any significant alternatives that can minimize the economic impact of this rulemaking on small entities while accomplishing the Board's objectives.

Question 31: The Board is interested in comment on the impact on small entities of the provisions implementing section 508 of the Rehabilitation Act for technology procured, developed, maintained, or used by or on behalf of Federal agencies. The phrase "or on behalf of agencies" covers technologies used by contractors under a contract with a Federal agency. How many contractors and subcontractors would be considered small entities under the SBA small business size standards? What types of compliance costs will these contractors and subcontractors face in developing the technologies covered by section 508? For example, will small contractors and subcontractors face capital costs for equipment, or hiring professional expertise or extra staff to comply with the requirements? Will the cost of implementation create a competitive disadvantage for small contractors versus large contractors? (i.e., will a small contractor become less likely to win a Federal contract based on price?) Should the Board establish different compliance or reporting requirements for small contractors and subcontractors? Does the Board need to clarify or simplify the compliance requirements for small contractors or exempt certain small contractors from these requirements?

Question 32: The Board is interested in comment on the impact on small entities (manufacturers of telecommunications products) of the provisions implementing section 255 of the Telecommunications Act of 1996. How many manufacturers of telecommunications products would be considered small entities, particularly

with the application of this rule to interconnected VoIP products? What types of compliance costs will small manufacturers face? The Board is interested in small business estimates for services required by this rule such as providing access to information, documentation, and training of customers (for example through help desks and support services). Will this section require extra technology, professional expertise or extra staff? Are there alternative ways that small manufacturers can provide information and training at lower costs? Should the Board establish different compliance or reporting requirements for small manufacturers?

Question 33: The Board is interested in comment on the impact on small entities (places of public accommodations and state and local government entities) of the provisions for self-service machines under the Americans With Disabilities Act. How many and what types of small entities utilize self-service machines, and what types of machines do they use? How many small manufacturers make these types of machines? How many of the small entities that use or manufacture self-service machines have machines that are accessible? How much will it cost to develop and produce the technology that would meet the proposed provisions? Should the Board establish different compliance requirements for small entities to have accessible machines? Does the Board need to clarify or simplify the requirements for small entities or exempt certain types of machines from these requirements?

The Board will hold a public hearing to provide an opportunity for comment. The hearing will take place on March 25, 2010 from 9 a.m. to Noon in conjunction with the 25th Annual International Technology & Persons with Disabilities Conference. It will be held at the Manchester Grand Hyatt Hotel, Elizabeth Ballroom, One Market Place, San Diego, CA 92101. The hearing location is accessible to individuals with disabilities. Sign language interpreters and real-time captioning will be provided. For the comfort of other participants, persons attending the hearing are requested to refrain from using perfume, cologne, and other fragrances. To pre-register to testify please contact Kathy Johnson at (202) 272-0041 or Johnson@access-board.gov.

David M. Capozzi,
Executive Director.

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BILLING CODE 8150-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2009-0080; FRL-9128-7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to disapprove a revision to the Monterey Bay Unified Air Pollution Control District (MBAPCD) portion of the California State Implementation Plan (SIP). This revision concerns opacity standards related to multiple pollutants, including particulate matter (PM) emissions from several different types of sources, ranging from fugitive dust to gas turbine generators. We are proposing action on a local rule that regulates 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 April 21, 2010.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2009-0080, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.
2. *E-mail:* steckel.andrew@epa.gov.
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment.

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.

Docket: The index to the docket for this action 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:
Andrew Steckel, EPA Region IX,
(415)947-4115,
steckel.andrew@epa.gov.

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

Table of Contents

- I. The State’s Submittal
 - A. What Rule Did the State Submit?
 - B. Are There Other Versions of This Rule?
 - C. What Is the Purpose of the Submitted Rule Revision?

- II. EPA’s Evaluation and Action
 - A. How Is EPA Evaluating the Rule?
 - B. Does the Rule Meet the Evaluation Criteria?
 - C. What Are the Rule Deficiencies?
 - D. EPA Recommendations To Further Improve the Rule
 - E. Proposed Action and Public Comment
- III. Statutory and Executive Order Reviews

I. The State’s Submittal

A. What Rule Did the State Submit?

Table 1 lists the rule proposed for disapproval with the date that it was adopted and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULE

| Local agency | Rule # | Rule title | Adopted | Submitted |
|---------------|--------|-------------------------|----------|-----------|
| MBUAPCD | 400 | Visible Emissions | 12/15/04 | 03/07/08 |

On April 17, 2008, 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.

B. Are There Other Versions of This Rule?

On August 11, 2005, EPA approved a previous version of Rule 400 into the SIP. Please see 70 FR 46770. CARB has not submitted a subsequent version of the rule for our consideration besides the March 2008 version.

C. What Is the Purpose of the Submitted Rule Revision?

Particulate matter (PM) contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control PM and other emissions.

MBUAPCD Rule 400 is designed to limit the emissions of particulate matter or other pollutants such as oxides of nitrogen from a variety of activities and sources using a 20% opacity standard. These sources may include construction sites, unpaved roads, disturbed soil in open areas, and power plants. MBUAPCD has amended Rule 400 to allow for a 40% opacity standard in lieu of the rule’s existing 20% opacity standard during facility start-up operations. EPA’s technical support document (TSD) has more information about this submitted rule.

II. EPA’s Evaluation and Action

A. How Is EPA Evaluating the Rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). In addition, SIP rules must implement Reasonably Available Control Measures (RACM), including Reasonably Available Control Technology (RACT), in moderate PM nonattainment areas, and Best Available Control Measures (BACM), including Best Available Control Technology (BACT), in serious PM nonattainment areas (see CAA sections 189(a)(1) and 189(b)(1)). The MBUAPCD, however, attains the PM standards and is not required to implement RACM or BACM per section 189.

Guidance and policy documents that we use to evaluate enforceability and other regulatory requirements include the following:

1. “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**.
2. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (the Little Bluebook).
3. “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
4. “State Implementation Plans for Serious PM-10 Nonattainment Areas,

and Attainment Date Waivers for PM-10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 59 FR 41998 (August 16, 1994).

5. “PM-10 Guideline Document,” EPA 452/R-93-008, April 1993.

6. “State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown”, USEPA Memorandum, September 20, 1999.

B. Does the Rule Meet the Evaluation Criteria?

Rule 400 is largely enforceable, but has one provision which does not meet the evaluation criteria. This deficiency is summarized below and discussed further in the TSD.

C. What Is the Rule Deficiency?

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 demonstrating in the staff report that the rule minimizes emissions during startup.

D. EPA Recommendations to Further Improve the Rule

The TSD describes an additional rule revision that we recommend for the next time the local agency modifies the rule, but that is not currently the basis for disapproval of the rule.

E. Proposed Action and Public Comment

As authorized in sections 110(k)(3) of the Act, we are proposing a disapproval of the submitted MBUAPCD Rule 400. If finalized, this action would 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) requirement under section 110(c).

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

III. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

This action is not a “significant regulatory action” under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

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.*, because this proposed SIP disapproval under section 110 and subchapter I, part D of the Clean Air Act will not in-and-of itself create any new information collection burdens but simply disapproves certain State requirements for inclusion into the SIP. 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. For purposes of assessing the impacts of today’s rule on small entities, small entity is defined as: (1) A small business

as defined by the Small Business Administration’s (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today’s proposed rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. This rule does not impose any requirements or create impacts on small entities. This proposed SIP disapproval under section 110 and subchapter I, part D of the Clean Air Act will not in-and-of itself create any new requirements but simply disapproves certain State requirements for inclusion into the SIP. Accordingly, it affords no opportunity for EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. The fact that the Clean Air Act prescribes that various consequences (e.g., higher offset requirements) may or will flow from this disapproval does not mean that EPA either can or must conduct a regulatory flexibility analysis for this action. Therefore, this action will not have a significant economic impact on a substantial number of small entities.

We continue to be interested in the potential impacts of this proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or Tribal governments or the private sector.” EPA has determined that the proposed disapproval 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 action proposes to disapprove 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

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10,

1999), 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.”

This action does not have federalism implications. It 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 certain State requirements for inclusion into the SIP and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175, Coordination With Indian Tribal Governments

This action does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP EPA is proposing to disapprove would not apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets EO 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 EO has the potential to influence the regulation. This action is not subject to EO 13045 because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This proposed SIP disapproval under section 110 and subchapter I, part D of the Clean Air Act will not in-and-of itself create any new regulations but simply disapproves certain State requirements for inclusion into the SIP.

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

This proposed rule is not subject to Executive Order 13211 (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(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The EPA believes that this action is not subject to requirements of Section 12(d) of NTTAA because application of those requirements would be inconsistent with the Clean Air Act.

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

Executive Order 12898 (59 FR 7629 (Feb. 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.

EPA lacks the discretionary authority to address environmental justice in this proposed action. In reviewing SIP submissions, EPA's role is to approve or disapprove State choices, based on the criteria of the Clean Air Act. Accordingly, this action merely proposes to disapprove certain State requirements for inclusion into the SIP under section 110 and subchapter I, part D of the Clean Air Act and will not in-and-of itself create any new requirements. Accordingly, it does not provide EPA with the discretionary

authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898.

List of Subjects in 40 CFR Part 52

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

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

Dated: February 23, 2010.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2010-6103 Filed 3-19-10; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 64 and 68

[CG Docket No. 02-278; FCC 10-18]

Telephone Consumer Protection

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission invites comment on proposed revisions to its rules under the Telephone Consumer Protection Act (TCPA) that would harmonize those rules with the Federal Trade Commission's (FTC's) recently amended Telemarketing Sales Rule. The Commission seeks comment on whether these proposed revisions would benefit consumers and industry by creating greater symmetry between the two agencies' regulations, and by extending the FTC's standards to regulated entities that are not currently subject to the FTC's rules.

DATES: Comments are due on or before May 21, 2010. Reply comments are due on or before June 21, 2010. Written comments on the Paperwork Reduction Act (PRA) proposed information collection requirements must be submitted by the general public, Office of Management and Budget (OMB), and other interested parties to Cathy Williams, Federal Communications Commission, via e-mail to *Cathy.Williams@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via e-mail to *Nicholas_A_Fraser@omb.eop.gov* or via fax at 202-395-5167 on or before May 21, 2010.

ADDRESSES: You may submit comments identified by CG Docket No. 02-278

and/or FCC Number 10-18, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web Site:* <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, *etc.*) by e-mail: *FCC504@fcc.gov* or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Lisa Boehley, Consumer and Governmental Affairs Bureau, Policy Division, at (202) 418-7395 (voice), or e-mail *Lisa.Boehley@fcc.gov*.

For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams, Federal Communications Commission, at (202) 418-2918, or e-mail *Cathy.Williams@fcc.gov*.

SUPPLEMENTARY INFORMATION: On July 3, 2003, the Commission released the *Rules and Regulations Implementing the TCPA of 1991*, Report and Order (2003 *TCPA Order*), CG Docket No. 02-278, FCC 03-153, published at 68 FR 44144, July 25, 2003, revising the TCPA rules, and adopted new rules to provide consumers with several options for avoiding unwanted telephone solicitations, including the establishment of a national do-not-call registry. This is a summary of the Commission's document *Rules and Regulations Implementing the TCPA of 1991, Notice of Proposed Rulemaking*, CG Docket No. 02-278, FCC 10-18, adopted January 20, 2010, and released January 22, 2010, seeking comment on proposed revisions to the Commission's rules under the Telephone Consumer Protection Act (TCPA) that would harmonize those rules with the Federal Trade Commission's (FTC's) recently amended Telemarketing Sales Rule.

Document FCC 10-18 contains proposed information collection requirements subject to the PRA of 1995, Public Law 104-13. In addition, it contains a new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002,