

2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

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.

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 March 21, 1994. 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, Reporting and recordkeeping requirements, Sulfur oxides.

Note: Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

Dated: November 24, 1993.

Patricia L. Meaney,
Acting Regional Administrator, Region I.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart H—Connecticut

2. Section 52.370 is amended by adding paragraph (c)(63) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *
(63) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on March 11, 1993.

(i) Incorporation by reference.
(A) Letter from the Connecticut Department of Environmental Protection dated March 11, 1993 submitting a revision to the Connecticut State Implementation Plan.

(B) Connecticut State Order No 7019 dated March 11, 1993, and effective in the State of Connecticut on February 19, 1993.

(ii) Additional materials.

(A) Air Quality Modeling Analysis to Demonstrate SO₂ CAAQS/NAAQS Compliance at the Hamilton Standard Division of United Technologies Corporation Windsor Locks CT; June 1991.

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40 CFR Part 52

[TX-14-1-6091; FRL-4825-9]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Revision to the State Implementation Plan (SIP) Addressing PM-10 for El Paso

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves a revision to the Texas State Implementation Plan (SIP) for PM-10 in El Paso. PM-10 is defined as particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers. The EPA is also approving the PM-10 SIP for El Paso, Texas, as meeting the requirements of section 179B of the Clean Air Act (CAA) regarding implementation plans and revisions for international border areas.

EFFECTIVE DATE: This action will become effective on February 17, 1994.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T-A), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

Mr. Jerry Kurtzweg (6101), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.
Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Sather, Planning Section (6T-AP), Air Programs Branch, U.S. Environmental Protection Agency (EPA) Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 655-7258.

SUPPLEMENTARY INFORMATION:

Background

El Paso, Texas, was designated nonattainment for PM-10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the CAA, upon enactment of the Clean Air Act Amendments (CAAA) of 1990.¹ Please reference 56 Federal Register (FR) 56694 (November 6, 1991), and 57 FR 13498 and 13537 (April 16, 1992). The air quality planning requirements for moderate PM-10 nonattainment areas are set out in subparts one and four of part D, title I of the CAA.

The EPA has issued a "General Preamble" describing the EPA's preliminary views on how the EPA intends to review SIPs and SIP revisions submitted under title I of the CAA, including those state submittals containing moderate PM-10 nonattainment area SIP requirements. See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992).

Those moderate PM-10 nonattainment areas designated nonattainment under section 107(d)(4) of the CAA were to submit SIPs to the EPA by November 15, 1991. The CAA outlined certain required items to be included in the SIPs. These required items, due November 15, 1991, unless otherwise noted, include: (1) A comprehensive, accurate, and current inventory of actual emissions from all sources of PM-10 in the nonattainment area (section 172(c)(3) of the CAA); (2) a permit program to be submitted by June 30, 1992, which meets the requirements of section 173 for the construction and operation of new and modified major stationary sources of PM-10 (section 189(a)(1)(A)); (3) a demonstration (including air quality modeling) that the plan provides for attainment of the PM-10 NAAQS as

¹ The 1990 CAAA made significant changes to the air quality planning requirements for areas that do not meet (or that significantly contribute to ambient air quality in a nearby area that does not meet) the PM-10 National Ambient Air Quality Standards (NAAQS) (see Pub. L. No. 101-549, 104 Stat. 2399). References herein are to the CAAA, 42 U.S.C. 7401 et seq.

expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable (section 189(a)(1)(B)); (4) provisions to assure that Reasonably Available Control Measures (RACM), including Reasonably Available Control Technology (RACT), for control of PM-10 will be implemented no later than December 10, 1993 (sections 172(c)(1) and 189(a)(1)(C)). For sources emitting insignificant (de minimis) quantities of PM-10, the EPA's policy is that it would be unreasonable and would not constitute RACM to require controls on the source. Please reference 57 FR 13540. Also, when evaluating RACM and RACT, technological and economical feasibility determinations are to be conducted (57 FR 13540-13544); (5) quantitative emission reduction milestones which are to be achieved every three years until the area is redesignated attainment and which demonstrate reasonable further progress (RFP) toward attaining the PM-10 NAAQS (section 189(c)); (6) contingency measures due November 15, 1993 (please reference 57 FR 13543), that are to be implemented if the EPA determines that the area has failed to make RFP or to attain the primary standards by the applicable date (section 172(c)(9)); and (7) control requirements for major stationary sources of PM-10 precursors, unless the EPA determines inappropriate. The CAA, in section 189(e), states that control requirements applicable to major stationary sources of PM-10 will also be applicable to major stationary sources of PM-10 precursors, except where the Administrator determines that such sources do not significantly contribute to PM-10 levels that exceed the PM-10 ambient standards in the area.

Response to Comments

The EPA received one comment letter from Chevron U.S.A. Products Company on its October 8, 1993 (58 FR 52467-52474), FR proposal to approve the El Paso moderate nonattainment area PM-10 SIP, including the proposal to approve the El Paso PM-10 SIP as meeting the requirements of section 179B of the CAA regarding implementation plans and revisions for international border areas. The letter expressed overall agreement with the EPA's proposal to approve the El Paso PM-10 nonattainment SIP, but also posed one question regarding the three year progress report discussed in the section entitled "Milestones and Reasonable Further Progress" (58 FR 52472). Chevron expressed overall

support for the three year PM-10 progress report requirement, beginning November 15, 1994, but questioned whether the EPA should require as a part of the report an evaluation of any additional controls which may be feasible to reduce exposures and/or bring the area into attainment. Chevron stated that since the EPA has found that the El Paso area would not need any additional PM-10 control measures but for transborder PM-10, they did not see how any additional controls could be justified as feasible for El Paso under the CAA.

The EPA, in this final rulemaking action, is approving the El Paso PM-10 SIP because it shows timely attainment of the PM-10 NAAQS based on United States (El Paso County) emissions alone. Nevertheless, because the PM-10 NAAQS reflects public health and welfare standards, and because PM-10 NAAQS exceedances are still being monitored in the El Paso nonattainment area, the EPA is encouraging the State of Texas to evaluate the feasibility of further reductions in El Paso County PM-10 emissions beyond the amounts accounted for by the control measures put in place by the PM-10 SIP being approved in this action. Additional reductions would further reduce the PM-10 concentrations to which the El Paso County population is exposed to by virtue of the additional contribution from international transport. Any additional control measures found to be feasible by the State of Texas would be subject to full public notice and public comment. The State of Texas has committed, provided that adequate information becomes available, to develop a contingency plan for PM-10 in the El Paso area. The State also anticipates the continuation of a cooperative effort to study PM-10 air quality in the El Paso/Juarez air basin.

Final Action

Section 110(k) of the CAA sets out provisions governing the EPA's review of SIP submittals (see 57 FR 13565-13566). In this final action, the EPA is granting approval of the El Paso, Texas, moderate nonattainment area PM-10 SIP because it meets all of the applicable requirements of the CAA.

This SIP revision was submitted to the EPA by cover letter from the Governor of Texas dated November 5, 1991. On October 8, 1993, the EPA announced its proposed approval of the moderate nonattainment area PM-10 SIP for El Paso (58 FR 52467-52474). In that rulemaking action, the EPA described in detail its interpretations of title I and its rationale for proposing to approve the El Paso PM-10 SIP, taking

into consideration the specific factual issues presented.

The EPA requested public comments on all aspects of the proposal (please reference 58 FR 52474), and one comment letter was received during the comment period, which ended on November 8, 1993. This final action on the El Paso PM-10 SIP is unchanged from the October 8, 1993, proposed approval action. The discussion herein provides only a broad overview of the proposed action that the EPA is now finalizing. The public is referred to the October 8, 1993, proposed approval FR action for a full discussion of the action that the EPA is now finalizing.

The EPA finds that the State of Texas' PM-10 SIP for the El Paso nonattainment area meets the RACM/RACT requirement. The State of Texas included a listing of RACT, federally enforceable in approved permits, being used at all major and other stationary sources in the El Paso area. In addition, the EPA views the State's prescribed burning, fugitive dust, and residential wood combustion control measures in Regulation I and the El Paso City Ordinance 9.38, as contingency measures that go beyond the core RACM control strategy. The EPA is also approving the memorandum of understanding between the City of El Paso and the Texas Air Control Board (TACB) (now the Texas Natural Resource Conservation Commission), which serves to define the division of responsibility for, and the commitments to carry out, the provisions of Regulation I and Chapter 9.38 of the City Code (City of El Paso episodic curtailment program regarding wood combustion).

The State of Texas referenced section 179B of the CAA when presenting their modeling demonstration for El Paso. The demonstration showed that the El Paso PM-10 moderate nonattainment area would be in attainment of the PM-10 NAAQS both currently and by December 31, 1994, based on dispersion modeling of United States (El Paso County) PM-10 emissions alone. After review, the EPA found the demonstration to be satisfactory. Details of the EPA's evaluation were discussed in the October 8, 1993, proposed approval action and in the EPA's Technical Support Document. Accordingly, the EPA is approving the demonstration as showing that the SIP provides for timely attainment of the PM-10 NAAQS but for emissions emanating from Mexico.

The EPA is also granting the El Paso PM-10 nonattainment area the exclusion from PM-10 precursor control requirements authorized under section

189(e) of the CAA. Finally, to satisfy section 189(c) of the CAA (regarding quantitative milestones and RFP), the State of Texas will report to the EPA every three years, beginning on November 15, 1994, the following information regarding the El Paso nonattainment area: (1) The status and effectiveness of the existing controls, including quantification of emission reductions achieved relative to those projected in the El Paso PM-10 SIP submittal; (2) significant changes in the inventory due to new source growth or other activities (to allow for a comparison with the 1990 base year PM-10 emission inventory, and the projected 1994 PM-10 emission inventory); and (3) an evaluation of any additional controls which may be feasible to reduce exposures and/or bring the area into attainment.

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

This action makes final the action proposed at 58 FR 52467 (October 8, 1993). As noted elsewhere in this action, the EPA received no adverse public comment on the proposed action. As a direct result, the Regional Administrator has reclassified this action from table one to table three under the processing procedures established at 54 FR 2214, January 19, 1989, and revised via memorandum from the Assistant Administrator for Air and Radiation to the Regional Administrators dated October 4, 1993.

Miscellaneous

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the 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 section 110 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 regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2)).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 21, 1994. 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)).

Executive Order

This action has been classified as a table three action by the Regional Administrator under the procedures published in the *Federal Register* on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget (OMB) waived tables two and three SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. The EPA has submitted a request for a permanent waiver for table two and three SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on the EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

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, Sulfur dioxide.

Note: Incorporation by reference of the SIP for the State of Texas was approved by the Director of the *Federal Register* on July 1, 1982.

Dated: December 23, 1993.

W. B. Hathaway,
Acting Regional Administrator (6A).

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(79) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(79) A revision to the Texas SIP addressing moderate PM-10 nonattainment area requirements for El Paso was submitted by the Governor of Texas by letter dated November 5, 1991. The SIP revision included, as per section 179B of the Clean Air Act, a modeling demonstration providing for timely attainment of the PM-10 National Ambient Air Quality Standards for El Paso but for emissions emanating from Mexico.

(i) Incorporation by reference.

(A) Revisions to Texas Air Control Board (TACB), Regulation I, Section 111.101, "General Prohibition;" Section 111.103, "Exceptions to Prohibition of Outdoor Burning;" Section 111.105, "General Requirements for Allowable Outdoor Burning;" Section 111.107, "Responsibility for Consequences of Outdoor Burning;" Section 111.143, "Materials Handling;" Section 111.145, "Construction and Demolition," Subsections 111.145(1), 111.145(2); Section 111.147, "Roads, Streets, and Alleys," Subsections 111.147(1)(B), 111.147(1)(C), 111.147(1)(D); and Section 111.149, "Parking Lots," as adopted by the TACB on June 16, 1989.

(B) TACB Order No. 89-03, as adopted by the TACB on June 16, 1989.

(C) Revisions to TACB, Regulation I, Section 111.111, "Requirements for Specified Sources," Subsection 111.111(c); Section 111.141, "Geographic Areas of Application and Date of Compliance;" Section 111.145, "Construction and Demolition," Subsections 111.145(first paragraph), 111.145(3); and Section 111.147, "Roads, Streets, and Alleys," Subsections 111.147(first paragraph), 111.147(1)(first paragraph), 111.147(1)(A), 111.147(1)(E), 111.147(1)(F), and 111.147(2), as adopted by the TACB on October 25, 1991.

(D) TACB Order No. 91-15, as adopted by the TACB on October 25, 1991.

(E) City of El Paso, Texas, ordinance, Title 9 (Health and Safety), Chapter 9.38 (Woodburning), Section 9.38.010,

"Definitions;" Section 9.38.020, "No-Burn Periods;" Section 9.38.030, "Notice Required;" Section 9.38.040, "Exemptions;" Section 9.38.050, "Rebuttable Presumption;" and Section 9.38.060, "Violation Penalty," as adopted by the City Council of the City of El Paso on December 11, 1990.

(ii) Additional material.

(A) November 5, 1991, narrative plan addressing the El Paso moderate PM-10 nonattainment area, including emission inventory, modeling analyses, and control measures.

(B) A Memorandum of Understanding between the TACB and the City of El Paso defining the actions required and the responsibilities of each party pursuant to the revisions to the Texas PM-10 SIP for El Paso, passed and approved on November 5, 1991.

(C) TACB certification letter dated July 27, 1989, and signed by Allen Eli Bell, Executive Director, TACB.

(D) TACB certification letter dated October 28, 1991, and signed by Steve Spaw, Executive Director, TACB.

(E) El Paso PM-10 SIP narrative from pages 91-92 that reads as follows: ". . . provided that adequate information becomes available, a contingency plan will be developed in conjunction with future El Paso PM-10 SIP revisions. It is anticipated that EPA, TACB, the City of El Paso, and SEDUE will continue a cooperative effort to study the PM-10 air quality in the El Paso/Juarez air basin. Based on the availability of enhanced emissions and monitoring data, as well as more sophisticated modeling techniques (e.g., Urban Airshed Model), future studies will attempt to better define the relative contributions of El Paso and Juarez to the PM-10 problem in the basin. At that time, a contingency plan can more appropriately be developed in a cooperative effort with Mexico."

[FR Doc. 94-1062 Filed 1-14-94; 8:45 am]

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40 CFR Part 52

[CA-14-5-5758; FRL-4822-3]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the Federal Register on September 2,

1992. The revisions concern rules from the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) which is comprised of the following eight air pollution control districts (APCDs): Fresno County APCD, Kern County APCD, Kings County APCD, Madera County APCD, Merced County APCD, San Joaquin County APCD, Stanislaus County APCD, and Tulare County APCD. This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from vegetable oil processing and from can and coil coating operations. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on February 17, 1994.

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

Rulemaking Section II (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Jerry Kurtzweg ANR-443, Environmental Protection Agency, 401 "M" Street, SW., Washington, DC 20460.

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

San Joaquin Valley Unified Air Pollution Control District, 1745 West Shaw, Suite 104, Fresno, CA 93711.

FOR FURTHER INFORMATION CONTACT: Chris Stamos, Rulemaking Section II (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Telephone: (415) 744-1187.

SUPPLEMENTARY INFORMATION:

Background

On September 2, 1992, at 57 FR 40157, EPA proposed to approve the following rules into the California SIP: SJVUAPCD Rule 461.2, Vegetable Oil Processing Operations, and SJVUAPCD Rule 460.4, Can and Coil Coating Operations. Rule 461.2 was adopted by SJVUAPCD on

April 11, 1991; and Rule 460.4 was adopted by SJVUAPCD September 19, 1991. The rules were submitted by the California Air Resources Board (CARB) to EPA on May 30, 1991 and January 28, 1992 respectively. The rules were submitted in response to EPA's 1988 SIP-Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for each of the above rules and nonattainment areas is provided in the NPR cited above.

EPA has evaluated the above rules for consistency with the requirements of the CAA and EPA regulations and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPR cited above. EPA has found that the rules meet the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided at 57 FR 40157 and in technical support documents (TSDs) available at EPA's Region IX office (TSDs for Rule 461.2 and 460.4 dated April 30, 1992 and March 12, 1992 respectively).

Response to Comments

A 30-day public comment period was provided at 57 FR 40157. EPA received no comments on rule 460.4. EPA received comments on rule 461.2 from three sources: (1) The National Cottonseed Products Association ("NCPA"); (2) the J.C. Boswell Company ("Boswell"); and (3) the Institute of Shortening and Edible Oils, Inc ("Institute"). All three commented on SJVUAPCD's definition of volatile organic compounds ("VOCs")—suggesting that the definition not include vegetable oil emissions. In addition, the NCPA and Institute also recommended that SJVUAPCD rule 461.2 specify performance standards or emissions limits rather than specific equipment for RACT controls.

The comments are discussed below.

1. Definition of VOC

Summary of comments: Rule 461.2 defines VOC as "any compound containing at least one atom of carbon except for the following exempt compounds." Vegetable oil is not listed as an exempt compound. The comments stated that the rule should exempt vegetable oil from the definition of VOC because of its low volatility and because the EPA has determined that vegetable