

date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.² EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. Southeast Desert Modified AQMA Area is classified as severe-17. Monterey Bay Area and Santa Barbara-Santa Maria-Lompoc Area are classified as moderate. Sacramento Metro Area is classified as severe.³ Therefore, all these areas (with the exception of the Chico Area, which is classified as transitional) were subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The Chico Area is subject to Section 185A and Section 172(c)(1) instead of Section 182(a)(2)(A). Section 185A specifically exempts transitional areas from Subpart 2 (of Title I, Part D), including any RACT fix-up obligations, until December 31, 1991. Section 172(c)(1) requires transitional areas to correct any RACT deficiencies regarding enforceability (see General Preamble, 57 FR 13525).

The State of California submitted many revised RACT rules for incorporation into its SIP on May 13, 1993; December 22, 1994; November 18, 1993; June 19, 1992; and November 30, 1994, including the rules being acted on in this document. This document addresses EPA's proposed action for BCAPCD Rule 241, Cutback and Emulsified Asphalt; MDAQMD Rule 1103, Cutback and Emulsified Asphalt; MBUAPCD Rule 425, Use of Cutback Asphalt; SBCAPCD Rule 329, Cutback and Emulsified Asphalt Paving Materials; and YSAQMD Rule 2.28, Cutback and Emulsified Asphalts. The BCAPCD adopted Rule 241 on January 12, 1993; the MDAQMD adopted Rule 1103 on December 21, 1994; the MBUAPCD adopted Rule 425 on August 25, 1993; the SBCAPD adopted rule 329 on February 25, 1992; and the YSAQMD

adopted Rule 2.28 on May 25, 1994. These submitted rules were found to be complete on July 19, 1993; December 27, 1993; January 3, 1995; August 27, 1992; and January 30, 1995 pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51 Appendix V⁴ and are being proposed for approval into the SIP.

The submitted rules control VOC emissions from the manufacture, sale, mixing, storage, use, and application of cutback and emulsified asphalt materials. VOCs contribute to the production of ground-level ozone and smog. The rules were adopted as part of each district's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for these rules.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 2. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTG applicable to all of these rules is entitled, "Control of Volatile Organic Compounds from Use of Cutback Asphalt," EPA-450/2-77-037. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 2. In general, these guidance documents have been set

forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

BCAPCD Rule 241, Cutback and Emulsified Asphalt; and MDAQMD Rule 1103, Cutback and Emulsified Asphalt are new rules that were adopted to limit VOC emissions from the use of cutback and emulsified asphalts.

MBUAPCD Rule 425, Use of Cutback Asphalt includes the following significant changes from the current SIP:

- Prohibition of manufacture and sale
- Maximum allowable distillate content for slow cure cutback asphalt of 0.5 percent
- Maximum allowable petroleum solvent content for emulsified asphalt of 3 percent
- ASTM Test Method D244-88 for emulsified asphalt
- Recordkeeping requirements

SBCAPCD Rule 329, Cutback and Emulsified Asphalt Paving Materials includes the following significant changes from the current SIP:

- Modified definitions of "Asphalt" and "Cutback asphalt"
- Sections for applicability, prohibitions, recordkeeping, and test methods

• Maximum allowable reactive organic compound content for cutback asphalts of 0.5 percent

- No penetrating prime coat, cold-weather application, or asphalt plant distance exemptions

• ASTM Test Method D244 for emulsified asphalt

YSAQMD Rule 2.28, Cutback and Emulsified Asphalts includes the following significant changes from the current SIP:

- No penetrating prime coat exemption
- Maximum allowable solvent content for emulsified asphalts of 3 percent
- Prohibitions of manufacture and sale and of specification
- Detailed recordkeeping and test methods provisions

(A detailed summary of rule highlights and changes is provided in the TSD's dated June 9, 1995.)

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, BCAPCD Rule 241, Cutback and Emulsified Asphalt; MDAQMD Rule 1103, Cutback and Emulsified Asphalt; MBUAPCD Rule 425, Use of Cutback Asphalt; SBCAPCD Rule 329, Cutback and Emulsified Asphalt Paving Materials; and YSAQMD Rule 2.28, Cutback and Emulsified Asphalts are being proposed for approval under section 110(k)(3) of the CAA as meeting

² Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "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 was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

³ Chico Area, Southeast Desert Modified AQMA Area, Monterey Bay Area, and Santa Barbara-Santa Maria-Lompoc Area retained their designations of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991). Sacramento Metro Area was reclassified from serious to severe effective on June 1, 1995. See 60 FR 20237 (April 25, 1995).

⁴ EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).