DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[SATS No. KY–258–FOR; Docket No. OSM–2015–0001; S1D1S SS08011000 SX064A000 212S180110; S2D2S SS08011000 SX064A000 21XS501520]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving an amendment to the Kentucky regulatory program (the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The State submitted proposed revisions to the Kentucky Administrative Regulations (KAR) that establish the requirements for a permit applicant to demonstrate a legal right of entry and right to mine on land with severed surface and mineral estates. Kentucky submitted this proposed amendment to modify the requirements for demonstrating legal right of entry and right to mine on proposed coal mines sites with severed minerals.

DATES: The effective date is May 26, 2021.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Castle, Field Office Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (859) 260–3902, Email: *MCastle@osmre.gov*.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program
II. Submission of the Amendment
III. OSMRE's Findings
IV. Summary and Disposition of Comments
V. OSMRE's Decision
VI. Statutory and Executive Order Reviews

I. Background on the Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval, in the May 18, 1982 **Federal Register** (47 FR 21404). You can also find later actions concerning the Kentucky program and program amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17.

II. Submission of the Amendment

By letter dated January 29, 2015 (Administrative Record No. KY–2001), the Kentucky Department for Natural Resources (KYDNR) submitted to OSMRE an amendment to the Kentucky program under SMCRA. Kentucky proposed to establish, as it relates to underground mines, and amend, as it relates to surface mines, permit application requirements for an operator seeking to mine land with severed surface and mineral estates. Under the existing rule, if there is no conveyance expressly granting or reserving the right to extract coal by surface mining methods or no surface owner consent, then the applicant is nonetheless able to obtain a permit by submitting documentation that, under applicable state law, the applicant has the legal authority to extract coal by those methods. The additional, Kentucky requirement found in the existing rule –that the applicant also provide a copy of the original instrument of severance upon which the applicant bases his right to extract coal by surface mining methods—has been removed. Without the additional Kentucky requirement that Kentucky proposed to remove, the rule now mirrors and is consistent with Federal regulations.

We announced receipt of the proposed amendment in the June 12, 2015, **Federal Register** (80 FR 33456). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period ended on July 13, 2015. We did not hold a public hearing or meeting because one was not requested. We received comments from one commenter. Those comments are addressed in the Public Comments section, part IV, Summary and Disposition of Comments, below.

III. OSMRE's Findings

The following are the findings we made concerning the proposed Kentucky amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, which govern OSMRE approval of state programs and program amendments. We are approving the amendment as described below. The full text of the approved amendment is available online at *https://www.regulations.gov/*.

SMCRA allows for state regulatory authorities to promulgate rules no less effective and no less stringent than the Federal regulations. In addition, under Ky. Rev. Stat. section 13A.120(1)(a) (*Promulgation of administrative regulations—Prohibitions concerning promulgations*), administrative regulations may be no more stringent than Federal law or regulations.

Kentucky proposed to revise section 4(2) of 405 KAR 8:030 for surface coal mining permits and to establish a new section 4(2) in 405 KAR 8:040 for underground coal mining permits. As required by SMCRA, these regulations would establish administrative regulations that are as effective as, but no less stringent than, those required under Federal law.

In accordance with the KYDNR's stated intent, section 4(2) of 405 KAR 8:030 is being amended to modify a permit applicant's proof of legal right of entry and right to mine requirements. An identical provision is established as section 4(2) of 405 KAR 8:040 relating to underground mines. The amendment, as approved, removes the language in existing section 4(2)(c) (405 KAR 8:030), which requires submission of a copy of the original severance instrument as a means to establish a legal right of entry and right to mine the mineral estate. An additional revision moves the existing proviso, that the regulation does not authorize the cabinet to adjudicate property rights disputes, into a new subsection, found at section 4(3), with no modification to the existing language.

We note that the language in section 4(2) of 405 KAR 8:030 and section 4(2) of 405 KAR 8:040 is substantively identical and, for this reason, this final rule addresses them as one. Kentucky's proposed amendment language is also substantively identical to that found in 30 CFR 778.15. However, the existing version of section 4(2) in 405 KAR 8:030 requires an additional element that the proposed version does not: It requires each applicant to submit a copy of the original instrument of severance upon which the applicant bases his right of entry and right to extract coal by surface mining methods. This requirement does not appear in SMCRA or its implementing regulations and, as a result, the existing provision imposes an additional obligation than that which SMCRA and its implementing regulations require. This additional

requirement in existing 405 KAR 8:030 makes it more stringent than 30 U.S.C. 1260(b)(6) and 30 CFR 778.15. Kentucky's proposed amendment removes this additional requirement from the existing State regulations at 405 KAR 8:030 and also ensures the requirements of Ky. Rev. Stat. section 13A.120, that does not allow administrative regulations to be more stringent than the Federal law or regulations, are conformed with.

We find that Kentucky's proposed amendment complies with the requirement that state regulations be no less stringent than and no less effective than the Federal regulations found at 30 CFR 778.15. Therefore, we are approving Kentucky's proposed amendment.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on this amendment in a proposed rule published in the **Federal Register** on June 12, 2015 (80 FR 33456). OSMRE received one set of comments from Appalachian Citizens' Law Center, Inc. (ACLC) on July 13, 2015. Each of the ACLC's comments are summarized and addressed below.

A. ACLC Comments Identifying Submission Omissions and Deficiencies

The ACLC contends that OSMRE cannot approve the proposed amendment as Kentucky's submission is, according to ACLC, incomplete and procedurally defective.

The ACLC contends that Kentucky's submission fails to acknowledge or explain how the proposed amendment would achieve the State's intent of ''clarify[ing] the process by which an entity submits proof of right of entry procedures on proposed coal mine sites with severed minerals.'' (Administrative Record No. KY–2001). In addition, the ACLC argues that the KYDNR's submission fails to explain what effect the proposed changes would have in administering the Kentucky program as well as whether those proposed changes, if approved, would render the Kentucky program no less stringent than SMCRA and no less effective than the Federal regulations.

Further, the ACLC claims that additional documentation, received through information requests, identifies the KYDNR's actual intent in submitting the proposed amendment. The ACLC contends that the KYDNR has been administering changes to its program, without OSMRE's approval, through guidance referred to as the Kentucky Reclamation Advisory Memorandum, or RAM–159.

OSMRE Response: The amendment to Kentucky's program modifies the requirements that an applicant must submit to demonstrate legal right of entry and right to mine on proposed coal mine sites with severed minerals. The current version of section 4(2) of 405 KAR 8:030, is more stringent than 30 CFR 778.15 because it requires each applicant to submit a copy of the original instrument of severance upon which the applicant bases his right of entry and right to extract coal by surface mining methods. The requirement to submit a copy of the original instrument of severance in the current Kentucky regulations is not in SMCRA or in the Federal regulations and is more stringent than the Federal equivalents. The changes to existing regulation clearly remove the requirement that is more stringent than Federal law. This change is consistent with the Kentucky law that requires its administrative regulations to be no more stringent than Federal laws or regulations. See Ky. Rev. Stat. 13A.120(1)(a). Because section 4(2) of 405 KAR 8:030 as modified is now substantively identical to the Federal regulation at 30 CFR 778.15, we find that it is no less stringent that SMCRA and no less effective than the Federal regulations.

We acknowledge the stated intent in RAM–159. A RAM is intended to be ''an open correspondence from the commissioner of the Department for Natural Resources (DNR) to operators and other interested persons that provides information related to DNR's surface mining regulatory program.'' RAM 159 does not modify state law but is intended to provide the regulatory authority with internal guidance for the implementation of the State program. Under 30 CFR 732.17, states are required to submit changes to its laws immediately as an amendment, but this kind of internal guidance does not change State law.

B. ACLC Comments Regarding Interpretation of the State's Proposed Changes and Construction of SMCRA Section 1260(b)(6)(A)–(C)

The ACLC contends that Kentucky's interpretation and proposed changes, when read as a whole, would bring 30 U.S.C. 1260(b)(6)(A) and (C) into conflict and remove language OSMRE previously determined to meet the requirements in 30 U.S.C. 1260(b)(6)(C). By removing the requirement that an application provide ''the original instrument of severance'' under the proposed section 4(2)(C), the ACLC argues this change would create an unintended loophole. The ACLC states that removing the language would broaden the requirement in a manner inconsistent with SMCRA, thereby allowing the KYDNR to circumvent the requirement to obtain written consent from all surface owners. According to the ACLC, this change would no longer specify that state law is to be applied only when determining the surface-subsurface legal relationship, but would instead allow the KYDNR to issue SMCRA permits under subsection (c) based upon a single surface owner's consent deemed as sufficient for right of entry under state law. The ACLC cites to the KYDNR's RAM–159 as support for this contention.

OSMRE Response: KYDNR's RAM 161, dated June 25, 2015, updates and modifies previously issued RAMs 159 and 160. RAM 161 explains how the Division of Mine Permits will apply those provisions of RAMs 159 and 160 relating to identification of property ownership, to renewals, transfers and mined out areas.

ACLC's concern—that the change brings 30 U.S.C. 1260(b)(6)(A) and 1260(b)(6)(C) into disharmony and renders 30 U.S.C. 1260(b)(6)(A) superfluous—ignores the plain language of SMCRA and OSMRE's implementing regulation. 30 U.S.C. 1260(b)(6)(A), (B), and (C) are presented in the disjunctive. An applicant need only submit documentation satisfying one of them. If the applicant has the written consent from the surface owner (*i.e.,* subsection A), then he or she need only submit documentation reflecting that consent. If the applicant has a conveyance that expressly grants or reserves the right to extract coal (*i.e.,* subsection B), then he or she need only submit that documentation. If the applicant cannot satisfy either A or B, then he or she may proceed under subsection C, which provides that if a conveyance does not expressly grant the right to extract coal, state law may be consulted. *See M.L. Johnson Family Properties, LLC* v. *Bernhardt,* 924 F.3d 842, 852 (6th Cir. 2019) (''Reading the subsections harmoniously, however, does not mandate such a narrow interpretation of subsection (C). An equally harmonious interpretation is that when an applicant has neither the consent of all surface owners, as allowed under subsection (A), nor an express conveyance, as allowed under subsection (B), it may establish a right to surface mine through any other method ''in accordance with State law'' under subsection (C). That interpretation does not create any inconsistencies between the three subsections.'').

Consistent with 30 U.S.C. 1260(b)(6)(C), the Kentucky amendment provides in section 4(2) of both Kentucky regulations that if ''the conveyance does not expressly grant the right to extract the coal by surface mining methods,'' then he or she may submit ''documentation that under applicable state law, the applicant has the legal authority to extract coal by surface mining methods.'' This presents no conflict under Kentucky law, where unanimous consent of the surface holders is not required. *M.L. Johnson Family Properties,* 924 F.3d at 852–853; *see also Johnson* v. *Environmental and Public Protection Cabinet,* 289 SW3d 216, 219–220 (Ky. App. 2009) (holding that ''a cotenant ha[s] the right to begin strip mining operations on . . . property despite objections from another cotenant.''). As stated above, subsection (C) provides an applicant with an alternate right of entry, which is dependent on State law.

C. ACLC Argues the Proposed Revisions Are Inconsistent With SMCRA's Legislative History

The ACLC contends that SMCRA's text and legislative history requires determination of the ''the surface-subsurface legal relationship'' in accordance with state law. From this, the commenter suggests that 30 CFR 778.15(b)(3) requires documentation that under applicable State law, the applicant has the legal authority to extract the coal by those methods. The ACLC states that Kentucky has no State statute or regulation that requires KYDNR to demand a demonstration that ''the surface-subsurface legal relations'' for the proposed permit area, determined in accordance with Kentucky law, implicitly authorizes the mineral owner's right to surface mine the permit area.

OSMRE Response: The language of the proposed amendment is substantively identical to the comparable Federal rule found in 30 CFR 778.15, and it is unambiguous. Consulting the legislative history of the regulation is therefore unnecessary. *M.L. Johnson Family Properties,* 924 F.3d at 852–853 (''The text of subsection (C), then, is quite clear: When a conveyance does not expressly grant the right to surface mine, the regulatory authority may rely on any state law to determine whether the documents describing the surface-subsurface legal relationship of the severed estate grant such a right. Because subsection (C) is plain and unambiguous, our analysis ends where it began: With the statutory text. We need not consider Johnson's lengthy citations to conflicting legislative history.'' (citation omitted)). Further, the fact that the Kentucky regulation as amended mirrors the Federal rule, which itself tracks closely with the text of the corresponding SMCRA provision, is indicative that the amendment is no less stringent than SMCRA and is no less effective than the Federal regulations.

Federal Agency Comments

On April 21, 2017, pursuant to 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA (30 U.S.C. 1253(b)), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Kentucky program (Administrative Record No. KY–2002). We did not receive any comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). This proposed amendment does not pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, on April 21, 2017, under 30 CFR 732.17(h)(11)(i), we requested comments from the EPA on the proposed amendment (Administrative Record No. KY–2002). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on any proposed amendment that may have an effect on historic properties. On April 21, 2017, we requested comments on Kentucky's proposed amendment (Administrative Record No. KY–2002). We did not receive any comments.

V. OSMRE's Decision

Based on the above findings, we approve Kentucky's January 29, 2015 proposed amendments. To implement this decision, we are amending the Federal regulations, at 30 CFR part 917, that codify decisions concerning the Kentucky program. In accordance with the Administrative Procedure Act (5 U.S.C. 553), this rule will take effect 30 days after the date of publication. Section 503(a) of SMCRA (30 U.S.C. 1253(a)) requires that the State's program must demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards.

VI. Statutory and Executive Order Reviews

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not affect a taking of private property or otherwise have taking implications that would result in public property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Orders 12866—Regulatory Planning and Review and 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of State program amendments is exempted from OMB review under Executive Order 12866. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by section 3(a) of Executive Order 12988. The Department has determined that this **Federal Register** document meets the criteria of section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct, rather than a general standard, and promote simplification and burden reduction. Because section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive order did not extend to the language of the State regulatory program or to the program amendment that Kentucky drafted.

Executive Order 13132—Federalism

This rule has potential federalism implications as defined under Section 1(a) of Executive Order 13132.

Executive Order 13132 directs agencies to ''grant the States the maximum administrative discretion possible'' with respect to Federal statutes and regulations administered by the States. Kentucky, through its approved regulatory program, implements and administers SMCRA and its implementing regulations at the state level. This rule approves an amendment to the Kentucky program submitted and drafted by the State, and thus is consistent with the direction to provide maximum administrative discretion to States.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Tribes or on the distribution of power and responsibilities between the Federal Government and Tribes. Therefore, consultation under the Department's tribal consultation policy is not required. The basis for this determination is that our decision is on the Kentucky program, which does not include Tribal lands or regulation of activities on Tribal lands. Tribal lands are regulated independently under the applicable, approved Federal program.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not a significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

This rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

National Environmental Policy Act

Consistent with sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d), respectively) and the U.S. Department of the Interior Departmental Manual, Part 516, section 13.5(A), State program amendments are not major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (15 U.S.C. 3701 *et seq.*) directs OSMRE to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. (OMB Circular A–119 at p. 14). This action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with SMCRA.

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon corresponding Federal regulations for which an economic analysis was prepared, and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Thomas D. Shope,

Regional Director, North Atlantic—Appalachian Region.

For the reasons set out in the preamble, 30 CFR part 917 is amended as set forth below:

PART 917—KENTUCKY

■ 1. The authority citation for part 917 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 917.15 is amended in paragraph (a) by adding an entry for ''January 29, 2015'' at the end of the table to read as follows:

§ 917.15 Approval of Kentucky regulatory program amendments.

(a) * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
January 29, 2015	April 26, 2021	Section 4(2) of 405 KAR 8:030, Section 4(2) of 405 KAR 8:040, related to Right of Entry.

* * * * *

[FR Doc. 2021–08332 Filed 4–23–21; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2020–0523; FRL–10022–35–Region 9]

Air Plan Approval; California; Feather River Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Feather River Air Quality Management District (FRAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOCs) from surface preparation and clean-up operations. We are approving a local rule that regulates these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule will be effective on May 26, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2020–0523. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4125 or by email at *vineyard.christine@epa.gov.*

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

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I. Proposed Action

On January 19, 2021 (86 FR 5086), the EPA proposed to approve the following rule into the California SIP.

Local agency	Rule #	Rule title	Amended	Submitted
FRAQMD	3.14	Surface Preparation and Clean-up	08/01/16	01/24/17

We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received two (2) anonymous comments in support of the rule.

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, the EPA is fully approving this rule into the California SIP. The August 1, 2014 version of Rule 3.14 replaces the previously approved version of this rule in the SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the FRAQMD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive