

**DEPARTMENT OF DEFENSE****Office of the Secretary****32 CFR Part 40a****Defense Contracting: Reporting Procedures on Defense Related Employment**

**AGENCY:** Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** This document removes obsolete information in Title 32 of the Code of Federal Regulations addressing reporting procedures on defense related employment for defense contracting. This part has served the purpose for which it was intended and is no longer necessary.

**EFFECTIVE DATE:** March 11, 1998.

**FOR FURTHER INFORMATION CONTACT:** Bob Cushing, 703-604-4582.

**SUPPLEMENTARY INFORMATION:****List of Subjects in 32 CFR Part 40a**

Conflict of interests, Government procurement.

**PART 40a—[REMOVED]**

Accordingly, by the authority of 10 U.S.C. 301, 32 CFR part 40a removed.

Dated: March 5, 1998.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 98-6163 Filed 3-10-98; 8:45 am]

**BILLING CODE** 5000-04-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[CA-011-0063; FRL-5966-8]

**Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern rules for San Diego County Air Pollution Control District (SDCAPCD or District). This approval action will incorporate these rules into the federally approved State Implementation Plan (SIP). The

intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs), oxides of nitrogen (NO<sub>x</sub>) and other pollutants in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA of the Act). These revisions consist of administrative and minor changes to ten rules that have been previously incorporated into the federal approved SIP. 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.

**DATES:** This action is effective on May 11, 1998 unless adverse or critical comments are received by April 10, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Comments must be submitted to Andrew Steckel at the Region IX address listed. Copies of the rule revisions 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 Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123-1096

**FOR FURTHER INFORMATION CONTACT:** Cynthia G. Allen, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone (415-744-1189).

**SUPPLEMENTARY INFORMATION:****I. Applicability**

The rules being approved into the California SIP include: SDCAPCD Rule 10, Permits Required, submitted on March 3, 1997; Rule 17, Cancellation of Application, submitted on March 1, 1982; Rule 19, Provision of Sampling and Testing Facilities, submitted on November 18, 1993; Rule 21, Permit Conditions, submitted March 26, 1997;

Rule 61.7, Spillage and Leakage of VOC and Rule 61.8, Certification of Requirements for Vapor Control Equipment, submitted on June 9, 1987; and Rule 101, Definitions (Open Burning), Rule 102, Open Fires, Western Section, Rule 103, Open Fires, Eastern Section, and Rule 108, Burning Conditions, submitted on December 31, 1990.

**II. Background**

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included San Diego, see 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the San Diego county portion of the California SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). In response to the SIP call and other requirements, the SDCAPCD submitted many rules which EPA approved into the SIP.

This document addresses EPA's direct-final action for the following SDCAPCD rules: Rule 10, Permits Required; Rule 17, Cancellation of Applications; Rule 19, Provision of Sampling and Testing Facilities; Rule 21, Permit Conditions; Rule 61.7, Spillage and Leakage of VOC; Rule 61.8, Certification of Requirements for Vapor Control Equipment; Rule 101, Definitions (Open Burning); Rule 102, Open Fires, Western Section; Rule 103, Open Fires, Eastern Section; and Rule 108, Burning Conditions. These rules were adopted by SDCAPCD on November 25, 1981 (Rule 17), March 1, 1982 (Rule 17), January 13, 1987 (Rules 61.7 and 61.8), March 27, 1990 (Rules 101, 102, 103, and 108), April 4, 1993 (Rule 19), November 29, 1994 (Rule 21), and July 25, 1995 (Rule 10), and submitted by the State of California for incorporation into its SIP on June 9, 1987 (Rules 61.7 and 61.8), December 31, 1990 (Rules 101, 102, 103, and 108), November 18, 1993 (Rule 19), March 3, 1997 (Rule 10), and March 26, 1997 (Rule 21). These rules were found to be complete on August 6 and 12, 1997 (Rules 21 and 10, respectively), December 27, 1993 (Rule 19) and February 28, 1991 (Rules 101, 102, 103, and 108), pursuant to EPA's completeness criteria that are set forth

in 40 CFR part 51, Appendix V<sup>1</sup> and are being finalized for approval into the SIP. These rules were originally adopted as part of SDCAPCD's efforts to achieve the National Ambient Air Quality Standards (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 final action for these rules.

### III. EPA Evaluation and Action

In determining the approvability of a 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 appears in various EPA policy guidance documents.<sup>2</sup>

EPA previously reviewed many rules from the SDCAPCD and incorporated them into the federally approved SIP pursuant to section 110(k)(3) of the CAA. Those rules that are being superseded and/or deleted<sup>3</sup> by today's action are as follows:

- Rule 10, Permits (submitted 07/19/83, 08/15/80, and 06/30/72)
- Rule 12, Transfer (submitted 06/30/72)
- Rule 13, Compliance Time (submitted 06/30/72)
- Rule 17, Cancellation of Applications (submitted 06/02/80)
- Rule 19, Provision of Sampling and Testing Facilities (submitted 9/5/80)
- Rule 21, Permit Conditions (submitted 05/28/81)
- Rule 55, Exceptions (submitted 07/25/73)
- Rule 61.7, Spillage and Leakage of VOC (submitted 05/23/79)
- Rule 61.8, Certification Requirements for Vapor Control Equipment (submitted 10/19/84)
- Rule 101, Definitions (submitted 10/23/81)
- Rule 102, Open Fires—Western Section (submitted 10/23/81)
- Rule 103, Open Fires—Eastern Section (submitted 10/23/81)

<sup>1</sup> 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).

<sup>2</sup> 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 Deviation, 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).

<sup>3</sup> Listed rules are superseded unless designated as deleted.

Rule 108, Burning Conditions (submitted 07/25/73)

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, SDCAPCD Rule 10, Permits Required; Rule 17, Cancellation of Applications; Rule 19, Provision of Sampling and Testing Facilities; Rule 21, Permit Conditions; Rule 61.7, Spillage and Leakage of VOC; Rule 61.8, Certification of Requirements For Vapor Control Equipment; Rule 101, Definitions (Open Burning); Rule 102, Open Fires, Western Section; Rule 103, Open Fires Eastern Section; and Rule 108, Burning Conditions, are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future 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.

EPA is publishing this document without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this *Federal Register* publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective May 11, 1998, unless, by April 10, 1998, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective May 11, 1998.

### IV. Administrative Requirements

#### A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the *Federal Register* on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols,

Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

#### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, 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, 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 Clean Air Act 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, the Administrator certifies 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 flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

#### C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action

approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### *D. Submission to Congress and the General Accounting Office*

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a major rule as defined by 5 U.S.C. 804(2).

#### *E. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 11, 1998. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: February 2, 1998.

**Felicia Marcus,**

*Regional Administrator, EPA, Region IX.*

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

#### **PART 52—[AMENDED]**

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

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

#### **Subpart F—California**

2. Section 52.220 is amended by adding paragraphs (c)(6)(i)(C),

(c)(21)(vi)(C), (c)(121)(ii)(C), (c)(173)(i)(E), (c)(182)(i)(E), (c)(194)(i)(E)(2), (c)(244)(i)(B), and (c)(245)(i)(B), and adding and reserving paragraph (c)(21)(vi)(B), to read as follows:

#### **§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(6) \* \* \*

(i) \* \* \*

(C) Previously approved on September 22, 1972 and now deleted without replacement, Rules 12 and 13.

\* \* \* \* \*

(21) \* \* \*

(vi) \* \* \*

(B) [Reserved]

(C) Previously approved on May 11, 1977 and now deleted without replacement, Rule 55.

\* \* \* \* \*

(121) \* \* \*

(ii) \* \* \*

(C) Amended Rule 17, adopted on November 25, 1981.

\* \* \* \* \*

(173) \* \* \*

(i) \* \* \*

(E) San Diego County Air Pollution Control District.

(I) Amended Rules 61.7 and 61.8, adopted on January 13, 1987.

\* \* \* \* \*

(182) \* \* \*

(i) \* \* \*

(E) San Diego County Air Pollution Control District.

(I) Amended Rules 101, 102, 103, and 108, adopted March 27, 1990.

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(194) \* \* \*

(i) \* \* \*

(E) \* \* \*

(2) Amended Rule 19, adopted April 6, 1993.

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(244) \* \* \*

(i) \* \* \*

(B) San Diego County Air Pollution Control District.

(I) Amended Rule 10, adopted July 25, 1995.

(245) \* \* \*

(i) \* \* \*

(B) San Diego County Air Pollution Control District.

(I) Amended Rule 21, adopted November 29, 1994.

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BILLING CODE 6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[TX 62-1-7271a; FRL-5971-7]

#### **Approval and Promulgation of Implementation Plan for Texas: General Conformity Rules**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** This action approves a revision to the Texas State Implementation Plan (SIP) that contains regulations for implementing and enforcing the general conformity rules which the EPA promulgated on November 30, 1993. Specifically, Texas' adoption of the general conformity rules enables the Texas Natural Resource Conservation Commission (TNRCC) to review conformity of all Federal actions (see 40 CFR part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans) with the control strategy SIPs submitted for the nonattainment and maintenance areas in Texas. This approval action is intended to streamline the conformity process and allow direct consultation among agencies at the local levels. The Federal actions by the Federal Highway Administration and Federal Transit Administration (under 23 U.S.C. or the Federal Transit Act) are covered by the transportation conformity rules under 40 CFR part 51, subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. The EPA approved the Texas transportation conformity SIP on November 8, 1995.

The EPA is approving this SIP revision under sections 110(k) and 176 of the Clean Air Act (the Act). The rationale for the approval and other information are provided in this document.

**DATES:** This action will become effective on May 11, 1998, unless notice is postmarked by April 10, 1998 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at the EPA Region 6 address listed. Copies of the Texas General Conformity SIP and other relevant information are available for inspection during normal business