

because this revised rule does not effect the exemptions for tugs with tows and emergency situations already contained in the regulations.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this revised rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their field, and governmental jurisdictions with populations of less than 50,000.

Because it expects the impact of this revised rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because of the exemption for tugs with tows.

#### Collection of Information

This revised rule contains no collection of information requirements under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

#### Federalism

The Coast Guard has analyzed this revised rule under the principles and criteria contained in Executive Order 12612, and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Environmental Assessment

The Coast Guard considered the environmental impact of this revised rule and has determined pursuant to Figure 2-1, paragraph 32(e) of Commandant Instruction M16475.1C, that this action is categorically excluded from further environmental documentation. A categorical exclusion determination for this rulemaking is available in the public docket for inspection and copying.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Final Regulations

In consideration of the foregoing, the Coast Guard amends 33 CFR part 117, as follows:

#### PART 117—[Amended]

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. § 117.261 is amended by revising paragraphs (u), (v) and (w) to read as follows:

#### § 117.261 Atlantic Intracoastal Waterway from St. Mary's River to Key Largo.

\* \* \* \* \*

(u) Flagler Memorial (SR A1A) bridge, mile 1021.9 at Palm Beach. The draw shall open on signal, except that from October 1 to May 31, Monday through Friday except Federal holidays, from 7:30 a.m. to 9:30 a.m. and from 4 p.m. to 5:45 p.m., the draw need open only at 8:30 a.m. and 4:45 p.m.; and from 9:30 a.m. to 4 p.m., the draw need open only on the hour and half-hour.

(v) Royal Park (SR 704) bridge, mile 1022.6 at Palm Beach. The draw shall open on signal, except that from October 1 through May 31, Monday through Friday except Federal holidays, from 7:45 a.m. to 9:45 a.m. and from 3:30 p.m. to 5:45 p.m., the draw need open only at 8:45 a.m., 4:30 p.m., and 5:15 p.m. and from (9:30 a.m. to 3:30 p.m., the draw need open only on the quarter-hour and three-quarter hour.

(w) Southern Boulevard (SR 700/80) bridge, mile 1024.7 at Palm Beach. The draw shall open on signal, except that, from October 1 through May 31, Monday through Friday except Federal holidays, from 7:30 a.m. to 9:15 a.m. and from 4:30 p.m. to 6:30 p.m., the draw need open only at 8:15 a.m. and 5:30 p.m. and from 9:15 a.m. to 4:30 p.m., the draw need open only on the quarter-hour and three-quarter hour.

\* \* \* \* \*

Dated: October 20, 1998.

**Norman T. Saunders,**

*Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.*

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[CA 210-0103a FRL-6185-1]

#### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Sacramento Metropolitan Air Quality Management 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. This action is an administrative change which revises the definition of volatile organic

compounds (VOC) and updates the Exempt Compound list in rules from the Sacramento Metropolitan Air Quality Management District (SMAQMD). The intended effect of approving this action is to incorporate changes to the definition of VOC and to update the Exempt Compound list in SMAQMD rules to be consistent with the revised federal and state VOC definitions.

**DATES:** This rule is effective on January 8, 1999, without further notice, unless EPA receives adverse comments by December 9, 1998. If EPA receives such comment, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Written comments must be submitted to Cynthia G. Allen at the Region IX office listed below. 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 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 95812

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Rd., Sacramento, CA 95826

**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 with definition revisions being approved into the California SIP include the following SMAQMD Rules: Rule 101, General Provisions and Definitions; Rule 442, Architectural Coatings; Rule 443, Leaks From Synthetic Organic Chemical and Polymer Manufacturing; Rule 447, Organic Liquid Loading; Rule 452, Can Coating; Rule 456, Aerospace Assembly and Component Coating Operations; and Rule 458, Large Commercial Bread Bakeries. These rules were submitted by the California Air Resources Board to EPA on May 18, 1998.

## II. Background

On June 16, 1995 (60 FR 31633) EPA published a final rule excluding acetone from the definition of VOC. On February 7, 1996 (61 FR 4588) EPA published a final rule excluding perchloroethylene from the definition of VOC. On October 8, 1996 (61 FR 52848) EPA published a final rule excluding HFC 43-10mee and HCFC 225ca and cb from the definition of VOC. These compounds were determined to have negligible photochemical reactivity and thus, were added to the Agency's list of Exempt Compounds.

The State of California submitted many revised rules for incorporation into its SIP on May 18, 1998, including the rules being acted on in this administrative action. This action addresses EPA's direct-final action for SMAQMD Rule 101, General Provisions and Definitions; Rule 442, Architectural Coatings; Rule 443, Leaks From Synthetic Organic Chemical and Polymer Manufacturing; Rule 447, Organic Liquid Loading; Rule 452, Can Coating; Rule 456, Aerospace Assembly and Component Coating Operations; Rule 458, Large Commercial Bread Bakeries. Sacramento Metropolitan AQMD adopted these rules on September 5, 1996. These submitted rules were found to be complete on July 17, 1998, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V<sup>1</sup> and is being finalized for approval into the SIP.

This administrative revision adds acetone, perchloroethylene, HFC 43-10mee and HCFC 225ca and cb to the list of compounds which make a negligible contribution to tropospheric ozone formulation. Thus, EPA is finalizing the approval of the revised definitions to be incorporated into the California SIP for the attainment of the national ambient air quality standards (NAAQS) for ozone under Title I of the Clean Air Act (CAA or the Act).

## III. EPA Evaluation and Action

This administrative action is necessary to make the VOC definition in SMAQMD rules consistent with federal and state definitions of VOC. This action will result in more accurate assessment of ozone formation potential, will remove unnecessary control requirements and will assist States in avoiding exceedences of the ozone health standard by focusing control efforts on compounds which are actual ozone precursors.

The SMAQMD rules being affected by this action to revise the definition of VOC include:

- Rule 101—General Provisions and Definitions
- Rule 442—Architectural Coatings
- Rule 443—Leaks From Synthetic Organic Chemical and Polymer Manufacturing
- Rule 447—Organic Liquid Loading
- Rule 452—Can Coating
- Rule 456—Aerospace Assembly and Component Coating Operations
- Rule 458—Large Commercial Bread Bakeries

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective January 8, 1999, without further notice unless the Agency receives adverse comments by December 9, 1998.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 8, 1999, and no further action will be taken on the proposed rule.

## IV. Administrative Requirements

### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

### B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal

governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

### C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

### D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and

<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).

other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

#### *E. 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. This final rule will not have a significant impact on a substantial number of small entities because 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 create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of 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).

#### *F. 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 annual 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 annual 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### *G. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

#### *H. 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 January 8, 1999. 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: October 26, 1998.

**Sally Seymour,**

*Acting Regional Administrator, 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 paragraph (c)(255)(i)(A)(2) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(255) \* \* \*

(i) \* \* \*

(A) \* \* \*

(2) Rules 101, 442, 443, 447, 452, 456, and 458, adopted on September 5, 1996.

\* \* \* \* \*

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#### **DEPARTMENT OF DEFENSE**

#### **48 CFR Part 253**

[DFARS Case 98-D018]

#### **Defense Federal Acquisition Regulation Supplement; Contract Action Reporting—Reform of Affirmative Action**

**AGENCY:** Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update contract action reporting requirements relating to programs for small business and small disadvantaged business concerns.

**EFFECTIVE DATE:** November 9, 1998.

**FOR FURTHER INFORMATION CONTACT:** Ms. Melissa Rider, Defense Acquisition Regulations Council, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0131; telefax (703) 602-0350. Please cite DFARS Case 98-D018.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

Dod uses DD Form 350, Individual Contracting Action Report, to collect data on contracting actions that obligate or deobligate more than \$25,000. This