

Dated: February 8, 1995.

**G.A. Penington,**

*Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation, Safety and Waterways Services.*  
[FR Doc. 95-3833 Filed 2-15-95; 8:45 am]

BILLING CODE 4910-14-M

**33 CFR Part 165**

[COTP Memphis 95-001]

RIN 2115-AA97

**Safety Zone; Lower Mississippi River, Mile 579.0 to mile 581.0**

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone on the Lower Mississippi River mile 579.0 to mile 581.0. This regulation is needed to restrict vessel traffic in the regulated area to prevent a collision with vessel salvage equipment and to provide a safe work area for salvage personnel. The regulation restricts navigation in the regulated area and may have an effect on commercial traffic.

**EFFECTIVE DATES:** This regulation is effective on January 7, 1995, and will terminate on December 31, 1995.

**FOR FURTHER INFORMATION CONTACT:** LT Byron Black, Chief, Port Operations, Captain of the Port, Memphis, Tennessee at (901) 544-3941.

**SUPPLEMENTARY INFORMATION:**

**Drafting Information**

The drafters of this regulation are LT Byron Black, Project Officer, Marine Safety Office, Memphis, Tennessee and LCDR A. O. Denny, Project Attorney, Second Coast Guard District Legal Office.

**Regulatory History**

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Specifically, river conditions are now favorable to salvage three sunken barges located mid-channel at mile 580.0 in the Lower Mississippi River. Traffic restrictions are required for salvage personnel to safely conduct salvage operations during windows of favorable conditions. As a result, the Coast Guard deems it to be in the public's best interest to issue a regulation immediately.

**Background and Purpose**

On November 8, 1994, the Coast Guard was notified of three sunken barges in the vicinity of Lower Mississippi River mile 580. The salvage of the sunken barges located mid-channel will pose a substantial threat to safe navigation. After an investigation by Marine Safety Office Memphis, it was recommended that a safety zone be issued in order to safely salvage the barges and to limit access to unauthorized vessels as a safety precaution. The safety zone will be limited to the Lower Mississippi River mile 579.0 to mile 581.0.

**Regulatory Evaluation**

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

To avoid any unnecessary adverse impact on businesses which use the river for commercial purposes, Captain of the Port, Memphis, Tennessee will monitor river conditions and salvage operations and will authorize unrestricted entry into the zone as conditions permit. Changes will be announced by Marine Safety Information Radio broadcast (Broadcast Notice to Mariners) on VHF marine band radio, channel 22 (157.1 MHz). Mariners may also call the Port Operations Officer, Captain of the Port, Memphis, Tennessee at (901) 544-3941.

**Small Entities**

The Coast Guard finds that the impact on small entities, if any, is not substantial. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

**Collection of Information**

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

**Federalism Assessment**

The Coast Guard has analyzed this regulation under the principles and

criteria contained in Executive Order 12612 and has determined that it does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Environmental Assessment**

The Coast Guard considered the environmental impact of this regulation and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this regulation is categorically excluded from further environmental documentation.

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

**Temporary Regulation**

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

**PART 165—[AMENDED]**

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.051(g), 604-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A temporary section 165.T02-001 is added to read as follows:

**§ 165-T02-001 Safety Zone: Lower Mississippi River.**

(a) *Location.* The Lower Mississippi River mile 579.0 to mile 581.0 is established as a safety zone.

(b) *Effective date.* This section becomes effective on January 7, 1995 and will terminate on December 31, 1995.

(c) *Regulations.* Under the general regulations of 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: January 6, 1995.

**A.L. Thompson, Jr.,**

*Commander, U.S. Coast Guard, Captain of the Port.*

[FR Doc. 95-3832 Filed 2-15-95; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[AK6-1-6587a; AK5-1-6437a; AK3-1-5851a; FRL-5147-8]

**Approval and Promulgation of Implementation Plans: Alaska**

AGENCY: Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) takes action on and/or approves regulations from three submittals received from the Alaska Department of Environmental Conservation (ADEC): submittal dated July 17, 1990 requesting our action to address out-of-date sections found in 40 CFR 52.73-52.96 relating to Alaska state implementation plan (SIP) deficiencies, and including the applicable Alaska statutes to support their request; submittal dated October 15, 1991 requesting approval of amendments to regulations dealing with Air Quality Control, 18 AAC 50, for inclusion into Alaska's SIP to assure compliance with Federal ambient air quality standards for airborne particulate matter, and submittal dated March 24, 1994 requesting approval of additional amendments to 18 AAC 50, Air Quality Control, for inclusion into Alaska's SIP to assure compliance with new source review permitting requirements, the 1990 Clean Air Act Amendments (the Act), for sources located in nonattainment areas for either carbon monoxide or particulate matter. The above submittals include amendments to the State Air Quality Control Plan, which is incorporated by reference in 18 AAC 50.

**DATES:** This final rule will be effective on April 17, 1995 unless adverse or critical comments are received by March 20, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Written comments should be addressed to:

Montel Livingston, SIP Manager, Air & Radiation Branch (AT-082), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air & Radiation Branch, 1200 Sixth Avenue (AT-082), Seattle, Washington 98101, and ADEC, 410 Willoughby, Suite 105, Juneau, Alaska 99801-1795.

**FOR FURTHER INFORMATION CONTACT:** Montel Livingston, Air & Radiation Branch (AT-082), EPA, Seattle, Washington 98101, (206) 553-0180.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On July 1, 1987 (52 FR 24634), EPA revised the national ambient air quality standards (NAAQS) for particulate matter. Total suspended particulate (TSP) was replaced as the indicator for particulate matter ambient standard by a new indicator, particulate matter with a nominal aerodynamic diameter of 10 micrometers or less in size (PM-10). In response, ADEC amended its rules and regulations which dealt with particulate matter to assure compliance with particulate NAAQS throughout Alaska, and in addition, adopted numerous other changes, including amendments to its regulations for new source review. The package, dated October 15, 1991, was received by EPA on October 21, 1991, together with the proof of filing certification by the Lieutenant Governor of Alaska and a certified copy of the regulations dealing with Air Quality Control, 18 AAC 50, for inclusion into the SIP.

An earlier package, submitted on July 17, 1990, requested EPA to address out-of-date sections in the CFR and included Alaska statutes which were applicable to the corrections.

On March 24, 1994 further amendments to 18 AAC 50, including amendments to the State Air Quality Control Plan (which is incorporated by reference in 18 AAC 50), were submitted to EPA as a revision to the Alaska SIP. These amendments include further changes to the regulations for PM-10 and new source review.

**II. Description of Revisions**

**A. Amendments to Air Quality Control Plan, October 15, 1991**

The October 15, 1991 submittal encompasses a broad range of topics. Specifically, the amendments to 18 AAC 50:

1. establish an ambient air quality standard for particulate matter smaller than 10 microns;
2. revise the provisions relating to wood-fired heating devices in the Juneau Mendenhall Valley;
3. establish air quality increments for oxides of nitrogen;
4. reduce the visible emission standard for marine vessels from 40 percent to 20 percent opacity;
5. change the incinerator permit size threshold from 1000 lb/hr charging rate for an individual incinerator to 1000 lb/hr on the basis of facility-wide capacity;
6. establish a permit program that will allow new and modified major carbon monoxide-emitting facilities to be constructed in Anchorage and Fairbanks

without disrupting progress towards attaining compliance with the ambient air quality standards for carbon monoxide;

7. establish a new air episode category called "air quality advisory";

8. restrict wood stove operation during an air quality advisory and an air emergency;

9. require a public notice and 30-day public comment period for all new Air Quality Control Permits issued under 18 AAC 50.

10. specify minimum requirements on quality assurance and quality control for ambient monitoring programs; and

11. clarify certain permit requirements and procedures, especially issues pertaining to the definition and application of "actual" and "allowable" emissions.

EPA approves the following amendments to 18 AAC 50, Air Quality Control Regulations, from the submission by ADEC dated October 15, 1991 for inclusion into the Alaska SIP.

**Article 1. Program Standards and Limitations**

Sections 020(a)(1) and 020(b), Ambient Air Quality Standards, are revised to establish State ambient air quality standards and Prevention of Significant Deterioration increments which are as stringent as the Federal standards.

Section 085, Wood-fired heating devices, is revised to establish elements of the PM-10 control strategy which meet the criteria set forth by EPA to assure attainment and maintenance of the PM-10 NAAQS.

Section 100, Marine vessels, is revised to establish lower emission standards that apply to all marine vessels within three miles of the coastline of Alaska in order to reduce visibility problems encountered in Alaska that are associated with marine vessels.

**Article 2. Permit Requirements**

Section 300(a)(3) is amended to require permits for incinerators having a total combined rated capacity of 1,000 pounds per hour or more.

Section 300(a)(5), (6) and (8), Permit to Operate, are revised by making numerous editorial changes for clarity.

Section 300(a)(7), Permit to Operate, is revised by adding a requirement for a permit to operate for facilities that provide emission offsets.

Section 300(a)(9), Permit to Operate, is revised by adding a new provision which requires a permit to operate for facilities located within ten kilometers of a nonattainment area, which have been installed or modified after the

effective date of the regulation change and have an allowable emission increase of 100 tons per year of the nonattainment air contaminant.

Section 300(d), Permit to Operate, is revised by changing the requirements for new and modified major sources in nonattainment areas to require emission offsets in lieu of using a growth allowance.

Sections 300(e) and 300(g), Permit to Operate, are revised by making a number of editorial changes for clarity.

Section 300, Permit to Operate, is revised by adding a new paragraph (h) which sets the requirements for sources required to have a permit under the new Section 300(a)(9).

### Article 3. Permit Review Criteria

Section 400(a), Application Review and Issuance of Permit to Operate, is revised to require public notice of all applications of facilities requiring a new Air Quality Control Permit to Operate and for certain renewals.

Sections 400 (b), (c), and (d), Application Review and Issuance of Permit to Operate, are revised by making a number of editorial changes for clarity.

Section 400(c), Application Review and Issuance of Permit to Operate, is revised by adding provisions for emission offsets in lieu of an emissions allowance for new or modified major sources located in a nonattainment area.

### Article 4. Regulation Compliance Criteria

Section 510, Ambient Analysis Methods, is revised to clarify the approved ambient monitoring procedures and quality assurance requirements.

Section 520, Air Quality Monitoring, is revised by making several editorial changes.

### Article 5. Procedure and Administration

Section 610, Air Episodes and Advisories, is revised by changing the indicator for particulate matter from TSP to PM-10, lowering the concentrations for declaring an air alert, warning, or emergency, and adding a provision allowing ADEC to declare an air advisory and to request voluntary emission curtailments from operators of air contaminant sources.

Section 620, Air Quality Control Plan, is revised to reflect the date for new revisions to Volumes II and III of the Air Quality Control Plan.

### Article 6. General Provisions

Section 900, Definitions, is amended by revising the current definitions of the terms "actual emissions," "baseline concentration," "baseline date," "regulated air pollutant," "wood smoke control area," and "fugitive emissions," and adding new definitions of the terms "approved," "nonattainment air contaminant," "particulate matter emissions," "PM-10," "PM-10 emissions," and "total suspended particulate matter."

The above amendments to regulations and the State Air Quality Control Plan comply with EPA's regulations for control strategies to attain and maintain the NAAQS for particulate matter and for permits to construct pursuant to Parts C and D of the Act.

#### B. Amendments To Delete Obsolete Code of Federal Regulations (CFR) Sections

In an earlier package submitted to EPA on July 17, 1990, ADEC submitted a request to correct findings of Alaska's SIP deficiency in 40 CFR 52, Sections 52.73-96. ADEC identified and explained why several of those sections were now obsolete (dating back to 1973) and how they had been remedied by changes to Alaska's statutes and regulations. ADEC also submitted the applicable Alaska statutes (Title 46, Water, Air, Energy, and Environmental Conservation) to support their request for corrections. The sections are all identified below. At this time, EPA is making the following changes:

Section 52.74(a)(1), Cook Inlet. Delete. The Cook Inlet Air Resources Management District has not existed for over a decade. Deficiencies related to permitting authority attributed to Cook Inlet Air Resources Management District do not exist.

Section 52.74(a)(2), Fairbanks North Star Borough (FNSB). Delete. The Memorandum of Understanding between ADEC and FNSB gives the borough responsibility only for permitting open burns of less than 40 acres; monitoring and air quality forecasting; attainment planning; and motor vehicle inspection and maintenance. It does not include responsibilities for recordkeeping, monitoring requirements, and public availability of stationary source data. Therefore, deficiency findings in those areas are moot.

Regarding emergency abatement, the CFR refers to Ordinance 45.05.100, which is found to be deficient because it only refers to generalized conditions of air pollution. FNSB Ordinance 8.05.010-050, which gives the borough

adequate authority, was accepted into the SIP in the May 26, 1989 **Federal Register**. FNSB Ordinance 8.04.071 provides adequate authority for injunctions. Therefore, § 52.74(a)(2)(i) on injunctions, and (v) on episode abatement may be deleted.

Section 52.74(a)(2)(vi), Legal Authority. Delete. The Fairbanks Inspection and Maintenance Program was accepted as fulfilling the transportation control requirement.

Section 52.74(b), Legal Authority. Delete. This finding of deficiency for lack of authority to prevent operation or construction which may result in violation of ambient air quality standards is satisfied by 18 AAC 50.300 and 18 AAC 50.400. These sections define criteria for permit issuance, and prevent operation or construction without a permit.

Section 52.74(c), Legal Authority. Delete. This subsection disapproves Alaska Statute (AS) 46.03.180 for not meeting the requirement for disclosure of emissions data. However, AS 46.03.180 allows confidentiality only for some "Records and Information, other than emission data." Therefore, the legal authority to provide for public availability of emission data is adequate, and this deficiency determination may be deleted.

Section 52.73 (a) and (b), General Requirements. Delete. These are simply remedies to the deficiencies identified above in § 52.74 and, since the legal authority to provide for public availability of emission data is adequate, these remedies may be deleted.

Section 52.78, Review of new sources and modifications. EPA defers action on this section, which establishes a plan for review of new or modified indirect sources, to a later date when a subsequent **Federal Register** action will address the revisions to the Carbon Monoxide SIP submitted March 24, 1994 by ADEC.

Section 52.80, Intergovernmental cooperation. Delete. This subsection refers to lack of clear delineation of responsibilities between state and local agencies. This has been addressed in memoranda of understanding between ADEC and the municipalities of Anchorage and Fairbanks which define responsibilities. In addition, emergency avoidance plans are described in the Alaska State Air Quality Control Plan.

Section 52.81, Attainment dates for national standards, and

Section 52.82, Extensions. No action to be taken at this time. The information contained in these two sections, pertaining to historical attainment dates and status data, will be updated at a later time.

Section 52.84, Compliance schedules. Delete. All compliance schedules listed here are outdated. Compliance schedules have been replaced by compliance orders, which are enforcement actions, and are not part of the SIP.

Section 52.95, Maintenance of national standards. Delete. These pre-1977 requirements are out of date and no longer applicable.

Section 52.96(b), Significant deterioration of air quality. Retain. The State of Alaska does not have jurisdiction over Indian reservations. Therefore, EPA must retain this provision in the Code of Federal Regulations in order to promulgate Federal procedures to prevent significant deterioration of air quality in Indian reservations as part of the Alaska SIP.

#### *C. Additional Amendments to the Air Quality Control Plan, March 24, 1994*

The March 24, 1994 ADEC submittal of revisions for inclusion into the Alaska SIP include additional amendments to 18 AAC 50, Air Quality Control Plan. In some instances the amendments further revise the amendments dated October 15, 1991, and in those cases, EPA is approving the version of the rules as it exists under the most recent revision. The amendments EPA is specifically approving at this time from the March 24, 1994 submittal concern state air quality classifications for PM-10 and new source review requirements. All other amendments to the SIP contained in the March 24, 1994 submittal will be addressed in subsequent actions. At this time, EPA is approving the following amendments to 18 AAC 50, Air Quality Control:

#### **Article 1. Program Standards and Limitations**

Section 021, State Air Quality Classifications, is revised by adding the Eagle River Community and Mendenhall Valley of Juneau as nonattainment areas for PM-10.

#### **Article 2. Permit Requirements**

Section 300 (a)(7) and (a)(8), Permit to Operate, are revised by adding provisions to require a permit for sources located in PM-10 nonattainment areas.

Section 300(d), Permit to Operate, is revised to clarify that emission offsets must be enforceable at the time of permit issuance and that they must actually occur by the time that increased emissions from the new or modified source will occur. In addition, this section requires a demonstration that

the benefits of construction, operation, or modification of the facility will significantly outweigh the environmental and social costs incurred due to its location in a nonattainment area.

Sections 300 (e) and (g), Permit to Operate, are revised by making a number of editorial changes for clarity.

#### **Article 3. Permit Review Criteria**

Section 400(a)(1)(A), Application Review and Issuance of Permit to Operate, is revised by making several editorial changes for clarity.

Section 400(c)(3)(B)(ii), Application Review and Issuance of Permit to Operate, is revised by adding significance levels for PM-10.

Section 400(c)(4), Application Review and Issuance of Permit to Operate, is revised to clarify that emission offsets must be enforceable at the time of permit issuance and that they must actually occur by the time that increased emissions from the new or modified source will occur. In addition, this section requires a demonstration that the benefits of construction, operation, or modification of the facility will significantly outweigh the environmental and social costs incurred due to its location in a nonattainment area.

Section 400(d)(4), Application Review and Issuance of Permit to Operate, is revised by making several editorial changes for clarity.

#### **Article 5. Procedure and Administration**

Section 620, State Air Quality Control Plan, is revised to reflect the date for new revisions to Volumes II and III of the Air Quality Control Plan.

The above amendments include updates to air quality area classifications and reflect date changes to include the most recent (March 24, 1994) SIP revisions submitted from ADEC to EPA. Also, included are revisions of the new source review provisions to meet the new requirements of Part D of the Clean Air Act for moderate carbon monoxide and particulate matter nonattainment areas as set forth in the General Preamble for the Implementation of Title I of the Clean Air Act.

#### **III. Summary of EPA Action**

In this action, EPA approves the following amendments to Alaska Administrative Code, 18 AAC 50, Air Quality Control Regulations, for inclusion into the Alaska SIP:

A. Revisions to Article 1: In section 050.020, paragraphs (a)(1) and (b), section 085, and section 100;

Revisions to Article 2: In section 300, paragraphs (a)(3), (a)(5)(A), (a)(6)(A), (a)(6)(C), (a)(6)(C)(iv), (a)(6)(C)(xvi), (a)(7), (a)(8), (a)(9), paragraph (d), paragraph (e), paragraph (g), and paragraph (h);

Revisions to Article 3: in section 400, paragraph (a), paragraph (a)(1), paragraph (b), paragraph (c)(1), paragraph (c)(3)(B)(ii), paragraph (c)(4);

Revisions to Article 4: Section 510, and in section 520, paragraph (a);

Revisions to Article 5: Sections 610 and 620;

Revisions to Article 6: in section 900, paragraphs (1), (7), (8), (39), (48), and additions of paragraphs (50), (51), (52), (53), (54), and (55).

B. Overall, the revised table of contents for Title 18, Environmental Conservation, Chapter 50, Air Quality Control, is as follows:

#### **Article 1. Program Standards and Limitations**

18 AAC 50.010. Applicability of Local Government Regulations (5/16/72)

18 AAC 50.020. Ambient Air Quality Standards (7/21/91)

18 AAC 50.021. State Air Quality Classifications (4/23/94)

18 AAC 50.030. Open Burning (10/30/83)

18 AAC 50.040. Incinerators (10/30/83)

18 AAC 50.050. Industrial Processes and Fuel Burning Equipment (5/11/91)

18 AAC 50.060. Pulp Mills (11/1/82)

18 AAC 50.070. Motor Vehicle Emissions (5/4/80)

18 AAC 50.085. Wood-Fired Heating Devices (7/21/91)

18 AAC 50.090. Ice Fog Limitations (5/16/72)

18 AAC 50.100. Marine Vessels (7/21/91)

18 AAC 50.110. Air Pollution prohibited (5/26/72)

#### **Article 2. Permit Requirements**

18 AAC 50.300. Permit to Operate (4/23/94)

18 AAC 50.310. Revocation or Suspension (5/4/80)

#### **Article 3. Permit Review Criteria**

18 AAC 50.400 (4/23/94)

#### **Article 4. Regulation Compliance Criteria**

18 AAC 50.500. Source Testing (6/2/88)

18 AAC 50.510. Ambient Analysis Methods (7/21/91)

18 AAC 50.520. Emission and Ambient Monitoring (7/21/91)

18 AAC 50.530. Circumvention (6/7/87)

#### Article 5. Procedural and Administrative

18 AAC 50.600. Reclassification Procedures and Criteria (11/1/82)  
 18 AAC 50.610. Air Episodes and Advisories (7/21/91)  
 18 AAC 50.620. State Air Quality Control Plan (4/23/94)

#### Article 6. General Provisions

18 AAC 50.900. Definitions (7/21/91)  
 C. EPA has corrected several out-of-date sections found in 40 CFR 52.73-96 relating to Alaska SIP deficiencies.

#### IV. Administrative Review

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 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 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 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The EPA is publishing this action 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 April 17, 1995 unless, by March 20, 1995, 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 notice that will withdraw the final action. All public comments

received will 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 April 17, 1995.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or 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, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 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 April 17, 1995. 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), 42 U.S.C. 7607(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: January 23, 1995.

**Chuck Clarke,**

*Regional Administrator.*

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

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

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

#### Subpart C—Alaska

2. Section 52.70 is amended by adding paragraph (c)(19) to read as follows:

#### § 52.70 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(19) The Environmental Protection Agency (EPA) takes action on and/or approves regulations from three submittals received from the ADEC on July 17, 1990, October 15, 1991 and on March 24, 1994, which pertain to correcting SIP deficiencies in the CFR; amendments to regulations dealing with Air Quality Control, 18 AAC 50, for inclusion into Alaska's SIP; and additional amendments to 18 AAC 50, Air Quality Control, for inclusion into Alaska's SIP to assure compliance with new source review permitting requirements for sources located in nonattainment areas for either carbon monoxide or particulate matter.

(i) Incorporation by reference.

(A) July 17, 1990 letter from ADEC to EPA requesting correction for findings of SIP deficiency in 40 CFR Part 52, and including the version of Alaska Statutes, "Title 46. Water, Air, Energy, and Environmental Conservation," in effect at the time of the July 17, 1990 letter, of which Sections 46.03.020, 46.03.030, 46.03.032, and 46.03.715, amended in 1987, were the most recently amended of the enclosed statutes.

(B) October 15, 1991 letter from ADEC to EPA, and including amendments to regulations and the State Air Quality Control Plan to assure compliance with national ambient air quality standards for particulate matter; the Order Amending Regulations of the Department of Environmental Conservation, effective July 21, 1991; and the following *Alaska Administrative Code*, 18 AAC 50, *Air Quality Control Regulations*: (50.020; 50.085; 50.100; 50.300; 50.400; 50.510, 50.520, 50.610, and 50.900), effective July 21, 1991, Register 119.

(C) March 24, 1994 letter from Walter J. Hickel, Governor of Alaska, to Chuck Clarke, Regional Administrator of EPA, and including amendments to 18 AAC 50, State Air Quality Control Plan; the Order Adopting and Amending

Regulations of the Department of Environmental Conservation, effective April 23, 1994, Register 130; and the amendments to 18 AAC 50 (50.021, 50.300(a)(7) and (a)(8), 50.300 (d), (e), and (g), 50.400(a)(1)(A), 50.400(c)(3)(B)(ii), 50.400(c)(4), 50.400(d)(4), and 50.620), State Air Quality Control Plan, found in Volume III: Appendices, Modifications to Section III.A, effective April 23, 1994, Register 130.

#### § 52.74 [Amended]

3. In § 52.74, paragraphs (a) and (c) are removed and the paragraph designation for paragraph (b) is removed.

4. Sections 52.73, 52.80, 52.84, and 52.95 are removed and reserved.

[FR Doc. 95-3859 Filed 2-15-95; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 52

[CA 40-1-6813 FRL-5145-7]

#### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District and Ventura County 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 December 17, 1993. The revisions concern rules from the following districts: The Bay Area Air Quality Management District (BAAQMD) and the Ventura County Air Pollution Control District (VCAPCD). 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 rules control VOC emissions from leaking valves and connectors at petroleum refinery complexes, chemical plants, bulk plants, and bulk terminals (BAAQMD Rule 8-18); and fugitive emissions from petroleum refineries and chemical plants (VCAPCD Rule 74.7). Thus, EPA is finalizing the approval of these rules 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 final rule is effective on March 20, 1995.

**ADDRESSES:** Copies of the submitted rules 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 rules are available for inspection at the following locations:

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

Environmental Protection Agency, Air Docket 6102, 401 "M" Street SW., Washington, DC 20460.

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

Ventura County Air Pollution Control District, 669 County Square Drive, Second floor, Ventura, CA 93003.

#### FOR FURTHER INFORMATION CONTACT:

Christine Vineyard, Rulemaking Section, Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1197.

#### SUPPLEMENTARY INFORMATION:

##### Background

On December 17, 1993 in 58 FR 65959, EPA proposed to approve the following rules into the California SIP: BAAQMD's Rule 8-18, Valves and Connectors at Petroleum Refinery Complexes, Chemical Plants, Bulk Plants, and Bulk Terminals; and VCAPCD's Rule 74.7, Fugitive Emissions of Reactive Organic Compounds at Petroleum Refineries and Chemical Plants. The BAAQMD adopted Rule 8-18 on March 4, 1992 and the VCAPCD adopted Rule 74.7 on January 10, 1989. The California Air Resources Board (CARB) submitted these rules on November 12, 1992 and March 26, 1990, respectively. These 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 notice of proposed rulemaking (NPRM) 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 NPRM 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 in 58 FR 65959 and in technical support documents (TSDs) available at EPA's Region IX office (TSDs dated May 13, 1993—BAAQMD Rule 8-18 and June 21, 1993—VCAPCD 74.7).

#### Response to Public Comments

A 30-day public comment period was provided in 58 FR 65959. No comments were received.

#### EPA Action

EPA is finalizing action to approve the above rules for inclusion into the California SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA. This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of VOCs in accordance with the requirements of the CAA.

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.

#### Regulatory Process

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

#### 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: January 11, 1995.

**Felicia Marcus,**

*Regional Administrator.*

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. 7401-7671q.