

out of compliance with the demands of the legislation. MMS, however, is looking at situations where it can ease some of the reporting requirements and minimize assessments. For example, MMS has taken action to adjust its billing thresholds to minimize "nuisance" bills for trivial assessments.

In a related area, MMS is addressing the financial impacts incurred by payors that fail to timely file certain forms. MMS formed a study group to evaluate the existing regulatory requirements for oil and gas allowances including the assessments and sanctions for untimely filed forms. The Study Group was comprised of representatives from MMS, industry, and the State and Tribal Royalty Audit Committee. It addressed the need for and equity of allowance payback and late payment interest charges for untimely filed forms. The Study Group found that the penalties were not consistent with the crime and proposed alternatives to the payback penalty. MMS has prepared two proposed rules to implement the Study Group's recommendations—one dealing with oil and gas, and one dealing with coal.

Timetable—MMS plans to publish the proposed rules by mid-1995.

5. The Appeals Process

Comments Received—Current appeals process is too long.

Action Taken—MMS has undertaken a streamlining review of its administrative appeals process. MMS has transferred decisionmaking on routine appeals from the Appeals Division to the Royalty Management Program. This has reduced the Appeals Division's workload by 20 percent and freed up staff to work on more complex appeals cases.

MMS also initiated three pilot programs in its streamlining efforts. One pilot program aims to decrease the time and expense incurred by MMS in its preparation of an appellant's administrative record. A second pilot program involves reformatting the decisionmaking process to speed the issuance of shorter, more timely decisions. The third pilot program will test the use of alternative dispute resolution mechanisms to resolve many of the administrative appeals.

Timetable—The first two pilots were put in place the latter half of 1994, and the third pilot began the end of February 1995.

6. Other

Comments Received—MMS received unfavorable comments on proposed rules concerning administrative offset and credit adjustments. Comments were

also received about closing audit periods and receiving orders to perform self-audits. Finally, there were comments received about the estimated royalty payment system and that guidance given to payors over the phone was overruled by RMP auditors.

Action Taken—The administrative offset and credit adjustment rules have been consolidated as a final rule. MMS recognizes that many companies oppose these rules but considers the rules to be important enough that they should proceed to the final rulemaking stage.

Some of the issues regarding closing audit periods and orders to perform recalculations of royalties are being addressed in a manual MMS is preparing on audit procedures. With respect to the other comments received, MMS will address them in order ways, such as ongoing customer service initiatives.

Timetable—Publication of the administrative offset-credit adjustment final rule is scheduled for mid-1995. The audit manual will be available later this year.

Dated: March 22, 1995.

Cynthia Quarterman,

Acting Director, Minerals Management Service.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA-144-2-6918a; FRL-5179-3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from fixed and floating roof tanks at bulk plants and terminals; and fugitives at light crude oil production, gas production, and natural gas processing facilities.

The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act).

EPA's final action on this NPRM will incorporate these rules into the federally approved SIP. In addition, final action on these rules will serve as a final determination that deficiencies in each rule identified by EPA in a limited approval/limited disapproval action on August 30, 1993 have been corrected and that any sanctions or Federal Implementation Plan (FIP) obligations are permanently stopped. An Interim Final Determination published in today's **Federal Register** will defer the imposition of sanctions until EPA takes final rulemaking action. EPA has evaluated each of these rules and is proposing to approve them 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: Comments must be received on or before April 27, 1995.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Rulemaking Section [A-5-3], Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

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.

San Joaquin Valley Unified Air
Pollution Control District 1999
Tuolumne Street, Fresno, CA 93721.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Section [A-5-3], Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1200.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being proposed for approval into the California SIP include: San Diego County Air Pollution Control District (SDCAPCD) Rule 61.1, Receiving and Storing Volatile Organic Compounds at Bulk Plants and Bulk Terminals; and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 4403, Components Serving Light Crude Oil or Gases at

Light Crude Oil and Gas Production Facilities and Components at Natural Gas Processing Facilities. These rules were submitted by the California Air Resources Board to EPA on January 24, 1995 and February 24, 1995 respectively.

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 CAA or pre-amended Act), that included the San Diego County Area and San Joaquin Valley Area which includes the following eight air pollution control districts (APCDs): Fresno County APCD, Kern County APCD,¹ Kings County APCD, Madera County APCD, Merced County APCD, San Joaquin County APCD, Stanislaus County APCD, and Tulare County APCD.² 43 FR 8964; 40 CFR 81.305. Because these areas were unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987.³ 40 CFR 52.222. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the above districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and

¹ At that time, Kern County included portions of two air basins: the San Joaquin Valley Air Basin and the Southeast Desert Air Basin. The San Joaquin Valley Air Basin portion of Kern County was designated as nonattainment, and the Southeast Desert Air Basin portion of Kern County was designated as unclassified. See 40 CFR 81.305 (1991).

² On March 20, 1991, the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) was formed. The SJVUAPCD has authority over the San Joaquin Valley Air Basin which includes all the above eight counties except the Southeast Desert Air Basin portion of Kern County.

³ This extension was not requested for the following counties: Kern, Kings, Madera, Merced and Tulare. Thus, the attainment date for these counties remained December 31, 1982.

classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.⁴ EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. Both the San Diego County Area and the San Joaquin Valley Area are classified as serious;⁵ therefore, these areas were subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on January 24, 1995 and February 24, 1994, including the rules being acted on in this document. This document addresses EPA's proposed action for SDCAPCD Rule 61.1, Receiving and Storing Volatile Organic Compounds at Bulk Plants and Bulk Terminals; and SJVUAPCD Rule 4403, Components Serving Light Crude Oil or Gases at Light Crude Oil and Gas Production Facilities and Components at Natural Gas Processing Facilities. SDCAPCD adopted Rule 61.1 on January 10, 1995 and SJVUAPCD adopted Rule 4403 on February 16, 1995. These submitted rules were found to be complete on February 24, 1995 and March 10, 1995 pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51 Appendix V⁶ and are being proposed for approval into the SIP.

SDCAPCD Rule 61.1 controls VOC emissions from fixed and floating roof tanks at bulk plants and terminals. SJVUAPCD Rule 4403 controls VOC fugitive emissions from oil and gas production and processing facilities. VOCs contribute to the production of ground-level ozone and smog. The rules were adopted as part of each district's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA

⁴ Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

⁵ The San Diego County and the San Joaquin Valley Areas were redesignated nonattainment and classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

⁶ 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).

requirement. The following is EPA's evaluation and proposed action for these rules.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 4. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTGs applicable to these rules are entitled, "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks," EPA 450/2-78-047; "Control of Volatile Organic Emissions from Petroleum Liquid Storage in Fixed Roof Tanks," EPA 450/2-77-036; and "Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants," EPA-450/3-83-007. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 4. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SDCAPCD Rule 61.1, Receiving and Storing Volatile Organic Compounds at Bulk Plants and Bulk Terminals includes the following significant changes from the current SIP:

- The exemption section was revised to delete the reference to rule 11.
- A recordkeeping requirement was added to demonstrate exemption eligibility.
- Test methods were added for determination of true vapor pressure and control efficiency of vapor control systems. (A detailed summary of rule changes is provided in the Technical

Support Document (TSD) dated March 7, 1995).

- SJVUAPCD Rule 4403, Components Serving Light Crude Oil or Gases and Light Crude Oil and Gas Production Facilities and Components at Natural Gas Processing Facilities includes the following significant changes from the current SIP:

- Definitions have been added for rule clarification.
- The exemption section was amended to exclude components from being exempt from leak minimization or recordkeeping requirements.
- Violation language was added so that any leaks in excess of the leak thresholds will constitute a violation of the rule.
- The variance provision has been removed.
- Repair procedures for essential components have been added.
- Various recordkeeping requirements were added.
- The test method section was amended to reference methods for determining true vapor pressure. (A detailed summary of rule changes is provided in the TSD dated March 7, 1995).

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, SDCAPCD Rule 61.1, Receiving and Storing Volatile Organic Compounds at Bulk Plants and Bulk Terminals; and SJVUAPCD Rule 4403, Components Serving Light Crude Oil and Gas Production Facilities and Components at Natural Gas Processing Facilities, are being proposed for approval 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 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

Under the Regulatory Flexibility Act, 5 U.S.C. Section 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 sections 110 and 301 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, 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 OMB has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

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

Date Signed: March 16, 1995.

Felicia Marcus,

Regional Administrator

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 649, 650 and 651

[I.D. 031695A]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public meeting; request for comments.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day public meeting to consider actions affecting the New England fisheries in the exclusive economic zone (EEZ).

DATES: The meetings are scheduled as follows:

1. March 29, 1995, 10 a.m.; and

2. March 30, 1995, 8:30 a.m.

Comments must be received by March 30, 1995.

ADDRESSES: The meetings will be held at the King's Grant Inn, Route 128 and Trask Lane, Danvers, MA 01923; telephone: 508-774-6800. Comments may be sent to the Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT:

Douglas G. Marshall, Executive Director; telephone: 617-231-0422.

SUPPLEMENTARY INFORMATION:

Wednesday, March 29, 1995

The meeting will begin with introductions and announcements. The Groundfish Oversight Committee will report on its progress in developing management alternatives for Amendment 7 to the Northeast Multispecies Fishery Management Plan (FMP), in consideration of low abundances of key fish stocks in the northeast. This meeting will be the first at which the Groundfish Committee-initiated framework adjustment to the Northeast Multispecies and Sea Scallop FMPs will be discussed. The purpose of the framework is to correct the baseline used by Vessel Tracking Systems (VTS) to calculate days at sea (DAS).

During the afternoon session, Dr. William Hogarth of NMFS will brief the Council on the management status of weakfish and striped bass. Following his presentation, the Ad Hoc Committee on the Reauthorization of the Magnuson Fishery Conservation and Management Act will discuss aspects of the various reauthorization bills and ask the full Council for its views.

Thursday, March 30, 1995

The Lobster Committee will discuss the list of potential issues to be reviewed in the Council's public hearing document for a lobster stock rebuilding/effort reduction program. This will be the final meeting to consider a framework adjustment to the Lobster FMP that would address a range of issues related to lobster limited access permits (see below). The Sea Scallop Committee will revisit the issue of specifications for twine tops used in scallop gear and referred to in Framework Adjustment 5 to the Scallop FMP. This will also be the final meeting to consider Framework Adjustment 5 to the FMP that would modify gear restrictions for scallop limited access fishing vessels (see below). The Gear Conflict Committee will report on its efforts to reach an agreement that might reduce interactions between various