

EPA-APPROVED DISTRICT OF COLUMBIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Comments
Section 8-2: 707(d)	Control of Evaporative Losses from the Filling of Vehicular Tanks.	2/26/81	12/16/81 46 FR 61254.	
Section 8-2: 707(e)	Dry Cleaners	3/1/74	6/23/75 40 FR 26274.	
Section 8-2: 707(f)	Organic Solvents	3/1/74	9/28/77 42 FR 49811.	
Section 8-2: 707(g)	Pumps and Compressors	7/7/72	9/22/72 37 FR 19806	Citation revised 6/23/75 @ 40 FR 26274.
Section 8-2: 707(h)	Waste Gas Disposal from Ethylene Producing Plant.	7/7/72	9/22/72 37 FR 19806	Citation revised 6/23/75 @ 40 FR 26274.
Section 8-2: 707(i)	Waste Gas Disposal from Vapor Blow-Down System.	7/7/72	9/22/72 37 FR 19806	Citation revised 6/23/75 @ 40 FR 26274.
Section 8-2: 707(j)	Solvent Cleaning Degreasing	2/26/81	12/16/81 46 FR 61254.	
Section 8-2: 707(k)	Asphalt Operations	2/26/81	9/22/72 37 FR 19806.	

Chapter 8—Asbestos, Sulfur and Nitrogen Oxides

Section 801	Sulfur Content of Fuel Oils	3/15/85	8/28/95 60 FR 44431.	
Section 802	Sulfur Content of Coal	13/15/85	8/28/95 60 FR 44431.	
Section 803	Sulfur Process Emissions	3/15/85	8/28/95 60 FR 44431.	
Section 804	Nitrogen Oxide Emissions	3/15/85	8/28/95 60 FR 44431.	
Section 899	Definitions and Abbreviations	3/15/85	8/28/95 60 FR 44431.	

Chapter 9—Motor Vehicle Pollutants, Lead, Odors, and Nuisance Pollutants

Section 904	Oxygenated Fuels	9/30/93	1/26/95 60 FR 5134.	
Appendices				
Appendix 1	Emission Limits for Nitrogen Oxide	3/15/85	8/28/95 60 FR 44431.	
Appendix 2	Table of Allowable Particulate Emissions from Process Sources.	3/15/85	8/28/95 60 FR 44431.	
Appendix 3	Allowable VOC Emissions Under Section 710 ..	3/15/85	8/28/95 60 FR 44431.	

(d) EPA approved State Source specific requirements.

EPA-APPROVED DISTRICT OF COLUMBIA SOURCE-SPECIFIC PERMITS

Name of source	Permit number	State effective date	EPA approval date	Comments
None				

(e) (Reserved).

[FR Doc. 98-32422 Filed 12-4-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 211-0105; FRL-6195-8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego Air Pollution Control District and Ventura 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 from the following districts: San Diego Air Pollution Control District (SDAPCD) and Ventura County Air Pollution Control District (VTCAPCD). The rules control particulate matter (PM) emissions related to visible emissions and abrasive blasting, respectively. This approval action will incorporate these rules into the federally approved SIP.

The intended effect of approving these rules is to regulate emissions of PM in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals and SIPs for national primary and secondary ambient air quality standards.

DATES: This rule is effective on February 5, 1999 without further notice, unless EPA receives relevant adverse comments by January 6, 1999. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rules and EPA's evaluation report for the rules 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 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, DC 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812

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

Ventura County Air Pollution Control District, 702 County Square Drive, Ventura, CA 93003

FOR FURTHER INFORMATION CONTACT: Karen Irwin, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1903.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP include: SDAPCD Rule 50, Visible Emissions and VTCAPCD Rule 74.1, Abrasive Blasting. These rules were submitted by the California Air Resources Board to EPA on June 23, 1998 and January 28, 1992, respectively.

II. Background

On March 3, 1978, EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the provisions of the 1977 Clean Air Act

(1977 CAA or pre-amended Act), that included the San Diego Air Basin (West portion of San Diego County) (43 FR 8964; 40 CFR 81.305). On July 1, 1987 (52 FR 24672) EPA replaced the TSP standards with new PM standards applying only to PM up to 10 microns in diameter (PM-10).¹ On November 15, 1990, amendments to the 1977 CAA were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. On the date of enactment of the 1990 CAA Amendments, PM-10 areas meeting the qualifications of section 107(d)(4)(B)(iii) of the Act were designated unclassifiable by operation of law. The San Diego Air Basin and Ventura County were not among the areas designated unclassifiable.

As part of updating the California SIP, the State of California submitted many PM-10 rules for incorporation into the California SIP on June 23, 1998 and January 28, 1992, including the rules being acted on in this document. This document addresses EPA's direct-final action for SDAPCD Rule 50, Visible Emissions, and VTCAPCD Rule 74.1, Abrasive Blasting. SDAPCD adopted Rule 50 on August 13, 1997. VTCAPCD adopted Rule 74.1 on November 12, 1991. These submitted rules were found to be complete on August 25, 1998 and April 3, 1992, respectively, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V² and are being finalized for approval into the SIP.

SDAPCD Rule 50 is a generally applicable rule that controls visible emissions from a variety of sources. VTCAPCD Rule 74.1 controls emissions from abrasive blasting. PM emissions can harm human health and the environment. These rules were originally adopted as part of SDAPCO's and VTCAPCD's efforts to maintain the National Ambient Air Quality Standard (NAAQS) for PM-10. The following is EPA's evaluation and final action for these rules.

III. EPA Evaluation and Action

In determining the approvability of a PM-10 rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of

¹ On July 18, 1997 EPA promulgated revised and new standards for PM-10 and PM-2.5 (62 FR 38651). EPA has not yet established specific plan and control requirements for the revised and new standards.

² 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).

Implementation Plans). EPA must also ensure that rules are enforceable and strengthen or maintain the SIP's control strategy.

There is currently no version of VTCAPCD Rule 74.1, Abrasive Blasting, in the SIP. The submitted rule includes the following provisions:

- A Ringlemann 1 (20 percent opacity) standard applies to abrasive blasting conducted within a permanent building;
- A Ringlemann 2 (40 percent opacity) standard applies to abrasive blasting conducted outside of a permanent building;
- All abrasive blasting operations must be conducted within a permanent building with certain exceptions;
- Abrasives used for dry outdoor blasting must be certified by the California Air Resources Board to meet percent by weight material standards. Otherwise, wet abrasive blasting, hydroblasting or vacuum blasting must be used with certain exceptions.

On September 28, 1981, EPA approved into the SIP a version of Rule 50 that had been adopted by SDAPCD prior to this date.

SDAPCD's submitted Rule 50, Visible Emissions, includes the following significant changes from the current SIP:

- Adds source-specific exemptions;
- Relaxes the standard for asphalt plant drop zone discharges from Ringlemann 1 (20% opacity) to Ringlemann 2 (40% opacity);
- Adds a specific provision for diesel pile-driving hammers that relaxes the applicable Ringlemann 1 standard not to exceed three minutes per hour to a Ringlemann 1 standard not to exceed four minutes during the driving of a single pile or, when kerosene fuel, smoke-suppressing fuel additives and synthetic lubricating oil are used, a Ringlemann 2 standard not to exceed four minutes during the driving of a single pile;
- Relaxes the standard for discharges from asphalt paving equipment with an application temperature specification of 320 degrees Fahrenheit or higher and pavement rehabilitation equipment from Ringlemann 1 to Ringlemann 2;
- Relaxes the standard for discharges from the operation, maintenance or testing of fire fighting training units used exclusively for the purpose of shipboard fire fighting training from Ringlemann 1 to Ringlemann 2.

While some provisions are being relaxed, EPA believes these relaxations are de minimis and do not violate section 110(l) of the Clean Air Act. EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and

EPA policy. Therefore, SDAPCD Rule 50, Visible Emissions, and VTCAPCD Rule 74.1, Abrasive Blasting, are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a). A more detailed evaluation can be found in EPA's evaluation report for these rules.

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 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 relevant adverse comments be filed. This rule will be effective February 5, 1999 without further notice unless the Agency receives relevant adverse comments by January 6, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal 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 February 5, 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, Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, 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, or EPA consults with those governments. If EPA complies by consulting, Executive

Order 12875 requires EPA to 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 any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 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 Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly 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, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to 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 officials and 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. 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 February 5, 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Particulate matter.

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: November 20, 1998.

Laura Yoshii,

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 paragraphs (c)(187)(i)(B)(2) and (256)(i)(B)(1) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(187) * * *

(i) * * *

(B) * * *

(2) Rule 74.1, adopted on November 12, 1991.

* * * * *

(256) * * *

(i) * * *

(B) San Diego County Air Pollution Control District.

(1) Rule 50, adopted on August 13, 1997.

[FR Doc. 98-32417 Filed 12-4-98; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CS Docket No. 96-83; FCC 98-214]

Preemption of Local Zoning Regulation of Satellite Earth Stations and Restrictions on Over-the-Air Reception Devices: Television Broadcast Service and Multichannel Multipoint Distribution Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition on reconsideration.

SUMMARY: This Order on Reconsideration affirms and clarifies the Over-the-Air Reception Devices Rule, which prohibits governmental and non-governmental restrictions that impair a viewer's ability to receive video programming through devices designed for over-the-air reception of DBS, MDS, or television broadcast signals. This

Order resolves petitions for reconsideration of the Preemption of Restrictions on Over-the-Air Reception Devices Report and Order (CS Docket No. 96-83, FCC 96-328, 61 FR 46557) by reaffirming and clarifying certain parts of the rule.

EFFECTIVE DATES: January 6, 1999, except § 1.4000(d) and (e) contain information collection requirements that will become effective February 16, 1999 following approval by the Office of Management and Budget, unless timely notice is published in the **Federal Register**. The Commission will publish a document in the **Federal Register** announcing the effective dates for those sections. Written comments by the public on the modified information collection requirements are due on or before February 5, 1999. If you anticipate that you will be submitting comments on the modified information collection requirements, but find it difficult to do so within the period of time allowed by this notice, you should advise Judy Boley, listed in the address section, as soon as possible.

ADDRESSES: A copy of any comments on the modified information collection requirements contained herein should be submitted to Judy Boley, Federal Communications, Room C1804, 445 12th St., S.W., Washington, DC 20554 or via Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Eloise Gore at (202) 418-1066 or via internet at egore@fcc.gov or Darryl Cooper at (202) 418-1039 or via internet at dacooper@fcc.gov. For additional information concerning the modified information collection requirements contained in the Order on Reconsideration contact Judy Boley at (202) 418-0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Order on Reconsideration, CS Docket No. 96-83, adopted August 27, 1998 and released September 25, 1998. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. 20554, or may be purchased from the Commission's copy contractor, International Transcription Service ("ITS"), (202) 857-3800, 1231 20th Street, NW, Washington, D.C. 20036, or may be reviewed via internet at <http://www.fcc.gov/Bureaus/Cable/WWW/csb.html>. For copies in alternative formats, such as braille, audio cassette or large print, please contact Sheila Ray at ITS.