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**Donald L. Riggin,**

*Acting Manager Transport Airplane  
Directorate, Aircraft Certification Service.*

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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Parts 217 and 219

##### National Forest System Land and Resource Management Planning

**AGENCY:** Forest Service, USDA.

**ACTION:** Proposed rule; extension of public comment period.

**SUMMARY:** On October 5, 1999, the Forest Service published a proposed rule to guide land and resource management planning on national forests and grasslands (64 FR 54074). The agency extended the public comment period for this proposed rule, which is scheduled to end on February 3, 2000 (64 FR 70204). In response to Congressional requests and the need to provide the public more time to review and evaluate the proposed regulations, the Forest Service is extending the public comment period until February 10, 2000.

**DATES:** Comments must be submitted in writing and must be received by February 10, 2000.

**ADDRESSES:** Send written comments on the proposed planning rule to the CAET-USDA Team, Attn. Planning Rule, Forest Service, USDA, 200 East Broadway, Room 103, Post Office Box 7669, Missoula, MT 59807; or via email to planreg/wo\_caet@fs.fed.us; or via facsimile to (406) 329-3021.

Comments, including names and addresses when provided, are subject to public inspection and copying. The public may inspect comments received on this proposed rule in the Office of Deputy Chief, National Forest Systems, Third Floor, Southwest Wing, Yates Building, 14th and Independence Ave., SW, Washington, DC between the hours of 8:30 AM and 4:00 PM.

**FOR FURTHER INFORMATION CONTACT:** Bob Cunningham, Ecosystem Management Coordination Staff, telephone: (202) 205-7820.

Dated: February 1, 2000.

**Barbara C. Weber,**

*Acting Associate Chief for Natural Resources.*  
[FR Doc. 00-2597 Filed 2-3-00; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA236-0204b; FRL-6533-7]

#### Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Monterey Bay Unified Air Pollution Control District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing revisions to the California State Implementation Plan (SIP) which concern an emission offsets exemption for pollution control projects that are mandated by District, state, or federal regulation.

The intended effect of this action is to regulate emissions from stationary sources of air pollution subject to District new source review (NSR) regulation in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules section of this **Federal Register**, the EPA is approving the state's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

**DATES:** Written comments must be received by March 6, 2000.

**ADDRESSES:** Comments should be addressed to: Roger Kohn, Permits Office (AIR-3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions 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 rule revisions are also available for inspection at the following locations:

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

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey CA 93940.

#### FOR FURTHER INFORMATION CONTACT:

Roger Kohn, Permits Office (AIR-3), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1238).

**SUPPLEMENTARY INFORMATION:** This document concerns Monterey Bay Unified Air Pollution Control District Rule 207, Review of New or Modified Sources, submitted to EPA on October 29, 1999 by the California Air Resources Board. For further information, please see the information provided in the direct final action that is located in the rules section of this **Federal Register**.

Dated: January 21, 2000.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*  
[FR Doc. 00-2471 Filed 2-3-00; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 105-0201 FRL-6532-9]

#### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Kern County Air Pollution Control District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the California State Implementation Plan (SIP) for ozone. The revision concerns the control of oxides of nitrogen (NO<sub>x</sub>) for the Kern County Air Pollution Control District (KCAPCD). The revision concerns KCAPCD Rule 425.1 for the control of oxides of nitrogen (NO<sub>x</sub>) emissions from hot mix asphalt paving plants. The intended effect of proposing approval of this rule is to regulate emissions of (NO<sub>x</sub>) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rule will incorporate this rule into the Federally approved SIP. EPA has evaluated this rule and is proposing to approve it under provisions of the CAA regarding EPA actions on SIP submittals, SIPs for national primary and secondary ambient air quality standards (NAAQS), and plan requirements for nonattainment areas.

**DATES:** Comments must be received on or before March 6, 2000.

**ADDRESSES:** Comments may be mailed to: Andrew Steckel, Rulemaking Office, AIR-4, Air Division, U.S.

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

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

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

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

Kern County Air Pollution Control District, 2700 "M" Street, Suite 302, Bakersfield, CA 93301

**FOR FURTHER INFORMATION CONTACT:** Ed Addison, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1160.

**SUPPLEMENTARY INFORMATION:**

**I. Applicability**

The rule being proposed for approval into the California SIP is Kern County Air Pollution Control District (KCAPCD) Rule 425.1, Hot Mix Asphalt Paving Plants (Oxides of Nitrogen). Rule 425.1 was submitted by the State of California to EPA on October 19, 1994.

**II. Background**

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. The air quality planning requirements for the reduction of NO<sub>x</sub> emissions through reasonably available control technology (RACT) are set out in section 182 (f) of the Clean Air Act.

On November 25, 1992, EPA published a proposed rule entitled, "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO<sub>x</sub> supplement) which describes and provides preliminary guidance on the requirements of section 182(f). The NO<sub>x</sub> Supplement should be referred to for further information on the NO<sub>x</sub> requirements.

Section 182 (f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO<sub>x</sub> ("major" as defined in section 302 and sections 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compound (VOCs), in moderate or above ozone nonattainment

areas. KCAPCD is classified as serious;<sup>1</sup> therefore this area is subject to the RACT requirements of section 182(b)(2) and the November 15, 1992 deadline cited below.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC (and NO<sub>x</sub>) emissions (not covered by a pre-enactment control technologies guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There were no NO<sub>x</sub> CTGs issued before enactment and EPA has not issued a CTG document for any NO<sub>x</sub> sources since enactment of the CAA. The RACT rule covering NO<sub>x</sub> sources and submitted as a SIP revision requires final installation of the actual NO<sub>x</sub> controls as expeditiously as practicable, but no later than May 31, 1995.

This document addresses EPA's proposed action for Kern County Air Pollution Control District (KCAPCD) Rule 425.1, Hot Mix Asphalt Paving Plants (Oxides of Nitrogen), adopted by the KCAPCD on October 13, 1994. The State of California submitted Rule 425.1 to EPA October 19, 1994. Rule 425.1 was found to be complete on October 21, 1994, pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51, Appendix V.<sup>2</sup>

NO<sub>x</sub> emissions contribute to the production of ground level ozone and smog. KCAPCD Rule 425.1 specified exhaust emission standards for NO<sub>x</sub>, and was originally adopted as part of KCAPCD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone, and in response to the CAA requirements cited above. The following is EPA's evaluation and proposed action for the rule.

**III. EPA Evaluation and Proposed Action**

In determining the approvability of a NO<sub>x</sub> 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). Among those provisions is the requirement that a NO<sub>x</sub> rule must, at a minimum, provide for the implementation of RACT for stationary sources of NO<sub>x</sub> emissions. The EPA interpretation of these

requirements, which forms the basis for today's action, appears in the NO<sub>x</sub> Supplement (57 FR 55620) and various other EPA policy guidance documents.<sup>3</sup>

For the purpose of assisting State and local agencies in developing NO<sub>x</sub> RACT rules, EPA prepared the NO<sub>x</sub> Supplement to the General Preamble. In the NO<sub>x</sub> Supplement, EPA provides preliminary guidance on how RACT will be determined for stationary sources of NO<sub>x</sub> emissions. While most of the guidance issued by EPA on what constitutes RACT for stationary sources has been directed towards application for VOC sources, much of the guidance is also applicable to RACT for stationary sources for NO<sub>x</sub> (see section 4.5 of the NO<sub>x</sub> Supplement). In addition, pursuant to section 183(c), EPA is issuing alternative control technique documents (ACTs), that identify alternative controls for all categories of stationary sources of NO<sub>x</sub>. The ACT documents will provide information on control technology for stationary sources that emit or have the potential to emit 25 tons per year or more of NO<sub>x</sub>. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of NO<sub>x</sub>.

In addition, the California Air Resources Board (CARB) is developing a guidance document entitled, "California Clean Air Act Guidance, Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Institutional, Industrial and Commercial Boilers, Steam Generators and Process Heaters," July 18, 1991. EPA has used CARB's RACT Determination, dated July 18, 1991, in evaluating Rule 425.1 for consistency with the CAA's RACT requirements. In general, EPA uses the guidance documents cited above, as well as other relevant and applicable guidance documents, to ensure that submitted NO<sub>x</sub> RACT rules meet Federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

There is currently no version of Kern County Air Pollution Control District Rule 425.1, Hot Mix Asphalt Paving Plants (Oxides of Nitrogen), in the SIP. Submitted Rule 425 includes the following provisions:

- General provisions including applicability, exemptions, and definitions.
- Exhaust emissions standards for oxides of nitrogen (NO<sub>x</sub>).

<sup>1</sup> KCAPCD retained its designation of nonattainment and was 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).

<sup>2</sup> EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, Pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

<sup>3</sup> "Issues Relating to VOC regulation Cutpoints, Deficiencies, and Deviation, Clarification to Appendix D of November 24, 1987 **Federal Register Notice**" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

- Compliance and monitoring requirements including compliance schedule, reporting requirements, monitoring and record keeping, and test methods.

Rules submitted to EPA for approval as revisions to the SIP must be fully enforceable, must maintain or strengthen the SIP and must conform with EPA policy in order to be approved by EPA. When reviewing rules for SIP approvability, EPA evaluates enforceability elements such as test methods, record keeping, and compliance testing in addition to RACT guidance regarding emission limits. Rule 425.1 strengthens the SIP through the addition of enforceable measures such as emissions limits, record keeping, test methods, definitions, and more stringent compliance testing. Because there is no existing rule in the SIP, the incorporation of Rule 425.1 into the SIP would decrease the NO<sub>x</sub> emissions allowed by the SIP. A more detailed discussion of the sources controlled, the controls required, and justification for why these controls represent RACT can be found in the Technical Support Document (TSD), dated December 1, 1999, which is available from the U.S. EPA, Region IX office.

EPA has evaluated the submitted rule and has determined that it is consistent with the CAA, EPA regulations and EPA policy. Therefore, Kern County Air Pollution Control District Rule 425.1 is being proposed for approval under section 110(k)(3) of the CAA is meeting the requirements of section 110(a), section 182(b)(2), section 182(f) and the NO<sub>x</sub> Supplement to the General Preamble.

#### 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 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship

between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order 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 and 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 (FRA) 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.

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

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen ozone, Reporting and record keeping requirements, Volatile organic compounds.

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

Dated: January 21, 2000.

**Laura Yoshii,**

*Deputy Regional Administrator, Region IX.*  
[FR Doc. 00-02476 Filed 2-3-00; 8:45 am]

**BILLING CODE 6560-50-M**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL-6532-6]

#### National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 31

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Comprehensive Environmental Response, Compensation, and Liability Act

("CERCLA" or "the Act"), requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency ("EPA" or "the Agency") in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This proposed rule proposes to add 8 new sites to the NPL. Six of the sites are being proposed to the General Superfund Section of the NPL and 2 of the sites are being proposed to the Federal Facilities Section.

**DATES:** Comments regarding any of these proposed listings must be submitted (postmarked) on or before April 4, 2000.

**ADDRESSES:** By Postal Mail: Mail original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. EPA; CERCLA Docket Office; (Mail Code 5201G); Ariel Rios Building; 1200 Pennsylvania Avenue NW; Washington, DC 20460.

By Express Mail: Send original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. EPA; CERCLA Docket Office; 1235 Jefferson Davis Highway; Crystal Gateway #1, First Floor; Arlington, VA 22202.

By E-Mail: Comments in ASCII format only may be mailed directly to [superfund.docket@epa.gov](mailto:superfund.docket@epa.gov). E-mailed comments must be followed up by an original and three copies sent by mail or express mail.

For additional Docket addresses and further details on their contents, see section II, "Public Review/Public Comment," of the Supplementary Information portion of this preamble.

**FOR FURTHER INFORMATION CONTACT:** Yolanda Singer, phone (703) 603-8835, State, Tribal and Site Identification Center, Office of Emergency and Remedial Response (Mail Code 5204G), U.S. Environmental Protection Agency; Ariel Rios Building; 1200 Pennsylvania Avenue NW; Washington, DC 20460, or the Superfund Hotline, Phone (800) 424-9346 or (703) 412-9810 in the Washington, DC, metropolitan area.

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