(2) Number of the model;
(3) Nominal range;
(4) Date placed in service;
(5) Recommended service life based on the degradation of either the source of light or the lens;
(6) Size of lamp (incandescent only);
(7) Interval, in days or years, for replacement of dry-cell battery; and
(8) Words to this effect: ''This equipment complies with requirements of the U.S. Coast Guard in 33 CFR part 66.''

(b) This label must last the service life of the equipment.

Dated: June 4, 2002.

**Kenneth T. Venuto,**

*Rear Admiral, U.S. Coast Guard, Acting Assistant Commandant for Operations.*

[FR Doc. 02–15794 Filed 6–21–02; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[CA 266–0358b; FRL–7235–8]**

## Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Ventura County Air Pollution Control District's (District) portion of the California State Implementation Plan (SIP). These revisions concern permitting and new source review (NSR) rules. We are taking comments on these proposed rules and plan to follow with a final action. Elsewhere in today's **Federal Register**, EPA has made an interim final determination that by submitting these revisions the District has corrected deficiencies noted in a December 7, 2000, limited approval and limited disapproval rulemaking (65 FR 76567), thereby deferring the imposition of sanctions.

**DATES:** Comments must be received by July 24, 2002.

**ADDRESSES:** Written comments must be submitted to Nahid Zoueshtiagh (Air-3), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, California 93003.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95812.

An electronic copy of the TSD is available from EPA Region IX upon request. The District rules are also available on the Internet at: *http://arbis.arb.ca.gov/drdb/ven/cur.htm*

**FOR FURTHER INFORMATION CONTACT:** Nahid Zoueshtiagh, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, telephone (415) 972–3978, email address: *zoueshtiagh.nahid@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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### I. Background

On December 7, 2000, EPA finalized the limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP) (65 FR 76567). This limited approval and limited disapproval incorporated Ventura Air Pollution Control District Rules 10 through 15, 15.1, 16, 23, 24, 26, 26.1 through 26.10, 29 and 30 into the federally approved SIP. This action became effective on January 8, 2001. Our final action was a limited approval and limited disapproval because the rules contained deficiencies and were not fully consistent with the Clean Air Act (CAA) requirements. In our limited disapproval, we required the District to correct specific rule deficiencies within 18 months from the effective date of our action to avoid imposition of mandatory sanctions. In response, the District revised Rule 10 and Rule 26 and developed a new rule, Rule 26.11.

The District is designated a severe ozone nonattainment area, and an attainment area for all other criteria pollutants. The CAA air quality planning requirements for nonattainment NSR are set out in part D of Title I of the Act, with implementing regulations at 40 CFR 51.160 through 51.165. The revisions to Rules 10 and 26 and submission of Rule 26.11 are the subject of today's proposal, and EPA has determined that the District's submittal satisfies the federal NSR implementing regulations.

### II. The State's Submittal

*A. What Rules Did the State Submit?*

Table 1 lists the rules discussed in this proposed rulemaking. The rules were adopted by the District on May 14, 2002, and submitted to us by the California Air Resources Board (CARB) on May 20, 2002.

TABLE 1.—SUBMITTED RULES

| Rule No. | Rule title |
|---|---|
| 10 | Permits Required |
| 26.1 | New Source Review—Definitions. |
| 26.2 | New Source Review—Requirements. |
| 26.3 | New Source Review—Exemptions. |
| 26.4 | New Source Review—Emission Banking. |
| 26.6 | New Source Review—Calculations. |
| 26.11 | New Source Review—ERC Evaluation At Time of Use. |

On May 30, 2002, EPA determined that the rules met the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

*B. Are There Other Versions of These Rules?*

There are previous versions for all the above rules, except for Rule 26.11 because it is an entirely new rule. The TSD for this proposed rulemaking contains detailed information on the new rule and on the District's revisions to its previous rules.

*C. What Are the Purposes of the Submitted Revisions and New Rule?*

The District has revised Rules 10 and 26 to correct the following deficiencies described in our December 7, 2000 final limited approval and limited disapproval.

Issue number 1. Permitting—Rule 10: there was no requirement to obtain an authority to construct (ATC) permit for emission units located at major NSR sources when relocated within five miles in the District.

Issue number 2. NSR—Rule 26: there was no requirement that emission reduction credits (ERCs) used as emission offsets for major NSR source

permitting actions be surplus at the time of use.

Issue number 3. NSR—Rule 26: the rule did not provide for denial of a permit for sources that may violate Prevention of Significant Deterioration (PSD) increments.

Issue number 4. NSR—Rule 26: for the alternatives analysis required by section 173(a)(5) of the CAA, the rule relied exclusively on the California Environmental Quality Act (CEQA) analysis.

A brief description of each rule revision and the new rule follows.

• Rule 10—Rule 10 as originally drafted exempted sources of all size categories from the requirement to obtain an ATC permit for emission units relocating within five miles from the previous location in Ventura County, provided that there is no emissions increase. The District revised this rule to limit the size category of sources that can use the exemption to exclude any source considered major for NSR permitting purposes. This revision corrected our deficiency number 1.

• Rule 26.1—The District revised both the definition of ''Major Modification'' and ''Surplus Emission Reduction'' to satisfy the NSR requirements.

Part 16 of the rule (definition of ''Major Modification'') now states that emission reductions that are not surplus at the time of use shall not be included as a decrease in calculating federally significant contemporaneous net emissions increases. The revised definition also clarifies that a ''federally significant net emissions increase'' is a major modification for federal CAA NSR purposes. Finally, the definition now establishes that a ''contemporaneous net emissions increase'' is the sum, during the specified five-year evaluation period, of all emission increases and all emission reductions occurring at the modified major NSR source. In a severe nonattainment area such as Ventura County, a major NSR source is considered under both the District rules and the federal CAA as any source which emits or has the potential to emit 25 tons per year or more of nitrogen oxides ($NO_X$) or reactive organic compounds (ROC).

Part 28 of the rule (definition of ''Surplus Emission Reduction'') describes those surplus emission reductions that may qualify for use in the District as an offset. Part 28.a defines a surplus emission reduction for general District purposes (e.g., for banking and minor source permitting purposes) as those emission reductions not required by any federal, state, or District law, rule, order, permit or regulation, with a limited exception for sources utilizing Best Available Control Technology (BACT) when not required by federal major source NSR.[1] For major NSR offset purposes, the revised rule has a different definition for ''surplus.'' Part 28.b defines creditable emission reductions for NSR offset purposes as the emission reduction that ''exceeds the emission reduction otherwise required by the federal Clean Air Act.'' This language is approvable since it is consistent with the language found in section 173(c)(2) of the CAA. EPA has previously determined that the emission reductions ''otherwise required by the federal CAA'' includes, at a minimum, each of the following:[2]

(1) Any emission reduction required by a stand-alone federal requirement or regulation, including, but not limited to, Acid Rain, New Source Performance Standards (NSPS), Reasonably Available Control Technology (RACT), and Maximum Achievable Control Technology (MACT), whether or not the requirements are part of the SIP or a local attainment plan.

(2) Any emission reduction relied upon by a permitting authority for attainment purposes, such as through an approved attainment plan, including emission reductions relied upon for Reasonable Further Progress calculations. See e.g., 40 CFR 51.165(a)(3)(ii)(G). This also applies to reductions that have been identified as necessary for attainment with federal air quality standards, even though the plan may not yet have been approved.

(3) Any emission reduction whose original emission is not included in the District's emission inventory. See 40 CFR 51.165(a)(3)(ii)(C)(1).

(4) Any emission reduction based on a source-specific or source category-specific SIP provision used to comply with CAA requirements.

(5) Any emission reduction required by a condition of a permit issued to comply with NSR CAA requirements. See, e.g., 40 CFR 51.165(a)(3)(ii)(G).

(6) Any emission reduction based on a source-specific emission limitation resulting from EPA enforcement cases (e.g., consent decrees).

• Rule 26.2—The District added a new subpart d to part B.2 to require that all ERCs provided by the applicant for an ATC permit for a new or modified major NSR source to be surplus at the time of use. These revisions correct deficiency number 2.

To correct deficiency number 3, the District revised Rule 26.2.C to state that it will deny an applicant an ATC for any new, replacement, modified or relocated emissions unit which would cause the violation of any ambient air quality standard or the violation of any ambient air increment as defined in 40 CFR 51.166(c). Today's approval of this revision to Rule 26.2.C is for SIP strengthening purposes only. The District is neither approved for a Prevention of Significant Deterioration (PSD) program nor has been delegated the federal PSD program at 40 CFR 52.21 to implement, and the District has not submitted nor are we approving these rule revisions as they pertain to attainment pollutants for PSD purposes under CAA part C or 40 CFR 51.166. Under the PSD program, any new major source or source with a major modification (as defined by 40 CFR 52.21(b)) within the District's jurisdiction must apply to EPA for a PSD permit as required by 40 CFR 52.21 and District Rule 26.10.

The District corrected deficiency number 4 by revising the language in Rule 26.2.E. The revised language in Rule 26.2.E satisfies the requirement of section 173(a)(5) of the CAA. Rule 26.2.E, as revised, requires the permit applicant to submit an analysis of alternative sites, sizes, production processes, and environmental control techniques that, in the Air Pollution Control Officer's (APCO) independent judgment, demonstrates the benefits significantly outweigh the environmental costs. Therefore, the revised rule requires the APCO to deny a permit if, in the Control Officer's judgment, the analysis fails to demonstrate that the benefits of the proposed source significantly outweigh the environmental and social costs. In making this determination, the APCO may rely on information provided in documents prepared under the California Environmental Quality Act.

• Rule 26.3—To correct deficiency number 1, the District revised part A.3 of this rule to remove the previous

[1] For example, if an existing minor source is required to install BACT, something not required by the federal CAA, any actual emission reductions resulting from application of the more stringent controls could be considered surplus.

[2] See In Re Operating Permit Formaldehyde Plant Borden Chemical, Inc., Petition No. 6–01–1, (December 22, 2000), at pages 14–19 (Administrator's Title V Order finding Louisiana's regulation that generally defines surplus emission reductions as those not ''required by any local, state or federal law, regulation, order, or requirement, and are in excess of reductions used to demonstrate attainment of federal and state ambient air quality standards' to be consistent with Section 173(c)(2) of the CAA); Proposed Rule, Clean Air Act Approval and Promulgation of California State Implementation Plan for the San Joaquin Valley Unified Air Pollution Control District, 64 FR 51493 (September 23, 1999), at page 51494 (Proposed limited approval and limited disapproval of SJVUAPCD's NSR rules where we state that surplus means those emission reductions that ''are not required by the Clean Air Act or otherwise relied on, such as in an attainment plan'')

exemption which allowed for a major NSR source to relocate an emission unit within 5 miles without obtaining a new ATC, though smaller sources are still exempt. This revision is consistent with the revisions made to Rule 10.

• Rule 26.4—In conjunction with the expanded analysis of a ''contemporaneous net emissions increase'' described in Rule 26.1.16, the District revised part F.3 of this rule to remove superfluous language excluding the temporary emission reduction credits from use in the contemporaneous net emissions increase analysis of a major source.

• Rule 26.6—The District revised part D.7.b to refer to the procedure under the new Rule 26.11 for calculating the total amount of all emission reduction credits that were determined to be surplus at the time of use. This revision corrects deficiency number 2.

• Rule 26.11—This is a new rule specifically developed to implement procedures to ensure that ERCs satisfy EPA's requirement to be surplus at the time of use. The District will implement this program to correct deficiency number 2 related to the requirements of section 173(c)(2) of the CAA that emission reductions ''otherwise required by the CAA'' not be creditable emission reductions for NSR offsets purposes.

The rule describes the mechanism to be used by the District when calculating the surplus portion of each ROC and $NO_X$ ERC at the time of that ERC's use as an offset. Generally, part B of the rule requires that each ERC provided by an applicant as an offset for its major source NSR ATC permit must be adjusted in conjunction with issuance of that ATC. The rule also creates an annual equivalency demonstration in the District. EPA has determined that the use of annual equivalency demonstrations is consistent with section 173 of the CAA, and has previously approved such a demonstration program for the San Joaquin Air Pollution Control District (Rule 2022, 66 FR 37587).

An annual equivalency demonstration allows the District to show, via an annual equivalency analysis, that it is meeting the major source NSR offset requirements of section 173 of the CAA in the aggregate for the year in which the major permit is issued. The use of the annual equivalency demonstration will allow the District to demonstrate compliance with the section 173(c) offset requirements by relying on all sources of creditable emission reductions created within the District during the yearly accounting period, including all properly-adjusted ERCs relied on for District permitting actions. All actual emission reductions used in the equivalency program must be found to be surplus under section 173(c)(2), and must otherwise meet federal creditability requirements by being real, federally enforceable, permanent, and quantifiable. Finally, part C.6 establishes that the District must immediately discontinue the use of the annual equivalency program and require sufficient adjusted ERCs at the time of major source NSR permit issuance if the annual demonstration fails to show yearly equivalence.

## III. EPA's Evaluation and Action

### *A. How Is EPA Evaluating the Rules?*

The rules have been evaluated based on sections 173(c), 193, and 110(l) of the CAA, regulations under 40 CFR subpart I (Review of New Sources and Modification), and guidelines for EPA action on SIP submittals.

### *B. Do the Rules Meet the Evaluation Criteria?*

We believe these rules are consistent with the relevant policy and guidance regarding Review of New Sources and Modifications, enforceability, RACT, and SIP relaxations. Relevant guidance documents are listed in the TSD. The District has made rule revisions to correct the deficiencies noted in our December 2000 action. The District has revised several parts of its rules and has developed a new rule to satisfy our requirements. The TSD contains more information on rule revisions and our evaluation.

EPA has concluded that its approval of the District's rule revisions and development of a new rule meet the requirements of section 110(l) because the NSR permitting rule revisions strengthen Ventura County Air Pollution Control District's overall nonattainment area plans for all nonattainment pollutants by making the District's rules consistent with federal NSR requirements. Specifically, the SIP is strengthened because the rule revisions made by the District remove an existing exemption to obtaining an NSR permit, require an alternatives analysis in conjunction with appropriate permitting actions, provide the APCO the authority to deny a permit to a source who may violate the national air quality standard or available increment, and require that ERCs used as NSR offsets be surplus at the time of use. Moreover, because of these rule changes, the District's revised rules will insure equivalent or greater emission reductions for all nonattainment air pollutants, consistent with section 193 of the Act.

### *C. Public Comment and Final Action*

Because EPA believes the submitted rule revisions fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

## IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this proposed action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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). This action merely proposes to approve a State rule

implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: June 14, 2002.

**Laura Yoshii,**

*Deputy Regional Administrator, Region IX.*

[FR Doc. 02–15723 Filed 6–21–02; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[NC–94;100–200225(a); FRL–7236–2]**

## Approval and Promulgation of Implementation Plans: North Carolina: Nitrogen Oxides Budget and Allowance Trading Program

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of North Carolina, through the North Carolina Department of Environmental and Natural Resources (NCDENR), on September 18, 2001. This revision responds to the EPA's regulation entitled, ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone,'' otherwise known as the $NO_X$ SIP Call. This revision establishes and requires a nitrogen oxides ($NO_X$) allowance trading program for large electric generating and industrial units and internal combustion engines beginning in 2004. The revision includes a budget demonstration and initial source allocations that demonstrate that North Carolina will achieve the required $NO_X$ emission reductions in accordance with the timelines set forth in EPA's $NO_X$ SIP Call. The intended effect of this SIP revision is to reduce emissions of $NO_X$ in order to help areas in the Eastern United States attain the national ambient air quality standard for ozone. EPA is proposing to approve North Carolina's $NO_X$ reduction and trading program because it meets the requirements of the Phase I and Phase II $NO_X$ SIP Call that will significantly reduce ozone transport in the eastern United States.

North Carolina has included credits from an Inspection and Maintenance (I/M) Program as part of its SIP demonstration. North Carolina's I/M rules will be approved in a separate document and will be approved prior to the final approval of this $NO_X$ submittal.

**DATES:** Written comments must be received on or before July 24, 2002.

**ADDRESSES:** All comments should be addressed to: Randy Terry at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Copies of documents relative to this action are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

North Carolina Department of Environment and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

**FOR FURTHER INFORMATION CONTACT:** Randy Terry, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9032. Mr. Terry can also be reached via electronic mail at *terry.randy@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Section 51.121 of EPA's regulations requires North Carolina to adopt rules to restrict emissions of nitrogen oxides such that the caps specified in the federal rule for North Carolina are attained and maintained. *See* 40 CFR 51.121. Section 51.121 originally required rules to be submitted to EPA for approval as part of the SIP by September 30, 1999. Because of a court ruling this date was delayed a year, until October 30, 2000. On October 30, 2000, NCDENR submitted temporary $NO_X$ emission control rules to the EPA for adoption. These rules were revised in North Carolina's September 18, 2001, submittal. These rules were submitted to meet the requirements of the $NO_X$ SIP Call until the permanent North Carolina $NO_X$ rules could undergo the entire process of becoming state approved and effective. Although these rules are temporary, they are fully effective and the state has met the requirements in their statute that eliminates the sunset provision. Additionally, on March 21, 2002, North Carolina submitted a response letter to EPA, providing clarification and interpretation of the temporary rules and positively addressing all of EPA's outstanding comments. Therefore, EPA can proceed to propose approving the temporary rule, as established in North Carolina's March 21, 2002 letter, to meet the $NO_X$ SIP Call.

The information in this proposal is organized as follows: