

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation because we are establishing a security zone. An "Environmental Analysis Check List" and a draft "Categorical Exclusion Determination" (CED) will be available in the docket where located under

ADDRESSES.

List of Subjects in 33 CFR Part 165

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.1190 to read as follows:

§ 165.1190 Security Zone; San Francisco Bay, Oakland Estuary, Alameda, CA.

(a) *Location.* The following area is a security zone: all navigable waters of the Oakland Estuary, California, from the surface to the sea floor, 150 feet into the Oakland Estuary surrounding the Coast Guard Island Pier. The perimeter of the security zone commences at a point on land approximately 150 feet north of the northern end of the Coast Guard Island Pier at latitude 37°46'53.6" N and longitude 122°15'06.1" W; thence out to the edge of the charted channel at latitude 37°46'52.3" N and longitude 122°15'07.9" W; thence along the edge of the charted channel to latitude 37°46'42.2" N and longitude 122°14'50.5" W; thence to a point on land approximately 150 feet south of the southern end of the Coast Guard Island Pier at latitude 37°46'44.8" N and longitude 122°14'48.8" W; thence along the shoreline back to the beginning point, latitude 37°46'53.6" N and longitude 122°15'06.1" W.

(b) *Regulations.* (1) Under § 165.33, entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, San Francisco Bay, or his designated representative.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at telephone number 415-399-3547 or on VHF-FM channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his designated representative.

Dated: May 5, 2004.

Gerald M. Swanson,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay, California.

[FR Doc. 04-12825 Filed 6-4-04; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 295-0441a; FRL-7667-8]

Revisions to the California State Implementation Plan, Great Basin Unified 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 to approve revisions to the Great Basin Unified Air Pollution Control District (GBUAPCD) and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). The GBUAPCD revisions concern the emission of particulate matter (PM-10) from open fires and incinerator burning. The VCAPCD revisions concern the emission of particulate matter (PM-10) from open burning. We are approving local rules that administer regulations and regulate emission sources under the Clean Air Act as amended (CAA or the Act).

DATES: This rule is effective on August 6, 2004 without further notice, unless EPA receives adverse comments by July 7, 2004. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail or e-mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, or e-mail to steckel.andrew@epa.gov, or submit comments at <http://www.regulations.gov>.

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

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Great Basin Unified Air Pollution Control District, 157 Short Street, Suite 6, Bishop, CA 93514.

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

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbltx.htm>. Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 947-4118, petersen.alfred@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to EPA.

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I. The State’s Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the date that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Revised or amended	Submitted
GBUAPCD	406	Open Outdoor Fires	09/24/03 Revised	11/04/03
GBUAPCD	407	Incinerator Burning	09/24/03 Revised	11/04/03
VCAPCD	56	Open Burning	11/11/03 Amended	01/15/04

On December 23, 2003, the submittal of GBUAPCD Rules 406 and 407 was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. On March 1, 2004, the submittal of VCAPCD Rule 56 was found to meet the completeness criteria.

B. Are There Other Versions of These Rules?

We approved GBUAPCD Rule 406 into the SIP on June 6, 1977 (42 FR 28883), originally adopted on January 21, 1976. We approved GBUAPCD Rule 407 into the SIP on June 6, 1977 (42 FR 28883), originally adopted on September 5, 1974. We approved VCAPCD Rule 56 into the SIP on May 18, 1999 (64 FR 26876), originally adopted on October 22, 1968.

C. What Is the Purpose of the Submitted Rule Revisions?

PM-10 harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control PM-10 emissions.

The purpose of the revision to Rule 406 is as follows:

- To limit burning of household waste at single- or two-family dwellings to only dry non-glossy paper and cardboard and dry natural vegetation in areas granted a temporary exemption pursuant to California Code of Regulations (CCR), title 17, section 93113(e).

The purpose of the revisions to Rule 407 are as follows:

- To limit burning of household waste at single- or two-family dwellings to only dry non-glossy paper and cardboard and dry natural vegetation in areas granted a temporary exemption pursuant to CCR, title 17, section 93113(e).

- To allow this type of burning only with a valid permit on a burn day declared by the California Air Resources Board.

Revisions to Rule 56 are made to comply with revised California smoke management guidelines as follows:

- Requirements are now stated separately for open burning and for prescribed burning.
- Requirements for drying time are increased for trees and vegetation.
- Deleted is the exemption to allow open burning on no-burn days at elevations over 3,000 feet.
- Open burning is now prohibited when wind may carry emissions into smoke sensitive areas.
- Three different periods instead of two are now allowed for ignition in daylight hours.
- The VCAPCD may now allow open burning only on Burn Days declared by the District.
- The VCAPCD may now allow individual burns only on Marginal Burn Days declared by the District if impacts to smoke sensitive areas are not expected.
- The VCAPCD is now required to restrict burning in different regions to minimize impacts on smoke sensitive areas, cumulative smoke impacts, and public nuisance.
- A land manager must now submit a comprehensive smoke management plan for prescribed burning.
- For burns over 250 acres, the land manager must now also submit a post-burn evaluation.
- Added is an exemption to allow burning of unserviceable American flags.
- Added is an exemption to burn for the remediation of an oil spill consistent with State law.

- Various definitions are added and others revised to clarify or place further restrictions on burning.

II. EPA’s Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). BACM/BACT and RACM/RACT are not required for a PM-10 attainment area (see section 189(a) and 189(b)). GBUAPCD and VCAPCD are PM-10 attainment areas.

The following guidance documents were used for reference:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans*, U.S. EPA, 40 CFR part 51.
- *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, 57 FR 13498, 13540 (April 16, 1992).
- *General Preamble Appendix C3—Prescribed Burning Control Measures* (57 FR 18072, April 28, 1992).
- *Prescribed Burning Background Document and Technical Information Document for Best Available Control Measures* (EPA-450/2-92-003).
- *PM-10 Attainment Demonstration Maintenance Plan and Redesignation Request*, KCAPCD (September 5, 2002).
- *Smoke Management Guidelines for Agricultural and Prescribed Burning*, California Code of Regulations, title 17, 80100-80320 (March 14, 2001).

B. Do the Rules Meet the Evaluation Criteria?

We believe the rules are consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and fulfilling RACM/RACT.

The TSDs have more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by July 7, 2004, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on August 6, 2004. This will incorporate these rules into the federally-enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this direct final rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this 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 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 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 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 approves 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 (Pub. L. 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 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. This 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 Clean Air Act. 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 Clean Air Act. 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 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.*).

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**. A major rule

cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 August 6, 2004. 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, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: May 12, 2004.

Laura Yoshii,

Deputy 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)(321)(i)(C) and (328)i)(A)(2) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(321) * * *

(i) * * *

(C) Great Basin Unified Air Pollution Control District.

(1) Rule 406, adopted on January 21, 1976 and revised on September 24, 2003.

(2) Rule 407, adopted on September 5, 1974 and revised on September 24, 2003.

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(328) * * *

(i) * * *

(A) * * *

(2) Rule 56, adopted on October 22, 1968 and amended on November 11, 2003.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[NV053-0076a; FRL-7670-1]

Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Nevada; Nevada Division of Environmental Protection—Bureau of Air Pollution Control

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is amending certain regulations to reflect the current delegation status of national emission standards for hazardous air pollutants (NESHAPs) in Nevada. Several NESHAPs were delegated to the Nevada Division of Environmental Protection—Bureau of Air Pollution Control on January 12, 2004, and the purpose of this action is to update the listing in the Code of Federal Regulations.

DATES: This rule is effective on August 6, 2004, without further notice, unless EPA receives adverse comments by July 7, 2004. If EPA receives such comments, then it will publish a timely withdrawal in the *Federal Register* informing the public that this direct final rule will not take effect.

ADDRESSES: Send comments to Andrew Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, or e-mail to steckel.andrew@epa.gov, or submit comments at <http://www.regulations.gov>. Copies of the request for delegation and other supporting documentation are available for public inspection (docket number A-96-25) at the following locations by appointment:

U.S. Environmental Protection Agency, Region IX, Rulemaking Office (AIR-4), Air Division, 75 Hawthorne Street, San Francisco, California 94105-3901.
Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B-102, 1301 Constitution Avenue, NW., (Mail Code 6102T), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mae Wang, EPA Region IX, (415) 947-4124, wang.mae@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Delegation of NESHAPs

Section 112(l) of the Clean Air Act, as amended in 1990 (CAA), authorizes EPA to delegate to State or local air pollution control agencies the authority to implement and enforce the standards set out in the Code of Federal Regulations, Title 40 (40 CFR), part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories. On November 26, 1993, EPA promulgated regulations, codified at 40 CFR part 63, subpart E (hereinafter referred to as "Subpart E"), establishing procedures for EPA's approval of State rules or programs under section 112(1) (see 58 FR 62262). Subpart E was later amended on September 14, 2000 (see 65 FR 55810).

Any request for approval under CAA section 112(l) must meet the approval criteria in 112(l)(5) and subpart E. To streamline the approval process for future applications, a State or local agency may submit a one-time demonstration that it has adequate authorities and resources to implement and enforce any CAA section 112 standards. If such demonstration is approved, then the State or local agency would no longer need to resubmit a demonstration of these same authorities and resources for every subsequent request for delegation of CAA section 112 standards. However, EPA maintains the authority to withdraw its approval if the State does not adequately implement or enforce an approved rule or program.

B. NDEP Delegations

On May 27, 1998, EPA published a direct final action delegating to the Nevada Division of Environmental Protection (NDEP) several NESHAPs and approving NDEP's delegation mechanism for future standards (see 63 FR 28906). That action explained the procedure for EPA to grant delegations to NDEP by letter, with periodic *Federal Register* listings of standards that have been delegated. On November 21, 2003, the Nevada Division of Environmental Protection—Bureau of Air Pollution Control (NDEP-BAPC) requested delegation of the following NESHAPs contained in 40 CFR part 63:

- Subpart F—National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry

- Subpart G—National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater
- Subpart H—National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks
- Subpart I—National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks
- Subpart L—National Emission Standards for Coke Oven Batteries
- Subpart O—Ethylene Oxide Emission Standards for Sterilization Facilities
- Subpart R—National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)
- Subpart S—NESHAP from the Pulp and Paper Industry
- Subpart U—National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins
- Subpart W—NESHAP for Epoxy Resin Production and Non-Nylon Polyamides Production
- Subpart X—NESHAP from Secondary Lead Smelting
- Subpart Y—NESHAP for Marine Tank Vessel Loading Operations
- Subpart AA—NESHAP from Phosphoric Acid Manufacturing Plants
- Subpart BB—NESHAP from Phosphate Fertilizers Production Plants
- Subpart CC—NESHAP from Petroleum Refineries
- Subpart DD—NESHAP from Off-Site Waste and Recovery Operations
- Subpart EE—NESHAP for Magnetic Tape Manufacturing Operations
- Subpart GG—National Emission Standards for Aerospace Manufacturing and Rework Facilities
- Subpart HH—NESHAP from Oil and Natural Gas Production Facilities
- Subpart II—NESHAP for Shipbuilding and Ship Repair (Surface Coating)
- Subpart LL—NESHAP for Primary Aluminum Reduction Plants
- Subpart SS—National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process
- Subpart TT—National Emission Standards for Equipment Leaks—Control Level 1
- Subpart UU—National Emission Standards for Equipment Leaks—Control Level 2 Standards
- Subpart WW—National Emission Standards for Storage Vessels (Tanks)—Control Level 2