

(iii) For operations which will not involve the use of mechanized earthmoving equipment such as bulldozers or backhoes or the cutting of trees, unless those operations otherwise might cause a disturbance of surface resources.

\* \* \* \* \*

Dated: June 30, 2004.

**Mark Rey,**

*Under Secretary, Natural Resources and Environment.*

[FR Doc. 04-15483 Filed 7-8-04; 8:45 am]

BILLING CODE 3410-11-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[HI 001-001a; FRL-7778-5]

**Revisions to the Hawaii State Implementation Plan**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Hawaii State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are approving an amendment to the Air Quality Surveillance Network.

**DATES:** This rule is effective on September 7, 2004 without further notice, unless EPA receives adverse comments by August 9, 2004. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Send comments to Andy 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](mailto:steckel.andrew@epa.gov), or submit comments at <http://www.regulations.gov>.

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

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.

Hawaii Department of Public Health, Environmental Protection and Health

Services Division, 1250 Punchbowl Street, Honolulu, Oahu, Hawaii 96801.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Rose, EPA Region IX, (415) 947-4126, [rose.julie@epa.gov](mailto:rose.julie@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 Revision Did the State Submit?*

The Hawaii Department of Health (HDH) submitted a revision to their air quality surveillance network for particulate matter of 10 microns or less (PM-10).

*B. Are There Other Versions of the Network?*

The air quality surveillance network was submitted on August 21, 1980 and approved in the **Federal Register** on August 10, 1981.

*C. What Is the Purpose of the Submitted Revision?*

In accordance with 40 CFR parts 51 and 58, States are required to submit a plan that provides for the establishment of an air quality surveillance system. The system must consist of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) and National Air Monitoring Stations (NAMS) which measure ambient concentrations of pollutants for which standards have been established. The HDH revised their air quality surveillance network for particulate to accommodate the PM-10 provisions. The ambient particulate samplers were converted to the EPA-approved ambient PM-10 samplers on July 1, 1989 for the SLAMS and on July 1, 1988 for the NAMS. The HDH also committed to keep the descriptions of these networks updated and available to the public.

**II. EPA's Evaluation and Action**

*A. How Is EPA Evaluating the Revision?*

This revision updates the State's air quality surveillance network to include PM-10. The network must meet the requirements of 40 CFR parts 51 and 58.

*B. Does the Revision Meet the Evaluation Criteria?*

This revision is consistent with the relevant policy and guidance regarding air quality surveillance networks.

*C. Public Comment and Final Action*

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted plan revision because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted plan revision. If we receive adverse comments by August 9, 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 September 7, 2004. This will incorporate these rules into the federally enforceable SIP.

**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 September 7, 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.

Dated: June 15, 2004.

**Wayne Nastri,**

*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 M—Hawaii

■ 2. Section 52.620 is amended by adding paragraph (c)(17) to read as follows:

##### § 52.620 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(17) The following amendment to the plan was submitted on September 14, 1988, by the Governor's designee.

(i) Incorporation by reference.

(A) Hawaii Department of Health.

(1) Section XII, Air Quality Surveillance Network adopted on August 16, 1988.

\* \* \* \* \*

[FR Doc. 04-15527 Filed 7-8-04; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 04-1737, MB Docket No. 04-78, RM-10866]

#### Digital Television Broadcast Service; Ponce, PR

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Siete Grande Television, Inc., substitutes DTV channel 8c for DTV channel 66 at Ponce, Puerto, Rico. *See* 69 FR 19363, April 13, 2004. DTV channel 8c can be allotted to Ponce in compliance with the principle community coverage requirements of section 73.625(a) at reference coordinates 18-02-52 N. and 66-39-16 W. with a power of 50, HAAT of 88 meters and with a DTV service population of 1047 thousand. With this action, this proceeding is terminated.

**DATES:** Effective August 16, 2004.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 04-78, adopted June 18, 2004, and released June 30, 2004. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Quallex International, Portals II, 445 12th Street, SW., CY-B402, Washington, DC, 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail [qualxint@aol.com](mailto:qualxint@aol.com). The Commission will send a copy of this Report and Order in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

#### List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

■ Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

#### PART 73—[AMENDED]

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.