

these purposes an amended return that claims tax benefits not reported on a previously filed return) filed after the date on which the advice is provided to the taxpayer;

(D) Written advice provided to an employer by a practitioner in that practitioner's capacity as an employee of that employer solely for purposes of determining the tax liability of the employer; or

(E) Written advice that does not resolve a Federal tax issue in the taxpayer's favor, unless the advice reaches a conclusion favorable to the taxpayer at any confidence level (e.g., not frivolous, realistic possibility of success, reasonable basis or substantial authority) with respect to that issue. If written advice concerns more than one Federal tax issue, the advice must comply with the requirements of paragraph (c) of this section with respect to any Federal tax issue not described in the preceding sentence.

\* \* \* \* \*

(8) *Prominently disclosed.* An item is prominently disclosed if it is readily apparent to a reader of the written advice. Whether an item is readily apparent will depend on the facts and circumstances surrounding the written advice including, but not limited to, the sophistication of the taxpayer and the length of the written advice. At a minimum, to be prominently disclosed an item must be set forth in a separate section (and not in a footnote) in a typeface that is the same size or larger than the typeface of any discussion of the facts or law in the written advice.

\* \* \* \* \*

(10) *The principal purpose.* For purposes of this section, the principal purpose of a partnership or other entity, investment plan or arrangement, or other plan or arrangement is the avoidance or evasion of any tax imposed by the Internal Revenue Code if that purpose exceeds any other purpose. The principal purpose of a partnership or other entity, investment plan or arrangement, or other plan or arrangement is not to avoid or evade Federal tax if that partnership, entity, plan or arrangement has as its purpose the claiming of tax benefits in a manner consistent with the statute and Congressional purpose. A partnership, entity, plan or arrangement may have a significant purpose of avoidance or evasion even though it does not have the principal purpose of avoidance or evasion under this paragraph (b)(10).

\* \* \* \* \*

Approved: May 12, 2005.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement, Internal Revenue Service.*

**James W. Carroll,**

*Acting General Counsel, Department of the Treasury.*

[FR Doc. 05-9959 Filed 5-18-05; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD13-05-011]

**RIN 1625-AA00**

#### **Safety Zones: Annual Fireworks Events in the Captain of the Port Portland Zone**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement.

**SUMMARY:** The Captain of the Port, Portland, Oregon, will enforce the safety zones established May 30, 2003, to safeguard watercraft and their occupants from safety hazards associated with the display of fireworks. Entry into these safety zones is prohibited unless authorized by the Captain of the Port Portland Zone.

**DATES:** Paragraphs (a)(3) through (a)(7) of 33 CFR 165.1315 will be enforced on (a)(3) July 4, 2005, (a)(4) July 3, 2005, (a)(5) July 4, 2005, (a)(6) July 4, 2005, and (a)(7) September 1, 2005, respectively.

#### **FOR FURTHER INFORMATION CONTACT:**

Petty Officer Charity Keuter, c/o Captain of the Port Portland, OR 6767 North Basin Avenue Portland, OR 97217 at (503) 240-2590 to obtain information concerning enforcement of this rule.

**SUPPLEMENTARY INFORMATION:** On May 30, 2003 the Coast Guard published a final rule (68 FR 32366) establishing regulations in 33 CFR 165.1315 to safeguard watercraft and their occupants on the waters of the Willamette, Columbia, and Coos Rivers from safety hazards associated with the display of fireworks within the AOR of the Captain of the Port, Portland, Oregon. The Coast Guard is issuing notice that the Captain of the Port, Portland, Oregon will enforce the established safety zones on the waters of the Willamette, Columbia and Coos Rivers published in 33 CFR 165.1315 at paragraphs (a)(3) Tri-City Chamber of Commerce Fireworks Display, Kennewick, WA, on July 4, 2005, from 9:30 p.m. to 11 p.m.; (a)(4)

Cedco Inc. Fireworks Display, North Bend, OR, on July 3, 2005, from 9:30 p.m. to 11 p.m.; (a)(5) Astoria 4th of July Fireworks, Astoria, OR, on July 4, 2005, from 9:30 p.m. to 11 p.m.; (a)(6) Oregon Food Bank Blues Festival Fireworks, Portland, OR, on July 4, 2005, from 9:30 p.m. to 11 p.m.; and (a)(7) Oregon Symphony Concert Fireworks Display, Portland, OR, on September 1, 2005, from 8:30 p.m. to 10 p.m. Entry into these safety zones is prohibited unless otherwise exempted or excluded under the final rule or unless authorized by the Captain of the Port or his designee. The Captain of the Port may be assisted by other Federal, State, or local agencies in enforcing these safety zones.

Dated: May 11, 2005.

**Paul D. Jewell,**

*Captain, U.S. Coast Guard, Captain of the Port, Portland, OR.*

[FR Doc. 05-9915 Filed 5-18-05; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA-309-0475a; FRL-7901-9]

#### **Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District and San Joaquin Valley Unified 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 Imperial County Air Pollution Control District (ICAPCD) and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from aerospace manufacturing and component coating and can and coil coating operations. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on July 18, 2005, without further notice, unless EPA receives adverse comments by June 20, 2005. 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 revisions, 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 revisions 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;  
California Air Resources Board, Stationary Source Division, Rule

Evaluation Section, 1001 "I" Street, Sacramento, CA 95814;  
Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243; and

San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Ave., Fresno, CA 93726.

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

#### FOR FURTHER INFORMATION CONTACT:

Jerald S. Wamsley, EPA Region IX, (415) 947-4111, [wamsley.jerry@epa.gov](mailto:wamsley.jerry@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 dates 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	Adopted	Submitted
ICAPCD .....	425	Aerospace Coating Operations .....	05/18/04	07/19/04
SJVUAPCD .....	4604	Can and Coil Coating Operations .....	01/15/04	06/03/04

On June 30, 2004, and August 10, 2004, respectively, EPA found that SJVUAPCD Rule 4604 and ICAPCD Rule 425 met the completeness criteria in 40 CFR part 51 appendix V. These criteria must be met before formal EPA review begins.

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

There is no previous version of ICAPCD Rule 425 in the SIP, although the ICAPCD adopted earlier versions of this rule. On June 26, 2002 (67 FR 42999), EPA reviewed and approved SJVUAPCD Rule 4604 into the SIP. This EPA action concerned the December 20, 2001, version of SJVUAPCD Rule 4604. CARB has made no intervening submittals of SJVUAPCD Rule 4604.

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

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. ICAPCD Rule 425 is a rule designed to reduce VOC emissions at industrial sites engaged in coating airplanes, space craft and their component parts. Similarly, SJVUAPCD Rule 4604 is a rule designed to reduce VOC emissions at industrial sites engaged in metal can and coil coating operations. VOCs are emitted during the preparation and coating of the

aerospace, can, and coil parts, as well as the drying phase of the coating process.

ICAPCD Rule 425 establishes general emission limits in units of grams of Reactive Organic Compound (ROC) per litre (gr/l) of coating, less water and exempt compounds as applied. It also allows the use of add-on emission controls whose combined capture and control efficiency must be 85.5 percent or better and specifies certain operating equipment. ICAPCD's May 18, 2004, adoption and amendments to Rule 425 included the following provisions:

- Purpose and applicability;
- Exemptions from the rule;
- Emission reduction requirements;
- Recordkeeping to demonstrate compliance with the rule; and,
- Test methods for determining compliance with the rule.

SJVUAPCD Rule 4604 establishes general emission limits of VOC per liter of coating less water and exempt compounds as applied. It also allows the use of add-on emission controls with a combined capture/control efficiency of 90 percent. SJVUAPCD's January 15, 2004, amendments to Rule 4604 included the following significant changes to its 2001 SIP-approved version.

The form and content of the rule's quantity exemption is changed from 3 gallons per day to 55 gallons per rolling 12 month year. Also, an exemption concerning Rule 4604 and Rule 201 was deleted and an existing exemption for

cleaning solvents used in research and development lab work was moved to Section 4 from elsewhere within the rule.

On February 1, 2006, new VOC limits provide for emission reductions in ten coating categories. A new coating category for Repair Coating was added at 750 grams per liter.

Section 5.2 was added detailing the requirements for an approved emission control system and source testing requirements.

The provisions for Alternative Emission Control Plans was deleted.

Section 6.0, Administrative Requirements was edited for clarity and amendments were added to sections concerning recordkeeping and operation and maintenance plan requirements.

Test methods for transfer efficiency and source testing were added.

These amendments and others are discussed in more detail within the TSD and the SJVUAPCD staff report concerning the Rule 4604 amendments.

Each rule's TSD has more information about the rule.

#### 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 Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax

existing requirements (see sections 110(l) and 193). The SJVUAPCD regulates an ozone nonattainment area (see 40 CFR part 81), so Rule 4604 must fulfill RACT. However, the ICAPCD is an ozone transitional area given its lack of past ozone violations and proximity to VOC sources along the US-Mexican border. Our TSD discusses the ICAPCD's classification status and regulatory requirements in more detail.

Guidance and policy documents that we use to help evaluate specific enforceability and RACT requirements consistently include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).

3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

4. "Control of Volatile Organic Emissions from Existing Stationary Sources Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light Duty Trucks," USEPA, May 1977, EPA-450/2-77-008.

5. "Control of Volatile Organic Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations," USEPA, 1997, EPA-453/R-97-004.

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

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. On August 8, 2002, EPA proposed a limited approval and limited disapproval of Rule ICAPCD 425 (see 67 FR 50847) concerning the September 14, 1999, version of ICAPCD Rule 425. We did not finalize this proposal. The May 18, 2004, amendments to ICAPCD Rule 425 corrected these deficiencies.

The TSD has more information on our respective evaluations.

#### *C. EPA Recommendations To Further Improve the Rules*

We have no recommendations.

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

As authorized in section 110(k)(3) of the Act, 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 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 rules. If we receive adverse comments by June 20, 2005, 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 July 18, 2005. 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 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. section 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. section 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 July 18, 2005. 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 25, 2005.

**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)(331)(i)(A)(2) and (c)(332)(i)(A)(3) to read as follows:

##### § 52.220 Identification of plan.

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*      *      *      *      *
(c) * * *
(331) * * *
(i) * * *
(A) * * *
(2) Rule 4604, adopted on April 11,
1991, and amended on January 15, 2004.
*      *      *      *      *
(332) * * *
(i) * * *
(A) * * *
(3) Rule 425, adopted on August 5,
1989, and amended on May 18, 2004.
*      *      *      *      *
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[FR Doc. 05-10010 Filed 5-18-05; 8:45 am]

BILLING CODE 6560-50-P

#### DEPARTMENT OF TRANSPORTATION

##### Maritime Administration

##### 46 CFR Part 310

[Docket Number: MARAD-2004-17760]

RIN 2133-AB60

##### Merchant Marine Training

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Final rule.

**SUMMARY:** This rule revises and adopts as final the interim final rule published

in the **Federal Register** (69 FR 31897) on June 8, 2004. The Maritime Administration (MARAD) is publishing this final rule to implement changes to its regulations in part 310 regarding Maritime Education and Training. This rulemaking updates the Maritime Education and Training regulations to conform with title XXXV, subtitle A, of the National Defense Authorization Act for Fiscal Year 2004, regarding the administration of state, regional and United States merchant marine academies. This rulemaking also makes non-substantive technical changes to part 310.

**DATES:** This final rule is effective May 19, 2005.

**ADDRESSES:** This final rule is available for inspection and copying between 10 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays at the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590. An electronic version of this document along with all documents entered into this docket are available on the World Wide Web at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Jay Gordon, Maritime Administration, 400 7th St., SW., Washington, DC 20590; telephone: (202) 366-5173; or e-mail: [Jay.Gordon@marad.dot.gov](mailto:Jay.Gordon@marad.dot.gov).

**SUPPLEMENTARY INFORMATION:** On June 8, 2004, MARAD published an interim final rule in the **Federal Register** (69 FR 31897) that amended existing regulations in 46 CFR part 310 regarding Maritime Education and Training. This rulemaking adopts the interim final rule as a final rule and revises the interim rule in two ways. First, the interim final rule provided in section 310.12-1 that MARAD would post on our Web site a model agreement between MARAD and schools for annual maintenance and support payments, Federal student subsistence and incentive payments, and fuel assistance. In lieu of posting the agreement on our Web site, MARAD is amending this section to provide that interested parties may obtain copies of the agreement from the Office of Policy and Plans. The second change effected by this final rule involves sections 310.7(b)(5) and 310.58(b). Both sections describe the number of days a graduate must serve each year on a vessel at sea in order to satisfy this component of his/her service obligations. The interim final rule indicated in both sections that the number of days would be posted on MARAD's Web site. At this time, MARAD has decided not to post the number of days, but has instead decided

to amend the State maritime academy's regulations at section 310.7(b)(5) to match the Merchant Marine Academy's regulations at 310.58(b), which provide a default minimum number of sea days that will satisfy the obligation as well as an alternate method to derive the number of sea days in lieu of the default number (*i.e.*, the median number of days of seafaring employment based on articles achieved by deck or engine officers in the most recent calendar year for which statistics are available).

The changes set forth in the interim rule, with the revisions noted above, are summarized in the section-by-section analysis below.

Comments on the interim rule were due by August 9, 2004, and no comments were received.

#### Section-by-Section Analysis

For purposes of the following analysis, the term "Act" refers to the National Defense Authorization Act for Fiscal Year 2004, Pub. L. 108-136, unless otherwise indicated.

*Subpart A—Regulations and Minimum Standards for State, Territorial or Regional Maritime Academies and Colleges*

##### Section 310.1 Definitions

(b) *Act*—We update the term "Act" to include sections of the Maritime Education and Training Act of 1980, Public Law 96-453, as amended, which includes the changes effected by the National Defense Authorization Act for Fiscal Year 2004, Public Law 108-136, and any subsequent amendments.

(i) *Cost of Education Provided*—is a concept added by the National Defense Authorization Act for Fiscal Year 2004, Public Law 108-136, in connection with requiring Student Incentive Payment ("SIP") students defaulting on their obligations to repay the student incentive payments made to such students by the Federal Government.

(j)-(r)—Definitions under these designations were renumbered.

##### Section 310.3 Schools and Courses

Changes in this section include capitalizing the words "training ship" and replacing the title of the Office of Maritime Labor and Training with the Office of Policy and Plans.

##### Section 310.7 Federal Student Subsistence Allowances and Student Incentive Payments

Section 310.7(b)(1)—Under the Oceans Act of 1992, Public Law 102-587, the student incentive payment amount was increased from \$1200 per annum to \$3000 per annum. While MARAD's regulations currently list