

the bridge has not been opened for twenty years. There is no commercial navigation on the waterway in the vicinity of the bridge crossing. Vertical clearance of the bridge in the closed position is 4 feet above mean high water and 18 feet above mean low water. The occasional small recreational boat which uses the waterway can transit the bridge without requiring an opening. Permitting the permanent closure of the draw will result in a significant savings in maintenance costs with no adverse effect on navigational traffic.

Discussion of Comments

The National Marine Fisheries Service and Louisiana Department of Natural Resources offered no objection to the proposed rule change.

Regulatory Evaluation

This rule is not a significant regulatory action under Section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1 (series), this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. § 117.493 is revised to read as follows:

§ 117.493 Sabine river.

(a) The draw of the Southern Pacific railroad bridge, mile 19.3 near Echo shall open on signal if at least 24 hours notice is given.

(b) The Kansas City Southern railroad bridge, mile 36.2 near Ruliff and the draw of the S12 bridge, mile 40.8 at Starks, need not be opened for passage of vessels.

Dated: January 25, 1996.

R.C. North,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 96–2762 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 102–13–7212a; FRL–5398–6]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Sacramento Metropolitan Air Quality Management District, San Diego County Air Pollution Control District, San Joaquin Valley 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 on revisions to the California State Implementation Plan (SIP) for ozone which concern the control of oxides of nitrogen (NO_x) emissions from boilers, steam generators, and process heaters. The intended effect of approving these rules is to regulate emissions of NO_x in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This action is effective on April 9, 1996 unless adverse or critical comments are received by March 11, 1996. If the effective date is delayed, a timely notice will be published in the Federal Register.

ADDRESSES: Copies of the rules 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 rules are also available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

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 95814.

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Road, Sacramento, CA 95826.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096.

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, CA 93721.

Ventura County Air Pollution Control District, Rule Development Section, 669 County Square Drive, Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT: Duane F. James, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1191, e-mail: james.duane@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:**Applicability**

The rules being approved into the California SIP include: the Sacramento Metropolitan Air Quality Management District's (SMAQMD) Rule 411, "Boiler NO_x," the San Diego County Air Pollution Control District's (SDCAPCD) Rule 69.2, "Industrial and Commercial Boilers, Process Heaters and Steam Generators," the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) Rule 4352, "Solid Fuel Fired Boilers, Steam Generators and Process Heaters," and the Ventura County Air Pollution Control District's (VCAPCD) Rule 74.15, "Boilers, Steam Generators and Process Heaters." These rules were submitted by the California Air Resources Board (ARB) to EPA on September 28, 1994 (Rule 4352), October 19, 1994 (Rule 69.2), January 24, 1995 (Rule 74.15), and June 16, 1995 (Rule 411).

Background

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA) were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. The air quality planning requirements for the reduction of NO_x emissions through reasonably available control technology (RACT) are set out in section 182(f) of the CAA. On November 25, 1992, EPA published a Notice of Proposed Rulemaking (NPRM) 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_x Supplement) which describes the requirements of section 182(f). The NO_x Supplement should be referred to for further information on the NO_x requirements and is incorporated into this document by reference.

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO_x ("major" as defined in section 302 and section 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. The Sacramento County portion of the Sacramento Metro Area is classified as severe, the San Diego County Area and the San Joaquin Valley Area are classified as serious, and the Ventura County Area is classified as severe;¹ therefore these

areas were subject to section 182(f), the RACT requirements of section 182(b)(2), cited below, and the November 15, 1992 deadline.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC 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_x CTGs issued before enactment and EPA has not issued a CTG document for any NO_x sources since enactment of the CAA. The RACT rules covering NO_x sources and submitted as SIP revisions are expected to require final installation of the actual NO_x controls by May 31, 1995, for those sources where installation by that date is practicable.

The SMAQMD adopted Rule 411 on February 2, 1995; the SDCAPCD adopted Rule 69.2 on September 27, 1994; the SJVUAPCD adopted Rule 4352 on September 14, 1994; and the VCAPCD adopted Rule 74.15 on November 8, 1994. These submitted rules were found to be complete on October 21, 1994 (Rules 69.2, and 4352), February 24, 1995 (Rule 74.15), and June 30, 1995 (Rule 411) pursuant of EPA's completeness criteria that are set forth in 40 CFR part 51, Appendix V² and are being proposed for approval into the SIP.

NO_x emissions contribute to the production of ground level ozone and smog. SMAQMD's Rule 411, SDCAPCD's Rule 69.2, and VCAPCD's Rule 74.15 control NO_x emissions from boilers, steam generators, and process heaters that are fired on gaseous and liquid fuels; SJVUAPCD's Rule 4352 applies to solid-fuel fired boilers, steam generators, and process heaters. The rules were adopted as part of the districts' efforts to achieve the National Ambient Air Quality Standards (NAAQS) for ozone and in response to the CAA requirements cited above. The following is EPA's evaluation and final action for these rules.

EPA Evaluation and Proposed Action

In determining the approvability of a NO_x 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). The EPA interpretation of these requirements, which forms the basis for this action, appears in various EPA policy guidance documents.³ Among these provisions is the requirement that a NO_x rule must, at a minimum, provide for the implementation of RACT for stationary sources of NO_x emissions.

For the purposes of assisting state and local agencies in developing NO_x RACT rules, EPA prepared the NO_x supplement to the General Preamble, cited above (57 FR 55620). In the NO_x supplement, EPA provides guidance on how RACT will be determined for stationary sources of NO_x 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 of NO_x (see section 4.5 of the NO_x 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_x. 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_x. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of NO_x. In general, the guidance documents cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted NO_x RACT rules are fully enforceable and strengthen or maintain the SIP.

The California ARB has published a RACT/BARCT guidance document for boilers, steam generators, and process heaters entitled, "Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters" (July 18, 1991). The guidance document defines RACT as an emission limit of 70 parts per million volume (ppmv) at 3% O₂ when firing on gaseous fuels and 115 ppmv at 3% O₂ when firing on liquid fuels. BARCT is defined as an emission limit of 30 ppmv at 3% O₂ when firing

¹ The San Joaquin Valley and Ventura County Areas retained their designations of nonattainment and were 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). The Sacramento Metro Area was reclassified from serious to severe on June 1, 1995. See 60 FR 20237 (April 25, 1995). The San Diego Area was reclassified from severe to serious on February 21, 1995. See 60 FR 3771 (January 19, 1995).

² 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).

³ Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, 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).

on gaseous fuels and 40 ppmv at 3% O₂ when firing on liquid fuels. The SMAQMD's Rule 411 and the SDCAPCD's Rule 69.2 required RACT control by May 31, 1995, and require BARCT by May 31, 1997. The SJVUAPCD's Rule 4352 applies to units firing on solid fuel, which the RACT/BARCT document does not address. However, the rule's emission limit of 0.20 lb/MMBtu (with exceptions) appears to be reasonable because it is the same as the RACT/BARCT document's limit for firing on liquid fuels other than fuel oil #1 and #2. Final compliance with the rule was required by May 31, 1995. The VCAPCD's Rule 74.15 has an emission limit of 40 ppmv at 3% O₂ for firing on gaseous fuels, and final compliance was required by March 1, 1992; firing on liquid fuels is prohibited except only in emergencies. All the rules contain adequate recordkeeping requirements, and the appropriate test methods for compliance determinations are referenced. The exemptions provided in the rules are consistent with EPA guidelines. A more detailed discussion of the sources controlled, the controls required, and the justification for why these controls represent RACT can be found in the Technical Support Documents (TSDs) for these rules, dated September 18, 1995.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations and EPA policy. Therefore, SMAQMD Rule 411, "Boiler NO_x," SDCAPCD Rule 69.2, "Industrial and Commercial Boilers, Process Heaters and Steam Generators," SJVUAPCD Rule 4352, "Solid Fuel Fired Boilers, Steam Generators and Process Heaters," and VCAPCD Rule 74.15, "Boilers, Steam Generators and Process Heaters," are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a), section 182(b)(2), section 182(f) and the NO_x Supplement to the General Preamble.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.⁴

EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revisions should adverse or critical comments be filed. This action will be effective April 9, 1996, unless, by March 11, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 9, 1996.

Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C 603 and 604. Alternatively, EPA may certify 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 government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on affected small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427

U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. section 7410 (a)(2).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Dated: November 21, 1995.

Felicia Marcus,

Regional Administrator.

Subpart F of part 52, chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

⁴ The SJVUAPCD's Rule 4352 references the district's Rules 2201 and 1020 in sections 3.7 and 3.12 respectively; the VCAPCD's Rule 74.15 references the district's Rule 32 in section (C)(3).

Rules 2201, 1020, and 32 have not been approved by EPA for inclusion into the SIP. Therefore, this direct final rule does not constitute action on or approval of these rules into the SIP.

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(199) (i)(D), (202)(i)(C)(3), (214)(i)(D), and (222)(i)(C) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(199) * * *

(i) * * *

(D) San Joaquin Valley Unified Air Pollution Control District.

(I) Rule 4352, adopted on September 14, 1994.

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(202) * * *

(i) * * *

(C) * * *

(3) Rule 69.2, adopted on September 27, 1994.

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(214) * * *

(i) * * *

(D) Ventura County Air Pollution Control District.

(I) Rule 74.15, adopted on November 8, 1994.

* * * * *

(222) * * *

(i) * * *

(C) Sacramento Metropolitan Air Quality Management District.

(I) Rule 411, adopted on February 2, 1995.

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[FR Doc. 96–2824 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[CA 71–9–7222a; FRL–5399–1]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). The revisions concern rules from the Monterey Bay Unified Air Pollution Control District (MBUAPCD). This approval action will incorporate two rules into the federally approved SIP and remove one rule from the SIP. The revised rules control VOC emissions

from oil water separators, and the use of architectural coatings. The rule to be removed controls emissions from rubber tire manufacturing.

The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In addition, the final action on this rule serves as a final determination that the finding of nonsubmittal for these two rules has been corrected and that on the effective date of this action, any Federal Implementation Plan (FIP) clock is stopped. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This action is effective on April 9, 1996 unless adverse or critical comments are received by March 11, 1996. If the effective date is delayed, a timely notice will be published in the Federal Register.

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

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

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 92123–1095.

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

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1197.

SUPPLEMENTARY INFORMATION:**Applicability**

The rules being approved into the California SIP include: MBUAPCD 420, Effluent Oil Water Separators; and MBUAPCD 426, Architectural Coatings. The rule being removed from the SIP is MBUAPCD Rule 428, Manufacture of

Rubber Tires. These rules were submitted by the California Air Resources Board to EPA on November 18, 1993.

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the Monterey Bay Area. 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the above district's portion of the California SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(b)(2) of the CAA, Congress statutorily required nonattainment areas to submit reasonably available control technology (RACT) rules for specific VOC sources by November 15, 1992 (the RACT “catchup” requirement).

At the time of enactment of the CAA amendments, the Monterey Bay Area was classified as moderate¹; therefore, this area was subject to the RACT catchup requirement and the November 15, 1992 deadline.²

The State of California submitted many revised RACT rules for incorporation into its SIP on November 18, 1993, including two of the rules being acted on in this notice. This notice addresses EPA's direct-final action for MBUAPCD Rule 420, Effluent Oil Water Separators; and Rule 426, Architectural Coatings. These submitted rules were found to be complete on December 27, 1993 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 appendix V³ and are being finalized for approval into the SIP. This notice also addresses the State of California's request that Rule 428,

¹ Monterey Bay Area 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).

² California did not make the required SIP submittal by November 15, 1992. On June 8, 1993, the EPA made a finding of failure to make a submittal pursuant to section 179(a)(1) which started an 18-month sanction clock. Two of the rules being acted on in this direct final rule were submitted in response to the EPA finding of failure to submit.

³ 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).