

**Subpart D—Arizona**

2. Section 52.120 is amended by adding paragraph (c)(84) to read as follows:

**§ 52.120 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(84) Amended regulations for the Pinal County Air Quality Control District were submitted on November 27, 1995, by the Governor's designee.

(i) Incorporation by reference.

(A) Pinal County Air Quality Control District Code of Regulations: Chapter 1, Articles 1 through 3; Chapter 2, Articles 1 through 7; Chapter 3, Articles 1, 2, and the following sections of Article 3, Section 200, Section 203, Section 205, Section 210, Section 250, Section 260, Section 270, Section 275, and Section 280. Adopted on October 12, 1995.

\* \* \* \* \*

[FR Doc. 96-8432 Filed 4-8-96; 8:45 am]

BILLING CODE 6560-50-P

**40 CFR Part 52**

[CA 102-14-0004a; FRL-5441-3]

**Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Mojave Desert Air Quality Management District; San Diego County Air Pollution Control District; 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 California State Implementation Plan (SIP). The revisions concern rules from the Mojave Desert Air Quality Management District (MDAQMD), San Diego County Air Pollution Control District (SDCAPCD), and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD). The rules control oxides of nitrogen (NO<sub>x</sub>) from gas turbines, fuel-burning equipment, and glass manufacturing plants. This approval action will incorporate these rules into the Federally approved SIP. The intended effect of approving these rules is to regulate emissions of NO<sub>x</sub> in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The 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 June 10, 1996, unless adverse or critical comments are received by May 9, 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 IX office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

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.

Mojave Desert Air Quality Management District, 15428 Civic Drive, Suite 200, Victorville, CA 92392.

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

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

**FOR FURTHER INFORMATION CONTACT:** Mae Wang, 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) 744-1200.

**SUPPLEMENTARY INFORMATION:****Applicability**

The rules being approved into the California SIP include: MDAQMD Rule 1159, Stationary Gas Turbines; SDCAPCD Rule 68, Fuel-Burning Equipment—Oxides of Nitrogen; and SJVUAPCD Rule 4354, Glass Melting Furnaces.

**Background**

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA or the Act) were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. The air quality planning requirements for the reduction of NO<sub>x</sub> 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 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<sub>x</sub> Supplement) which describes and provides preliminary

guidance on the requirements of section 182(f). 57 FR 55620. The NO<sub>x</sub> Supplement should be referred to for further information on the NO<sub>x</sub> requirements and is incorporated into this notice of direct final rulemaking by reference.

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO<sub>x</sub> ("major" as defined in section 302 and section 182 (c), (d), and (e)) as are applied to major stationary sources of volatile organic compound (VOC) emissions, in moderate or above ozone nonattainment areas. The Southeast Desert Air Basin is classified as severe, and both the San Diego Area and the San Joaquin Valley Area are classified as serious;<sup>1</sup> therefore these areas were subject to section 182(f), the RACT requirements of section 182(b)(2), and the November 15, 1992 deadline, cited below.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC (and NO<sub>x</sub>) emissions not covered by either a pre-enactment or post-enactment control techniques guideline (CTG) document by November 15, 1992. There were no NO<sub>x</sub> CTGs issued before enactment and EPA has not issued a CTG document for any NO<sub>x</sub> sources since enactment of the CAA. The RACT rules covering NO<sub>x</sub> sources and submitted as SIP revisions, are expected to require final installation of the actual NO<sub>x</sub> controls as expeditiously as practicable, but no later than May 31, 1995.

MDAQMD Rule 1159 was adopted by MDAQMD on February 22, 1995, and was submitted by CARB to EPA on March 31, 1995. SDCAPCD Rule 68 was adopted on September 20, 1994, and submitted on October 19, 1994. SJVUAPCD Rule 4354 was adopted on September 14, 1994, and submitted on September 28, 1994. These submitted rules were found to be complete on May 2, 1995, October 21, 1994, and October 21, 1994, respectively, pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51 Appendix V.<sup>2</sup> By today's notice, EPA is taking direct final

<sup>1</sup> The Southeast Desert Air Basin, the San Diego Area, and the San Joaquin Valley Area 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 San Diego Area was reclassified from severe to serious on February 21, 1995. See 60 FR 3771 (January 19, 1995).

<sup>2</sup> 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).

action to approve these rules into the Federally approved SIP.

MDAQMD Rule 1159 controls emissions of NO<sub>x</sub> from gas turbines. SDCAPCD Rule 68 regulates fuel-burning equipment and SJVUAPCD Rule 4354 controls emissions from glass melting furnaces. NO<sub>x</sub> emissions contribute to the production of ground level ozone and smog. The rules were adopted as part of each district's efforts to achieve the National Ambient Air Quality Standards for ozone and in response to the CAA requirements cited above. The following section contains EPA's evaluation and final action for these rules.

#### EPA Evaluation

In determining the approvability of a NO<sub>x</sub> 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.<sup>3</sup> Among these provisions is the requirement that a NO<sub>x</sub> rule must, at a minimum, provide for the implementation of RACT for stationary sources of NO<sub>x</sub> emissions.

For the purposes of assisting state and local agencies in developing NO<sub>x</sub> RACT rules, EPA prepared the NO<sub>x</sub> Supplement to the General Preamble. In the NO<sub>x</sub> Supplement, EPA provides guidance on how RACT will be determined for stationary sources of NO<sub>x</sub> 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<sub>x</sub> (see section 4.5 of the NO<sub>x</sub> Supplement). In addition, pursuant to section 183(c), EPA is issuing alternative control technique documents (ACTs), which identify alternative controls for all categories of stationary sources of NO<sub>x</sub>. 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<sub>x</sub>. However, the ACTs will not establish a

presumptive norm for what is considered RACT for stationary sources of NO<sub>x</sub>. 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<sub>x</sub> RACT rules meet Federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

MDAQMD Rule 1159, Stationary Gas Turbines, is a new rule which applies to non-utility stationary gas turbines of 0.3 Megawatt and larger. Gas-fired turbines must meet an emission limit of 42 ppmv, and oil-fired turbines must meet an emission limit of 65 ppmv. Operators are required to install, operate, and maintain equipment to monitor control system operating parameters, and conduct annual compliance tests.

SDCAPCD Rule 68, Fuel-Burning Equipment—Oxides of Nitrogen, controls NO<sub>x</sub> emissions from non-vehicular fuel-burning equipment. Rule 68 contains the following significant changes from the current SIP rule:

- Emission limits have been added to the criteria for exemption.
- Definitions, recordkeeping requirements, and test methods have been added.

SJVUAPCD Rule 4354, Glass Melting Furnaces, is a new rule which controls emissions from non-electric glass melting furnaces. Container glass and fiberglass furnaces must meet an emission limit of 5.5 lbs of NO<sub>x</sub> per ton of glass pulled. Flat glass furnaces must meet a production-based limit as defined by an equation included in the rule. Annual source tests are required, and records must be kept of operation hours, fuel used, and glass pulled.

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 Document (TSD) for each rule, available from the U.S. EPA Region IX office.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations and EPA policy. Therefore, MDAQMD Rule 1159, SDCAPCD Rule 68, and SJVUAPCD Rule 4354 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<sub>x</sub> 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.

EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial action 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 June 10, 1996, unless, by May 9, 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 notice 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 June 10, 1996.

#### Regulatory Process

##### *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 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 direct 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.

<sup>3</sup> 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); and "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).

**Regulatory Flexibility Act**

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).

This action has been classified as a Table 3 action for signature by the Regional Administrator under 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 has exempted this regulatory action from review under Executive Order 12866.

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

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

Dated: March 6, 1996.

Felicia Marcus,

*Regional Administrator.*

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. 7401-7671q.

**Subpart F—California**

2. Section 52.220 is amended by adding paragraphs (c) (199)(i)(D)(2), (202)(i)(C)(4), and (216)(i)(A)(3) to read as follows:

**§ 52.220 Identification of plan.**

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(c) \* \* \*

(199) \* \* \*

(i) \* \* \*

(D) \* \* \*

(2) Rule 4354, adopted on September 14, 1994.

\* \* \* \* \*

(202) \* \* \*

(i) \* \* \*

(C) \* \* \*

(4) Rule 68, adopted on September 20, 1994.

\* \* \* \* \*

(216) \* \* \*

(i) \* \* \*

(A) \* \* \*

(3) Rule 1159, adopted on February 22, 1995.

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[FR Doc. 96-8746 Filed 4-8-96; 8:45 am]

BILLING CODE 6560-50-P

**40 CFR Part 60**

[FRL-5455-8]

**Standards of Performance for New Stationary Sources, Supplemental Delegation of Authority to the Commonwealth of Kentucky**

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

**ACTION:** Delegation of authority.

**SUMMARY:** On August 22, 1994, and January 25, 1995, the Commonwealth of Kentucky Department for Environmental Protection requested that EPA delegate authority for implementation and enforcement of additional and revised categories of New Source Performance Standards (NSPS). Since EPA's review of Kentucky's pertinent laws, rules, and regulations showed them to be adequate for the implementation and enforcement of these federal standards, the Agency has made the delegations as requested.

**EFFECTIVE DATE:** The effective date of the delegation of authority was November 29, 1995.

**ADDRESSES:** Copies of the request for delegation of authority and EPA's letter of delegation are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency,  
Region 4, Air Programs Branch, 345

Courtland Street, Atlanta, Georgia 30365.

Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601.

Effective immediately, all requests, applications, reports and other correspondence required pursuant to the newly delegated standards should not be submitted to the Region 4 office, but should instead be submitted to the following address:

Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601.

**FOR FURTHER INFORMATION CONTACT:**

Scott Southwick, Regulatory Planning and Development Section, Air Programs Branch, United States Environmental Protection Agency, Region 4, 345 Courtland Street NE, Atlanta, Georgia, 30365, (404) 347-2864.

**SUPPLEMENTARY INFORMATION:** Section 301, in conjunction with Sections 110 and 111(c)(1) of the Clean Air Act as amended November 15, 1990, authorizes EPA to delegate authority to implement and enforce the standards set out in 40 CFR Part 60, NSPS.

On April 12, 1977, EPA initially delegated the authority for implementation and enforcement of the NSPS programs to the Commonwealth of Kentucky. On August 22, 1994 and January 25, 1995, Kentucky requested a delegation of authority for implementation and enforcement of the following NSPS categories found in 40 CFR part 60.

1. Subpart J—Standards of performance for petroleum refineries except Sections 60.105(a)(13)(iii) and 60.106(i)(12) which the Administrator shall retain and shall not be transferred to the Commonwealth.
2. Subpart K—Standards of Performance for Storage Vessels for Petroleum Liquids for which Construction, Reconstruction, or Modification Commenced after June 11, 1973, and prior to May 19, 1978.
3. Subpart Ka—Standards of Performance for Storage Vessels for Petroleum Liquids for which Construction, Reconstruction, or Modification Commenced after May 19, 1978, and prior to July 23, 1984.
4. Subpart O—Standards of Performance for Sewage Treatment Plants except Section 60.153(e) which the Administrator shall retain and shall not be transferred to the Commonwealth.