

policies applicable to the administration of admission fees charged at sites in the National Forest System pursuant to the Land and Water Conservation Fund Act of 1965.

#### Regulatory Impact

This final rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined in that act. It will not impose recordkeeping requirements on them; it will not affect their competitive position in relation to large entities; and it will not affect their cash flow, liquidity, or ability to remain in the market.

#### Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, which the President signed into law on March 22, 1995, the Department has assessed the effects of this rule on State, local, and tribal governments and the private sector. This rule does not compel the expenditure of \$100 million or more by any State, local, or tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

#### Executive Order 12630

This final rule has been reviewed for its impact on private property rights under Executive Order 12630 of March 15, 1988, as implemented by the United States Attorney General's Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings. Executive Order 12630 does not apply because this final rule makes technical and administrative changes applicable to the administration of admission fees charged at sites in the National Forest System.

#### Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. After adoption of this final rule, (1) all state and local laws and regulations that conflict with this rule or that impede its full implementation will be preempted; (2) no retroactive effect will be given to this final rule; and (3) it will not require administrative proceedings before parties may file suit in court challenging its provisions.

#### Controlling Paperwork Burdens on the Public

This rule does not contain new recordkeeping or reporting requirements or other information collection requirements and does not impose additional paperwork burdens on the public. Therefore, the review provisions

of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) and its implementing regulations at 5 CFR Part 1320 do not apply.

#### Environmental Impact

Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; Sept. 18, 1992) categorically excludes from documentation in an environmental assessment (EA) or an environmental impact statement (EIS) "rules, regulations, or policies to establish Service-wide administrative procedures, program processes or instructions." Based on the technical and administrative nature and scope of this rulemaking, it has been determined that this rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an EA or an EIS.

#### List of Subjects in 36 CFR Part 291

National Forests, Recreation and Recreation Areas.

Therefore, for the reasons set forth in the preamble, Part 291 of Chapter II of Title 36 of the Code of Federal Regulations is hereby amended as follows:

#### **PART 291—OCCUPANCY AND USE OF DEVELOPED SITES AND AREAS OF CONCENTRATED PUBLIC USE**

1. Revise the authority citation for Part 291 to read as follows:

Authority: 16 U.S.C. 4601-6a.

2. Add § 291.1 to read as follows:

##### **§ 291.1 Definitions.**

For the purposes of this part the following term shall mean:

*Area of concentrated public use:* An area that is managed primarily for outdoor recreation purposes, contains at least one major recreation attraction where facilities and services necessary to accommodate heavy public use are provided, and provides public access to the area in such a manner that admission fees can be efficiently collected at one or more centralized locations.

3. Amend § 291.9 by redesignating it as § 291.2 revising paragraph (a) to read as follows:

##### **§ 291.2 Admission fees and recreation use fees.**

(a) Fees shall be charged for admission to Congressionally designated National Recreation Areas, National Monuments, National Volcanic Monuments, and National Scenic Areas administered by the Secretary of Agriculture and no more than 21 areas of concentrated public use designated

by the Chief of the Forest Service as provided by section 4(a) of the Land and Water Conservation Fund Act of 1965, as amended.

\* \* \* \* \*

#### **§ 291.10 [Redesignated as § 291.3]**

4. Redesignate § 291.10 as § 291.3.

Dated: December 19, 1995.

Mark Gaede,

*Acting Deputy Under Secretary, Natural Resources and Environment.*

[FR Doc. 96-767 Filed 1-22-96; 8:45 am]

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[CA 157-1-7223a; FRL-5317-2]

#### **Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Sacramento Metropolitan Air Quality Management 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. The revisions concern rules from the Sacramento Metropolitan Air Quality Management District (SMAQMD). The rules control VOC emissions from the transfer of gasoline into stationary storage tanks and vehicle fuel tanks. This approval action will incorporate these rules into the Federally approved SIP. 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 these rules serves as a final determination that the deficiencies in these rules have been corrected and that on the effective date of this action, any sanction or 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 March 25, 1996 unless adverse or critical comments are received by February 22, 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 95814.

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

**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, Telephone: (415) 744-1200.

**SUPPLEMENTARY INFORMATION:**

**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 Sacramento Metro Area. 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2) 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. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment

guidance.<sup>1</sup> EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. At the time of enactment of the CAA amendments, the Sacramento Metro Area was classified as serious<sup>2</sup>; therefore, this area was subject to the RACT fix-up requirement and the May 15, 1991 deadline.

This document addresses EPA's direct final action for SMAQMD Rule 448, Gasoline Transfer into Stationary Storage Containers, and Rule 449, Transfer of Gasoline into Vehicle Fuel Tanks. The SMAQMD adopted these rules on February 2, 1995. These rules were submitted by the California Air Resources Board (CARB) to EPA on August 10, 1995. The submitted rules were found to be complete on October 4, 1995 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V<sup>3</sup> and are being finalized for approval into the SIP.

Rule 448 controls VOC emissions during gasoline transfer to stationary storage tanks. Rule 449 controls emissions from vehicle fuel tank filling operations. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of SMAQMD's effort to achieve the National Ambient Air Quality Standard for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and final action for each rule.

**EPA Evaluation**

In determining the approvability of a VOC 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 today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the

<sup>1</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); "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); and the existing control technique guidelines (CTGs).

<sup>2</sup> The Sacramento Metro Area was reclassified from serious to severe on June 1, 1995. See 60 FR 20237 (April 25, 1995).

<sup>3</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).

requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting State and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTGs applicable to Rule 448 are entitled Control of Volatile Organic Emissions from Bulk Gasoline Plants, EPA-450/2-77-035; and Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems, EPA-450/2-78-051. Rule 449 was evaluated against EPA's draft model stage II rule, dated August 17, 1992. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SMAQMD's submitted Rule 448 includes the following significant changes from the current SIP:

1. Executive Officer discretion in approving equivalent test methods has been removed.
2. Data on agricultural tanks has been submitted in the form of a 5% determination in order to justify the agricultural tank exemption.
3. A pressure vacuum valve requirement has been added.

SMAQMD's submitted Rule 449 includes the following significant changes from the current SIP:

1. Executive Officer discretion in approving equivalent test methods has been removed.
2. Testing provisions have been added to require dynamic back pressure tests and static leak tests at least every 5 years.
3. Test results must be reported to the district within 30 days of test completion.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, SMAQMD Rule 448 and Rule 449 are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D. The final action on these rules serves as a final determination that the deficiencies in

these rules have been corrected. Therefore, if this direct final action is not withdrawn, on March 25, 1996, any sanction or FIP clock is stopped.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future 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 amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective March 25, 1996, unless, within 30 days of its publication, 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 March 25, 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 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 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.

##### *Small Businesses*

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 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 sections 110 and 301(a) 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 any small entities affected. 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. 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 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 compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of

California was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 11, 1995.

Felicia Marcus,  
*Regional Administrator.*

Subpart F of 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 paragraph (c)(224)(i)(A)(I) to read as follows:

##### **§ 52.220 Identification of Plan.**

\* \* \* \* \*

(c) \* \* \*

(224) New and amended regulations for the following APCDs were submitted on August 10, 1995, by the Governor's designee.

(i) Incorporation by reference.

(A) Sacramento Metropolitan Air Quality Management District.

(I) Rule 448 and rule 449, adopted on February 2, 1995.

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#### **40 CFR Part 52**

[CA 157-1-7223c; FRL-5317-4]

#### **Interim Final Determination That State Has Corrected the Deficiency; State of California; Sacramento Metropolitan Air Quality Management District**

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

**ACTION:** Interim final rule.

**SUMMARY:** Elsewhere in today's Federal Register, EPA has published a direct final rulemaking fully approving portions of the State of California's submittal of its State Implementation Plan (SIP) revision. EPA has also published a proposed rulemaking to provide the public with an opportunity to comment on EPA's action. If a person submits adverse comments on EPA's proposed action, EPA will withdraw its direct final action and will consider any comments received before taking final action on the State's submittal. Based on the proposed full approval, EPA is making an interim final determination by this action that the State has corrected the deficiencies for which a sanctions clock began on July 9, 1994.