

## Administrative Requirements

*Executive Order 12866*

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.

*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 impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over population of less than 50,000.

Because this action does not create any new requirements but simply includes additional information into the SIP, I certify that it does not have a significant impact on any 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. 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 negative declarations 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.

*Submission to Congress and the General Accounting Office*

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

*Petitions for Judicial Review*

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 31, 1996. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 17, 1996.

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 52.222 is being amended by adding paragraph (b) to read as follows:

**§ 52.222 Negative declarations.**

\* \* \* \* \*

(b) The following air pollution control districts submitted negative declarations for oxides of nitrogen source categories to satisfy the requirements of section 182 of the Clean Air Act, as amended. The following negative declarations are approved as additional information to the State Implementation Plan.

(1) Sacramento Metropolitan Air Quality Management District.

(i) Nitric and Adipic Acid Manufacturing Plants, Utility Boilers, Cement Manufacturing Plants, Glass Manufacturing Plants, and Iron and Steel Manufacturing Plants were submitted on March 4, 1996, and adopted on August 3, 1995.

[FR Doc. 96-27844 Filed 10-31-96; 8:45 am]

BILLING CODE 6560-50-P

**40 CFR Part 52**

[CA 159-0018a; FRL-5641-5]

**Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Mojave Desert 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 negative declarations from the Mojave Desert Air Quality Management District (MDAQMD) for eight source categories that emit volatile organic compounds (VOC): Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation, SOCMI Reactors, SOCMI Batch Processing, Offset Lithography, Industrial Wastewater, Plastic Parts Coating-Business Machines, Plastic Parts Coating-Other, and Ship Building. The MDAQMD has certified that these source categories are not present in the District and this information is being added to the federally approved State Implementation Plan. The intended effect of approving these negative declarations is to meet 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 December 31, 1996, unless adverse or critical comments are received by December 2, 1996. If the effective date is delayed, a timely notice will be published in the Federal Register.

**ADDRESSES:** Copies of the submitted negative declarations are available for public inspection at EPA's Region IX office and also at the following locations during normal business hours.

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

Air Docket (6102), U.S. Environmental Protection Agency, 401 "M" Street, SW., Washington, DC 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 92123-1095

Mojave Desert Air Quality Management District (formerly San Bernardino County Air Pollution Control District), 15428 Civic Drive, Suite 200, Victorville, CA 92392-2382.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Rose, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, San Francisco, CA 94105, Telephone: (415) 744-1184.

**SUPPLEMENTARY INFORMATION:**

**Applicability**

The revisions being approved as additional information for the California SIP include eight negative declarations from the MDAQMD regarding the following source categories: (1) SOCM Distillation, (2) SOCM Reactors, (3) SOCM Batch Processing, (4) Offset Lithography, (5) Industrial Wastewater, (6) Plastic Parts Coating-Business Machines, (7) Plastic Parts-Other, and (8) Ship Building. These negative declarations were submitted by the California Air Resources Board (CARB) to EPA on August 7, 1995.

**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 portions of San Bernardino County Air Pollution Control District<sup>1</sup> within the Southeast Desert Air Quality Management Area (AQMA). 43 FR 8964, 40 CFR 81.305. Because this area was

unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987. (40 CFR 52.222). 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. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(b)(2) of the CAA, Congress statutorily adopted the requirement that States must develop reasonably available control technology (RACT) rules for sources "covered by a Control Techniques Guideline (CTG) document issued by the Administrator between November 15, 1990 and the date of attainment." On April 28, 1992, in the Federal Register, EPA published a CTG document which indicated EPA's intention to issue CTGs for eleven source categories and EPA's requirement to prepare CTGs for two additional source categories within the same timeframe. This CTG document established time tables for the submittal of a list of applicable sources and the submittal of RACT rules for those major sources for which EPA had not issued a CTG document by November 15, 1993. The CTG specified that states were required to submit RACT rules by November 15, 1994, for those categories for which EPA had not issued a CTG document by November 15, 1993.

Section 182(b)(2) applies to areas designated as nonattainment prior to enactment of the amendments and classified as moderate or above as of the date of enactment. The Southeast Desert AQMA is classified as severe;<sup>2</sup> therefore, this area was subject to the post-enactment CTG requirement and the November 15, 1994 deadline. For source categories not represented within the portion of the MDAQMD designated nonattainment for ozone, EPA requires the submission of a negative declaration certifying that those sources are not present.

The eight negative declarations were adopted on June 28, 1995, and submitted by the State of California on August 7, 1995. The submitted negative declarations were found to be complete

on February 7, 1996, 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 as additional information.

This document addresses EPA's direct-final action for the MDAQMD negative declarations for (1) SOCM Distillation, (2) SOCM Reactors, (3) SOCM Batch Processing, (4) Offset Lithography, (5) Industrial Wastewater, (6) Plastic Parts Coating-Business Machines, (7) Plastic Parts Coating-Other, and (8) Ship Building. The submitted negative declarations represent eight of the thirteen source categories listed in EPA's CTG document.<sup>4</sup> The submitted negative declarations certify that there are no VOC sources in these source categories located inside MDAQMD's portion of the Southeast Desert AQMA. VOCs contribute to the production of ground level ozone and smog. These negative declarations were adopted as part of MDAQMD's effort to meet the requirements of section 182(b)(2) of the CAA.

**EPA Evaluation and Action**

In determining the approvability of a negative declaration, EPA must evaluate the declarations for consistency with the requirements of the CAA and EPA regulations, as found in section 110 of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

An analysis of MDAQMD's emission inventory revealed that there are no sources of VOC emissions from SOCM Distillation, SOCM Reactors, SOCM Batch Processing, Offset Lithography, Industrial Wastewater, Plastic Parts Coating-Business Machines, Plastic Parts Coating-Other, and Ship Building. MDAQMD's review of their permit files also indicated that these source categories do not exist in the MDAQMD. In a document adopted on June 28, 1995, MDAQMD certified that MDAQMD does not have any major stationary sources in these source categories located within the federal ozone nonattainment planning area.

EPA has evaluated these negative declarations and has determined that they are consistent with the CAA, EPA

<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).

<sup>4</sup> MDAQMD has developed rules for the additional five source categories: Aerospace, Autobody Refinishing, Clean Up Solvents, Volatile Organic Liquid Storage Tanks, and Wood Furniture. MDAQMD has submitted rules for four of the source categories and has developed a rule for the remaining source category.

<sup>1</sup> On July 1, 1993, the San Bernardino County Air Pollution Control District was renamed the Mojave Desert Air Quality Management District.

<sup>2</sup> Southeast Desert Air Quality Management 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).

regulations, and EPA policy. MDAQMD's negative declarations for SOCM Distillation, SOCM Reactors, SOCM Batch Processing, Offset Lithography, Industrial Wastewater, Plastic Parts-Business Machines, Plastic Parts-Other, and Ship Building are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D.

EPA is publishing this document 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 December 31, 1996, unless, by December 2, 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 December 31, 1996.

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.

#### Administrative Requirements

##### *Executive Order 12866*

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.

##### *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 impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over population of less than 50,000.

Because this action does not create any new requirements but simply includes additional information into the SIP, I certify that it does not have a significant impact on any 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. 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 negative declarations 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.

##### *Submission to Congress and the General Accounting Office*

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA

submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

##### *Petitions for Judicial Review*

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 31, 1996. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 6, 1996.  
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 52.222 is being amended by adding paragraph (a)(1)(iv) to read as follows:

##### **§ 52.222 Negative declarations.**

(a) \* \* \*

(1) \* \* \*

(iv) Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation, SOCM Reactors, SOCM Batch Processing, Offset Lithography, Industrial Wastewater, Plastic Parts Coating (Business Machines), Plastic Parts (Other), and Ship Building were

submitted on August 7, 1995 and adopted on June 28, 1995.  
 \* \* \* \* \*  
 [FR Doc. 96-27842 Filed 10-31-96; 8:45 am]  
 BILLING CODE 6560-50-P

**40 CFR Part 300**  
**[FRL-5642-7]**

**National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Notice of Deletion of the Seldon Clark Property from the General Electric/Shepherd Farm Superfund Site, East Flat Rock, Henderson County, North Carolina from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 4 announces the deletion of the Seldon Clark Property portion of the General Electric/Shepherd Farm Superfund Site from the National Priorities List (NPL), [Appendix B of 40 CFR Part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP)]. EPA and the State of North Carolina Department of Environment, Health, and Natural Resources have determined that the Seldon Clark Property poses no significant threat to

public health or the environment and, therefore, under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) remedial measures are not appropriate. This deletion does not preclude future action under Superfund.  
**EFFECTIVE DATE:** November 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Giezelle Bennett, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, North Site Management Branch, 100 Alabama Street, S.W., Atlanta, Georgia 30303-3014, (404) 562-8824.

**SUPPLEMENTARY INFORMATION:** The Site affected by this partial deletion from the NPL is: General Electric/Shepherd Farm Superfund Site in Henderson County, North Carolina.

A Notice of Intent to Delete for this Site was published on September 3, 1996 at 61 FR 46418 (FRL-5557-7). The closing date for comments on the Notice of Intent to Delete was October 3, 1996. EPA received no comments.

EPA identifies sites that appear to present a significant risk to the public health, welfare and the environment and it maintains the NPL as the list of those sites. Any site or portion thereof deleted from the NPL remains eligible for Fund-financed remedial actions in the future. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the

NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous Waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: October 23, 1996.  
 A. Stanley Meiburg,  
*Deputy Regional Administrator, U.S. EPA Region 4.*

For reasons set out in the preamble, 40 CFR part 300 is amended as follows:

**PART 300—[AMENDED]**

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended by revising the entry for General Electric Co/Shepherd Farm Superfund Site, East Flat Rock, North Carolina to read as follows:

TABLE 1.—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes
NC	General Electric Co/Shepherd Farm .....	East Flat Rock/Henderson .....	P

P=Sites within partial deletion(s).

[FR Doc. 96-27834 Filed 10-31-96; 8:45 am]  
 BILLING CODE 6560-50-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 960129018-6018-01; I.D. 102596C]

**Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Flatfish, Rex Sole and Arrowtooth Flounder in Statistical Area 620 of the Gulf of Alaska**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for deep-water flatfish, rex sole and arrowtooth flounder by vessels using trawl gear in Statistical Area 620 of the Gulf of Alaska (GOA). This action is necessary to prevent overfishing of Pacific ocean perch (POP).

**EFFECTIVE DATE:** 1200 hours, Alaska local time (A.l.t.), October 28, 1996, until 2400 hours, A.l.t., December 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Thomas Pearson, 907-486-6919.

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management