comment on any issues or opening the record for any issue other than those related to this amendment to paragraph (n)(4) of 29 CFR 1910.1043.

If OSHA receives no significant adverse comment on this amendment, OSHA will publish a **Federal Register** document confirming the effective date of this direct final rule. Such confirmation may include minor stylistic or technical changes to the amendment that appear to be clearly justified. For the purposes of legal review, OSHA views the date of confirmation of the effective date of this amendment as the date of issuance.

If OSHA receives significant adverse comments on this amendment, it will withdraw the amendment and proceed with the proposed rule addressing the batch kier washing issue published in the Proposed Rules section of today's **Federal Register**.

List of Subjects in 29 CFR Part 1910

Cotton dust, Hazardous substances, Occupational safety and health, Reporting and recordkeeping requirements.

Authority and Signature

This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC. 20210.

This action is taken pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Section 4 of the Administrative Procedure Act (5 U.S.C. 553), Secretary of Labor's Order No. 3–2000 (65 FR 50017, August 16, 2000) and 29 CFR part 1911.

Signed at Washington, DC, this 4th day of December, 2000.

Charles N. Jeffress,

Assistant Secretary of Labor.

Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended as set forth below:

PART 1910—(AMENDED)

1. The authority citation for Subpart Z of Part 1910 is revised to read as follows:

Authority: Sections 4, 6 and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 6–96 (62 FR 111) or 3–2000 (65 FR 50017) as applicable; and 29 CFR part 1911.

All of subpart Z issued under sec. 6(b) of the Occupational Safety and Health Act, except those substances that have exposure limits listed in Tables Z–1, Z–2, and Z–3 of 29 CFR 1910.1000. The latter were issued under sec. 6(a) (29 U.S.C. 655(a)).

Section 1910.1000, and Table Z–1, Z–2, and Z–3 and 1910.1043 (n) also issued under 5 U.S.C. 553.

Section 1910.1000, and Tables Z–1, Z–2, and Z–3 not issued under 29 CFR part 1911 except for the arsenic (organic compounds), benzene, and cotton dust listings.

Section 1910.1001 also issued under section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and 5 U.S.C. 553.

Section 1910.1002 not issued under 29 U.S.C. 655 or 29 CFR part 1911; also issued under 5 U.S.C. 553.

Sections 1910.1018, 1910.1029 and 1910.1200 are also issued under 29 U.S.C. 653.

2. Paragraph (n)(4) of § 1910.1043 is revised to read as follows:

§ 1910.1043 Cotton dust.

* * * * *

(n) * * *

(4) *Higher grade washed cotton.* The handling or processing of cotton classed as ''low middling light spotted or better'' (color grade 52 or better and leaf grade code 5 or better according to the 1993 USDA classification system) shall be exempt from all provisions of the standard except the requirements of paragraphs (h) medical surveillance, (k)(2) through (4) recordkeeping—medical records, and Appendices B, C, and D of this section, if they have been washed on one of the following systems:

(i) On a continuous batt system or a rayon rinse system including the following conditions:

(A) With water;

(B) At a temperature of no less than 60 °C;

(C) With a water-to-fiber ratio of no less than 40:1; and

(D) With the bacterial levels in the wash water controlled to limit bacterial contamination of the cotton.

(ii) On a batch kier washing system including the following conditions:

(A) With water;

(B) With cotton fiber mechanically opened and thoroughly prewetted before forming the cake;

(C) For low-temperature processing, at a temperature of no less than 60 °C with a water-to-fiber ratio of no less than 40:1; or, for high-temperature processing, at a temperature of no less than 93 °C with a water-to-fiber ratio of no less than 15:1;

(D) With a minimum of one wash cycle followed by two rinse cycles for each batch, using fresh water in each cycle, and

(E) With bacterial levels in the wash water controlled to limit bacterial contamination of the cotton.

* * * * *

[FR Doc. 00–31186 Filed 12–6–00; 8:45 am]

BILLING CODE 4510–26–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 022–0239; FRL–6875–8]

Final Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Ventura County Air Pollution District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on March 9, 2000. This limited approval and limited disapproval action will incorporate Rules 10–15, 15.1, 16, 23–24, 26, 26.1–26.10, 29 and 30 of Ventura County Air Pollution District (District) into the federally approved State Implementation Plan (SIP).

The intended effect of finalizing this limited approval is to strengthen the federally approved SIP by incorporating these rules and by satisfying Federal requirements for an approvable nonattainment area new source review (NSR) SIP for the District. While strengthening the SIP, however, this SIP revision contains deficiencies which the District must address before EPA can grant full approval under section 110(k)(3). Thus, EPA is finalizing simultaneous limited approval and limited disapproval as a revision to the California SIP under provisions of the Act regarding EPA action on SIP submittals, and general rulemaking authority.

In addition to the above action, we are removing District Rules 18, 21, and 25 from the SIP, and deleting the conditions identified by us in 1981 for the District's 1981 NSR rule.

DATE: This action is effective on January 8, 2001.

ADDRESSES: Copies of the state submittal and other supporting information used in developing the final action are available for public inspection (Docket Number CA 022–0239) at EPA's Region IX office during normal business hours and at the following locations:

• Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, California 93003.

• California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT: Nahid Zoueshtiagh, Permits Office, (AIR–3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1261.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used we mean EPA.

Table of Contents

I. What Action Is EPA Finalizing?

EPA is finalizing limited approval and limited disapproval of Rules 1–15, 15.1, 16, 23–24, 26, 26.1–26.10, 29 and 30. These rules are being approved into the California SIP. EPA is also removing Rules 18, 21, and 25 from the California SIP.

TABLE 1.—RULES SUBJECT TO TODAY'S FINAL ACTION

Rule No.	Existing sip title	SIP approval date	Current rule title	Adoption date
10	Permits Required	6/18/82	Permits Required	6/13/95
11	Application Contents	6/18/82	Definitions for Regulation II	6/13/95
12	Statement by Engineer or Application Preparer	2/3/89	Application for Permits	6/13/95
13	Statement by Applicant	6/18/82	Action on Applications for an Authority to Construct.	6/13/95
14	Trial Test Runs	9/22/72	Action on Application for a Permit to Operate	6/13/95
15	Permit Issuance	4/17/87	Standards for Permit Issuance	6/13/95
15.1	none		Sampling and Testing Facilities	10/12/93
16	Permit Contents	6/18/82	BACT Certification	6/13/95
18	Permit to Operate-Application Required for Existing Equipment.	9/22/72	none—Deleted	6/13/95
21	Expiration of Applications and Permits	6/18/82	none—Deleted	6/13/95
23	Exemptions from Permits	6/18/82	Exemptions from Permit	7/9/96
24	Source Recordkeeping & Reporting	6/18/82	Source Recordkeeping & Reporting	9/15/92
25	Action on Applications	6/18/82	none—Deleted	6/13/95
26	New Source Review	7/1/82	New Source Review	10/22/91
26.1	All New & Modified Stationary Sources	7/1/82	New Source Review (NSR) Definitions	1/13/98
26.2	All New & Modified Stationary Sources-Attainment Pollutants.	7/1/82	Requirements	1/13/98
26.3	All New & Modified Stationary Sources Non-Attainment Pollutants.	7/1/82	Exemptions	1/13/98
26.4	None		Emission Banking	1/13/98
26.5	Power Plants	7/1/82	Community Bank	1/13/98
26.6	Air Quality Impact Analysis & Modification	7/1/82	Calculations	1/13/98
26.7	none		NSR-Notification	12/22/92
26.8	none		NSR-Permit to Operate	10/22/91
26.9	none		Power Plants	10/22/91
26.10	none		Prevention of Significant Deterioration (PSD)	1/13/98
29	Conditions on Permit	6/18/82	Conditions on Permits	10/22/91
30	Permit Renewal	5/3/84	Permit Renewal	5/30/89

II. Background

On March 9, 2000, in 65 FR 12495, EPA proposed limited approval and limited disapproval for the above listed District rules. In addition EPA proposed to delete four obsolete rules from the SIP and a 1981 condition that no longer applies. We also solicited comments on the District's public notification requirements for its permitting actions. Please note that in EPA's March 9, 2000 proposal, there was a typographic error in Table 1 where the rule number for Rule 26.10 (Prevention of Significant Deterioration) was erroneously shown as Rule 26.1.

In our proposal for limited approval and limited disapproval, we identified the following deficiencies in this set of permitting and NSR rules:

1. Rule 10 does not require an authority to construct (ATC) for emission units relocating within five miles within the District.

2. Rule 26 does not specify that emissions offsets must be surplus at the time of use.

3. Rule 26 provides authority to the District to deny a permit for violating National Ambient Air Quality Standards (NAAQS) but it does not provide for denial of a permit for sources that may violate PSD increments.

4. Rule 26 relies entirely on California Environmental Quality Act (CEQA) for implementing alternatives analysis required by the CAA.

III. Public Comments and EPA Response

A 30-day public comment period was provided on EPA's proposed rulemaking at 65 FR 12495. EPA only received two comments, both from the District. The District commented on one of the rule deficiency issues, and on public notification requirements. EPA's response follows a brief summary of the District comments.

Comment #1: The District disagreed with EPA's interpretation that CAA Section 173(c) requires Ventura County emission reduction credits (''ERCs'') to

be ''surplus at the time of use''. (see Rule Deficiency #2 above). The District contends:

• An emission reduction that generates an ERC is surplus because the District's attainment plan does not rely on that emission reduction to show attainment. All emission reductions submitted for ERCs are reduced to the amount to that the attainment plan identifies for the emission control that produced the emission reduction. Any amended attainment plan does not rely on reduction of banked ERCs.

• An emission reduction that generates an ERC is creditable because it is not ''otherwise required by this Act''. Ventura County's ERCs are binding through local requirements established for the purpose of creating ERC. This local authority is separate from any requirements of CAA. Furthermore, the emission reduction that generated the ERC is not relied on for attainment.

Response #1: We understand that the District has not relied on the banked emission reductions in developing its attainment or Air Quality Management Plan (AQMP) and on that basis considers all banked ERCs to be surplus to the requirements of the CAA. However, the CAA requirement for ERCs to be surplus from other requirements of the CAA is independent from the District's obligation to meet the National Ambient Air Quality Standards (NAAQS). See Section 173 (c)(2) of the CAA. 42 U.S.C. § 7503(c)(2). EPA has interpreted this provision to require emissions reductions used as offsets to satisfy Section 173(c)(2), to be surplus to all other requirements of the CAA at the time the offset is used. See ''Response to Request for Guidance on Use of Pre–1990 ERC's and Adjusting for RACT at Time of Use'' from Seitz to Howekamp, (August 26, 1994) at page 2, Note 1. We do not agree that any ERC banked in the District is automatically and always surplus because it is not relied upon for attainment. An ERC may be surplus at the time of generation but it not necessarily surplus at the time of use (or disbursement) because, for example, a Reasonably Available Control Technology (RACT) requirement that did not apply at the time the ERC was generated by a source category, becomes statutorily applicable before or at the time the ERC is used. In such a case, Sections 172(c) and 173(c)(2) of the CAA require discounting the ERC to RACT levels prior to use.

We recognize that at the time of issuance (or banking), the District discounts ERCs under its Rule 26.4.C. However, this discounting procedure does not ensure that these ERCs are surplus to all requirements of the Act as set forth in Section 172(c), 42 U.S.C. § 7502 (c), at the time of use. For example some VOC compounds are also hazardous air pollutants (HAPs). In these situations, at the time of use of an ERC for VOC, there may be a requirement for the HAP reduction pursuant to a MACT standard. Since a portion of the VOC is a HAP, and the reduction is required by a MACT standard under the CAA, the portion of the ERC associated with the HAP is not surplus simply because the District has not relied upon the reductions for Reasonable Further Progress (RFP), Rate of Progress (ROP) or the attainment demonstration. See August 26, 1994, Seitz Memo at page 3, Note 5. In sum, ERCs are not automatically surplus. Therefore it is important to ensure that ERCs are surplus to all requirements of the Act at the time they are used, even though they were discounted at the time of generation and even though the District has not relied on the ERCs for its attainment demonstration.

Comment #2: In proposing this rule, EPA requested comments on the District's threshold for public notification of its permitting actions. Only the District commented on this subject.

The District's rule provides public notice only for those permit actions that involve emission units with a combined potential to emit (PTE) in excess of one of the thresholds listed in its Rule 26.7. The District believes that PTE is the best measure of the ''size'' of project that should be subject to public notice. The District also clarified that the PTE thresholds for public comment are not based on the net emission increase from the emission units. It is, therefore, misleading to compare the public notice thresholds to the federal significance levels (which are based on net emission increases).

Response #2: EPA solicited comments on the public notice thresholds to gauge public interest in being notified of permit actions for projects with a lower combined PTE than the rule's thresholds. The fact that we only received one comment (from the District) indicates that the District's requirements are sufficient for providing opportunity for public review and comment on its on permitting actions. Therefore, we agree with the District's comment on this subject and will finalize approval of Rule 26.7 for incorporation into the SIP.

IV. EPA Evaluation and Final Action

For the reasons explained above, the comments submitted by the District have not changed our evaluation of the rules as described in our proposed action. EPA is, therefore, finalizing its limited approval and limited disapproval of District Rules 10–15, 15.1, 16, 23–24, 26, 26.1–26.10, and 29–30. Our final action is a limited approval and limited disapproval because the Rules contain deficiencies and are not fully consistent with CAA requirements, EPA regulations and EPA policy. The District must revise its Rules 10 and 26 to address the following deficiencies:

• Rule 10 must be clarified or set specific conditions for the exemption from an authority to construct (ATC) permit for relocating emission units. The rule must be made clear to avoid potential circumvention of BACT and public notice requirements for an ATC. The rule must specify that only very small units are eligible for this exemption for relocation within five miles in the District. The District must also revise Section A.3 of its Rule 26.3 (NSR exemption for relocated units) to reflect revisions made to Rule 10 in correcting the deficiency.

• Rule 26 must be revised to address the following three deficiency issues:

Emission Reduction Credits must be surplus at the time of use.

This rule must be revised to ensure that ERCs required for offsetting air emission increases are surplus to reductions otherwise required by the CAA. Section 173(c)(2) of the CAA requires that sources provide offsets in order to obtain an ATC permit. Further, the Act requires that offsetting emission reductions must be federally enforceable at the time that the NSR permit is issued [section 173(a)], and in effect by the time the source commences operation [section 173(c)(1)]. In addition, section 173(c)(2) requires that the offsets be surplus of all other requirements of the Act. The CAA does not allow the use of ERCs which were surplus some years ago when they were generated, but which are no longer surplus (for example to RACT or MACT requirements) at the time that the ERC is used. Thus, the District is required to amend its rule to provide for adjusting all ERCs to ensure that the requirement of section 173(c)(2) for surplus ERCs is met at the time that the ERCs are used.

To be corrected, Rules 26.2.B and 26.6.D.7.b must prohibit the use of the ERCs that are not surplus to the CAA requirements at the time of use. The District must revise Rules 26.2.B and 26.6.D.7 to add this requirement. The District must also revise the definition of major modification in Rule 26.1.16, to add that in calculating contemporaneous net emission

increases, ERCs that are not surplus at the time of use shall not be included.

Violation of Ambient Air Increments

Rule 26 must also be revised to provide authority to the District to deny a permit to operate to any source which would cause increases in pollution concentrations over the baseline concentration and would cause a violation of ambient air increments.

Alternative Analysis

Rule 26's reliance on California Environmental Quality Act (CEQA) for the alternatives analysis required by Section 173(a)(5) of the Act must be revised. The alternatives analysis must not be circumvented by qualifying for a statutory or categorical exemptions, or a negative declaration pursuant to CEQA. The District must revise the rule to remove any exemptions. The District may revise the rule so that the District bases its independent conclusions for the alternatives analysis on materials developed under CEQA. However, the District must independently conclude that the alternatives analysis whether based on CEQA or other information demonstrates the benefits of the proposed source significantly outweigh the environmental and social cost.

Because these rule deficiencies are inappropriate for inclusion in the SIP, EPA cannot grant full approval of these rules under section 110(k)(3). Also, because the submitted rules are not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rule under section 110(k)(3). However, EPA is granting final limited approval of the submitted rules under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The final approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is finalizing limited approval and limited disapproval of District rules under sections 110(k)(3) and 301(a) of the CAA. It should be noted that the rules covered by this final rulemaking have been adopted by the District and are currently in effect in the District. EPA's final limited disapproval action does not prevent the District or EPA from enforcing these rules. Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. 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.

V. Next Action

The District will have 18 months from the effective date of this final action to correct the deficiencies delineated by EPA in Section IV above, to avoid federal sanctions. See section 179(b) of the CAA. The District's failure to correct the deficiencies will also trigger the Federal implementation plan requirements under 110(c).

VI. Administrative Requirements

1. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

2. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

3. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

4. Executive Order 13132

Executive Order 13121, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a

federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

5. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies 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 small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

6. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

7. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

8. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

9. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 5, 2001. 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 5, 2000.

Felicia Marcus,

Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (b)(5), (c)(56)(ii)(C), (c)(95)(ii)(C), (c)(179)(i)(D)(*2*), (c)(187)(i)(B)(*4*), (c)(188)(i)(D)(*4*), (c)(190)(i)(A)(*3*), (c)(193)(i)(E), (c)(196)(i)(B)(*2*), (c)(225)(i)(G)(*2*), (c)(241)(i)(C)(*3*), and (c)(255)(i)(G) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(b) * * *

(5) Ventura County Air Pollution Control District.

(i) Previously approved on September 22, 1972 and now deleted without replacement Rule 18.

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(c) * * *

(56) * * *

(ii) * * *

(C) Previously approved on June 18, 1982 and now deleted without replacement Rule 25.

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(95) * * *

(ii) * * *

(c) Previously approved on June 18, 1982 and now deleted without replacement Rule 21.

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(179) * * *

(i) * * *

(D) * * *

(*2*) Rule 30 adopted on May 30, 1989.

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(187) * * *

(i) * * *

(B) * * *

(*4*) Rules 26.A (''General''), 26.8 and 26.9 adopted on October 22, 1991.

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(188) * * *

(i) * * *

(D) * * *

(*4*) Rule 29 adopted on October 22, 1991.

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(190) * * *

(i) * * *

(A) * * *

(*3*) Rule 24 adopted on September 15, 1992.

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(193) * * *

(i) * * *

(E) Ventura County Air Pollution Control District

(1) Rule 26.7 adopted on December 22, 1992.

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(196) * * *

(i) * * *

(B) * * *

(*2*) Rule 15.1 adopted on October 12, 1993.

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(225) * * *

(i) * * *

(G) * * *

(*2*) Rules 10, 11, 12, 13, 14, 15 and 16 adopted on June 13, 1995.

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(241) * * *

(i) * * *

(C) * * *

(*3*) Rule 23 adopted on July 9, 1996.

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(255) * * *

(i) * * *

(G) Ventura County Air Pollution Control District.

(*1*) Rules 26.1, 26.2, 26.3, 26.4, 26.5, 26.6 and 26.10 adopted on January 13, 1998.

* * * * *

[FR Doc. 00–31050 Filed 12–6–00; 8:45 am]

BILLING CODE 6560–60–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

[USCG–1999–6095]

RIN 2115–AF88

Citizenship Standards for Vessel Ownership and Financing; American Fisheries Act

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard amends citizenship requirements for fishing vessels of less than 100 feet in length that are eligible for a fishery endorsement, by increasing the percentage of interest in a vessel required to be owned and controlled by U.S. citizens in corporations. The percentage increased is from more than 50 percent to at least 75 percent. We add provisions making fishery endorsements of documented fishing vessels chartered or leased to a person who is not a citizen or to an entity which is ineligible to own a documented fishing vessel invalid. We also prohibit fishery endorsement for a fishing vessel mortgaged to a trustee if the mortgage interest is issued, assigned, transferred, or held in trust for a person not eligible to own a documented fishing vessel, even if the trustee is eligible to own a documented fishing vessel.

DATES: This final rule becomes effective on October 1, 2001.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–1999–6095 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Patricia J. Williams, Coast Guard, telephone 304–271–2400. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Regulatory History

On July 27, 2000, we published a notice of proposed rulemaking entitled Citizenship Standards for Vessel Ownership and Financing; American Fisheries Act [USCG–1999–6095] in the **Federal Register** (65 FR 46137). No public hearing was requested and none was held.

Background and Purpose

For reasons and purposes as discussed in the NPRM the Coast Guard amends its fishery endorsement regulations as mandated by the 105th U.S. Congress (Pub. L. 105–277) outlining fishery endorsement eligibility for fishing vessels less than 100 feet in length. The American Fisheries Act (AFA) requires a real, effective, and enforceable U.S. ownership threshold for U.S.-flag fishing vessels. Under this Act, U.S. citizens must own and control at least 75 percent of the ownership interest in any U.S.-flag fishing vessel. The Act is intended to ensure that vessels with a fishery endorsement are truly controlled by citizens of the United States. The Act also increases the penalties for fishery endorsement violations and is intended to discourage willful noncompliance with the new requirements.

Discussion of Comments and Changes

The Coast Guard received 12 comments from two respondents addressing the proposed changes to the citizenship requirements for U.S.-flag fishing vessels with a fishery endorsement. Each respondent highlighted several different items within the proposed rule.

One comment felt that the proposed change to § 67.11 goes too far by eliminating the fishing vessel exemption on selling, mortgaging, leasing, chartering, delivering, or otherwise transferring of the vessel to a non-U.S. citizen without the prior approval of the Maritime Administration. The Coast Guard agrees. Our initial intent was to ensure full compliance with the American Fisheries Act and to ensure there is no confusion among the regulated community. By removing paragraphs (b)(1) and (b)(3) we inadvertently exceeded the scope of the mandate. We have added a paragraph (c) to this section that clarifies vessels less than 100 feet must comply with the Fishery Endorsement requirements of the part, and vessels 100 feet and greater must comply with the requirements found in 46 CFR part 356.

Both respondents stated our proposed restrictions on chartering should apply only to fish harvesting vessels, and not to fish processing or fish tender vessels. We have reviewed the issue, as well as the regulations applicable to larger vessels, implemented by the Maritime Administration (MARAD), the agency with the authority of administering the AFA on vessels greater than or equal to 100 feet in length. We have determined that the regulations regarding chartering of vessels less than 100 feet should be the same as those regarding larger vessels. Thus, we have added language to § 67.21(d)(3) that will not restrict time or voyage charters to Non-Citizens of dedicated Fish Processing or Fish Tender Vessels. This change will bring the regulations for vessels less than 100 feet into symmetry with the regulations for larger vessels, while still invalidating fishery endorsements whenever a fish harvesting vessel is chartered to a Non-Citizen. Bareboat charters of any fishing industry vessel to