

Postal Service to carry out its duties and purposes.

(13) To transmit to a Postage Evidencing System provider all applicant and system information pertaining to that provider's customers and systems that may be necessary to permit such provider to synchronize its computer databases with information contained in the computer files of the Postal Service.

(14) Subject to the conditions stated herein, to communicate in oral or written form with any or all applicants any information that the Postal Service views as necessary to enable the Postal Service to carry out its duties and purposes under part 501.

**§ 501.19 Intellectual property.**

Providers submitting Postage Evidencing Systems to the Postal Service for approval are responsible for obtaining all intellectual property licenses that may be required to distribute their product in commerce and to allow the Postal Service to process mail bearing the indicia produced by the Postage Evidencing System. To the extent approval is granted and the Postage Evidencing System is capable of being used in commerce, the provider shall indemnify the Postal Service for use of such intellectual property in both the use of the Postage Evidencing System and the processing of mail bearing indicia produced by the Postage Evidencing System.

Neva R. Watson,

Attorney, Legislative.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2006-0829, FRL-8234-9]

**Revisions to the California State Implementation Plan, Lake County Air Quality Management District, Monterey Bay Unified Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, and Ventura County Air Pollution Control District**

AGENCY: Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Lake County Air Quality Management District (LCAQMD), Monterey Bay Unified Air Pollution Control District (MBUAPCD), San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are approving local rules that address particulate matter (PM-10) emissions from open burning, general area sources, cotton gins, incinerators, and fuel burning equipment.

**DATES:** This rule is effective on January 8, 2007, without further notice, unless EPA receives adverse comments by December 11, 2006. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2006-0829, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.
2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail. [www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due

to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, EPA Region IX, (415) 947-4118, [petersen.alfred@epa.gov](mailto:petersen.alfred@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

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**I. The State's Submittal**

*A. What rules did the State submit?*

Table 1 lists the rules we are approving with the date that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES FOR FULL APPROVAL

Local agency	Rule #	Rule title	Amended, revised, or adopted	Submitted
LCAQMD .....	Chapter VIII Section 1002	Agencies Authorized to Issue Burning Permits .....	08/09/05 Amended .....	03/10/06
LCAQMD .....	Chapter VIII Table 8 .....	Agencies Designated to Issue Burning Permits .....	08/09/05 Amended .....	03/10/06

TABLE 1.—SUBMITTED RULES FOR FULL APPROVAL—Continued

Local agency	Rule #	Rule title	Amended, revised, or adopted	Submitted
MBUAPCD .....	403 .....	Particulate Matter .....	02/16/05 Revised .....	07/15/05
SJVUAPCD .....	4204 .....	Cotton Gins .....	02/17/05 Adopted .....	07/15/05
VCAPCD .....	57 .....	Incinerators .....	01/11/05 Revised .....	07/15/05
VCAPCD .....	57.1 .....	Particulate Matter Emissions form Fuel Burning Equipment.	01/11/05 Adopted .....	07/15/05

On August 18, 2005, the submittal of March 10, 2006 was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. On August 18, 2005, the submittal of July 15, 2005 was found to meet the completeness criteria.

*B. Are there other versions of these rules?*

We approved a version of LCAQMD Section 1002 and Table 8 into the SIP on May 18, 1999 (64 FR 26876). We approved a version of MBUAPCD Rule 403 into the SIP on July 11, 2001 (66 FR 36170) and approved a version of VCAPCD Rule 57 into the SIP on August 6, 2001 (66 FR 40898).

*C. What is the purpose of the submitted rules?*

Section 110(a) of the CAA requires states to submit regulations that control volatile organic compounds, oxides of nitrogen, particulate matter, and other air pollutants which harm human health and the environment. These rules were developed as part of the local agency's program to control these pollutants.

The purposes of the LCAQMD Section 1002 and Table 8 revisions relative to the SIP are as follows:

- Section 1002: The rule adds authority for agencies designated to issue burn permits in Table 8 to collect and retain burn permit fees.
- Table 8 is revised to clarify which agencies are designated to issue burn permits. The purposes of new SJVUAPCD Rule 4204 are as follows:
  - 4204.4.1: The rule exempts cotton ginning facilities used for research purposes and for throughputs to 4,000 pounds of seed cotton per day.
  - 4204.5.0: The rule requires the control of all emission points in cotton ginning with 1D3D cyclones or rotary drum filters on compliance dates ranging between 07/01/06 and 07/01/08.
  - 4204.5.2: The rule requires air velocity entering 1D3D cyclones to be 2,800 to 3,600 feet per minute.
  - 4204.5.3: The rule requires new cyclones or replacement parts of existing cyclones 1D3D cyclones to have the dimensional characteristics of the enhanced 1D3D cyclone (figure 1) or the

1D3D cyclone with expansion chamber (figure 2).

- 4204.5.6: The rule provides requirements for preventing fugitive dust emission during load-out into hoppers or trailers.
- 4204.5.7: The rule provides requirements for preventing fugitive dust emission during load-out onto a pile.
- 4204.6.0: The rule provides requirements for recordkeeping, source testing, and test methods.

The purpose of new VCAPCD Rule 57.1 is as follows:

- 57.1: This new rule acquires the section regulating fuel burning equipment being moved from Rule 57.

The purposes of revisions of MBUAPCD Rule 403 relative to the SIP rule are as follows:

- 403.1.3.4: The rule deletes the exemption for agricultural operations necessary for the growing of crops or raising of fowl or animals.
- 403: The rule is reformatted.

The purposes of revisions to VCAPCD Rule 57 relative to the SIP Rule 57, Combustion Contaminants-Specific, are as follows:

- 57.A: This section on incinerators is retained in Rule 57, Incinerators, except that the requirements are changed from numerical standards limiting particulate matter emissions and requiring minimums of temperature of combustion and contact time in the SIP rule to a new non-numerical standard of requiring a multiple-combustion-chamber incinerator with at least three chambers and no numerical temperature of combustion or time of contact standard.
- 57.B: This section on fuel burning equipment is removed from Rule 57 and put into new Rule 57.1, Particulate Matter Emissions from Fuel Burning Equipment, except that the requirement for limiting particulate matter emissions is changed from 0.1 grains/dry standard cubic foot (gr/dscf) at 12% carbon dioxide to a new standard of 0.12 pounds/million BTU at 12% carbon dioxide.

The TSD has more information about these rules.

## II. EPA's Evaluation and Action

### A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193).

SIP rules must require for major sources reasonably available control measures (RACM), including RACT in moderate PM-10 nonattainment areas (see section 189(a)) or must require for major sources best available control measures (BACM), including best available control technology (BACT) in serious PM-10 nonattainment areas (see section 189(b)). LCAQMD, MBUAPCD and VCAPCD regulate PM-10 attainment areas, so need not fulfill the requirements of RACM/RACT or BACM/BACT. SJVUAPCD regulates a serious PM-10 nonattainment area (see 40 CFR part 81), so SJVUAPCD Rule 4204 must fulfill the requirements of BACM/BACT.

Guidance and policy documents that we use to help evaluate the rules include the following:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans*, U.S. EPA, 40 CFR part 51.
- *PM-10 Guideline Document* (EPA-452/R-93-008).

### B. Do the rules meet the evaluation criteria?

We believe that LCAQMD Section 1002 and Table 8, MBUAPCD Rule 403, SJVUAPCD Rule 4204, and VCAPCD Rules 57 and 57.1 are consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and fulfilling the requirements of RACM/RACT or BACM/BACT.

The TSD has more information on our evaluation.

### C. EPA Recommendation to Further Improve a Rule

The TSD describes an additional revision to SJVUAPCD Rule 4204 that does not affect EPA's current action but is recommended for the next time the local agency modifies the rule.

*D. Public Comment and Final Action*

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by December 11, 2006, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on January 8, 2007. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

**III. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship

between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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). This action 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. This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 action is not a “major rule” as defined by 5 U.S.C. 804(2).

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 January 8, 2007. 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, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: October 12, 2006.

**Alexis Strauss,**

*Acting 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 (c)(337)(i)(A)(3), (c)(337)(i)(B)(2), (c)(337)(i)(D), and (c)(344)(i)(B) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(337) \* \* \*

(i) \* \* \*

(A) \* \* \*

(3) Rule 4204, adopted on February 17, 2005.

(B) \* \* \*

(2) Rule 57, adopted on July 2, 1968 and revised on January 11, 2005 and Rule 57.1, adopted on January 11, 2005.

\* \* \* \* \*

(D) Monterey Bay Unified Air Pollution Control District.

(1) Rule 403, adopted on September 1, 1974 and revised on February 16, 2005.

\* \* \* \* \*

(344) \* \* \*

(i) \* \* \*

(B) Lake County Air Quality Management District.

(1) Chapter VIII, Section 1002 and Table 8, adopted on March 19, 1996 and amended on August 9, 2005.

[FR Doc. E6-18874 Filed 11-8-06; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 36, 51, 52, 53, 54, 63, 64 and 69

[WC Docket No. 02-313; FCC 06-86]

### Biennial Regulatory Review of Regulations Administered by the Wireline Competition Bureau

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission or FCC) reviews rules that apply to the operations and activities of providers of telecommunications services and repeals or modifies previous regulations no longer necessary in the public interest, obsolete, outdated, expired of their terms, or containing drafting or typographical errors.

**DATES:** Effective December 11, 2006.

**FOR FURTHER INFORMATION CONTACT:** Carrie-Lee Early, Wireline Competition Bureau, (202) 418-2776 or [carrielee.early@fcc.gov](mailto:carrielee.early@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order in WC Docket No. 02-313, adopted June 20, 2006 and released August 21, 2006. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals H, 445 12th Street, SW., Room CY-A257, Washington DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (800) 378-3160 or (202) 863-2893, facsimile (202) 863-2989, or via e-mail at [FCC@BIWEB.com](mailto:FCC@BIWEB.com). It is also available on the Commission's Web site at <http://www.fcc.gov>. The Notice of Proposed Rule Making which initiated the rule changes set forth in the Report and Order was published at 69 FR 12814, March 18, 2004. The rule changes do not cause any new information collection requirements subject to the PRA of 1995, Public Law 104-13. They also do not create any new or modified

"information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

### Synopsis of the Report and Order

1. *Background.* Section 11 of the Communications Act of 1934, as amended (Act), requires the Commission to review biennially its regulations that apply to the operations and activities of providers of telecommunications service and to determine whether the regulations are "no longer necessary as the result of meaningful economic competition between providers of such service." See 47 U.S.C. 161(a).

2. *Discussion.* In this Order, we impose no new rules; rather, we repeal or modify regulations that are no longer necessary in the public interest, obsolete, outdated, have expired of their terms, or contain drafting or typographical errors. The revisions reduce regulatory compliance burdens by eliminating the requirements and uncertainties described below.

3. *Part 36—Jurisdictional Separations Procedures:* With respect to the fundamental principles underlying jurisdictional separations procedures, the Commission clarifies in § 36.2(b)(3)(ii) that holding-time-minutes is the measurement unit for apportioning both local and toll switching plant. The Commission also clarifies, in § 36.2(b)(3)(iv), that subscriber plant is to be apportioned using the 25 percent Gross Allocator.

4. The Commission clarifies, in § 36.125(f), application of the weighting factor in apportioning to interstate jurisdiction certain Category 3 telecommunication property investments for study areas with fewer than 50,000 access lines. The Commission also repeals §§ 36.154(d) through (f) because those sections are no longer in effect, and deletes references to those provisions. Because their termination dates have passed, the Commission also repeals §§ 36.631(a) and (b) and 36.641. The Commission also clarifies the application of § 36.631(d) to apply only non-rural telephone companies serving study areas reporting more than 200,000 working loops. With respect to the universal service fund rules, the Commission clarifies that § 36.631(d) applies only to non-rural telephone companies serving study areas reporting more than 200,000 working loops.

5. In addition, because they reference payphone services that are no longer regulated, the Commission eliminates

the last sentence of § 36.142(a) addressing coinless pay telephone equipment and the last sentence of § 36.377(a)(7) addressing expenses related to coin collection and administration.

6. The Commission also corrects three instances of transposed wording in § 36.377(a)(5): in subparagraphs (i) and (v), "interstate" is corrected to "State," and in subparagraph (vi), "State" is changed to "Interstate." Similarly, the Commission eliminates, as obsolete, all references to Teletypewriter Exchange Service (TWX) in part 36 because no carrier has reported data through the Automated Reporting Management System (ARMIS) system since it was established in 1988.

7. *Part 42—Preservation of Records of Communications Carriers:* The United States Telecom Association (USTA) filed comments recommending the elimination of §§ 42.1 through 42.9 asserting that these regulations are outdated and unnecessary. USTA, however, did not offer any support for its assertions, nor did USTA make proposals regarding less costly and more efficient ways to collect, preserve and maintain carrier records and reports. Neither USTA's brief comment nor its incorporation of arguments from previous Biennial Review dockets, convince us that elimination or modification of part 42 is warranted at this time. Accordingly, we conclude that current part 42 record retention requirements assist the Commission to carry out its regulatory responsibilities and therefore continue to be necessary in the public interest at this time.

8. *Part 51—Interconnection:* The Commission eliminates §§ 51.211(a)-(f), 51.213(c)-(d), which imposed deadlines on Local Exchange Carriers (LECs) and Bell Operating Companies to implement toll dialing parity or to notify the Commission of their failure to do so. The provisions no longer are relevant as the compliance deadlines have expired. Similarly, because their effective dates have expired, the Commission eliminates §§ 51.515(b) and (c) which permitted incumbent LECs to assess certain interstate access charges and intrastate access charges on purchasers of unbundled elements until June 30, 1997.

9. The Commission also eliminates, as no longer necessary in the public interest, § 51.329(c)(3) which required incumbent LECs to send paper and diskette copies of network change public notices or certifications to the Chief of the Wireline Competition Bureau.

10. *Part 52—Numbering:* With respect to the scope and authority of the