

board.gov/vguidedraft2.htm). Copies may also be obtained by contacting the Access Board at (202) 272-0080. Persons using a TTY should call (202) 272-0082. The documents are available in alternate formats upon request. Persons who want a copy in an alternate format should specify the type of format (cassette tape, Braille, large print, or ASCII disk).

**David M. Capozzi,**  
Acting Executive Director.  
[FR Doc. E8-27477 Filed 11-18-08; 8:45 am]  
BILLING CODE 8150-01-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2008-0341; FRL-8741-9]

**Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern the permitting of new or modified sources. We are proposing to approve local rules to regulate these procedures under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by December 19, 2008.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2008-0341, by one of the following methods:

- *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
- *E-mail:* [R9airpermits@epa.gov](mailto:R9airpermits@epa.gov).
- *Mail or deliver:* Gerardo Rios (Air-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](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 [www.regulations.gov](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 below.

**FOR FURTHER INFORMATION CONTACT:** Laura Yannayon, EPA Region IX, (415) 972-3534, [yannayon.laura@epa.gov](mailto:yannayon.laura@epa.gov).

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

**Table of Contents**

- I. The State’s Submittal
  - A. What rules did the State submit?
  - B. Are there other versions of the rules?
  - C. What is the purpose of the submitted rules?
- II. EPA’s Evaluation and Action
  - A. How is EPA evaluating the rules?
  - B. Do the rules meet the evaluation criteria?
  - C. EPA Recommendation to Further Improve a Rule
  - D. Proposed Action and Public Comment
- III. Statutory and Executive Order Reviews

**I. The State’s Submittal**

*A. What rules did the State submit?*

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Amended or revised	Submitted
VCAPCD .....	26	New Source Review—General .....	03/14/06, Amended .....	06/16/06
VCAPCD .....	26.1	New Source Review—Definitions .....	11/14/06, Revised .....	05/08/07
VCAPCD .....	26.2	New Source Review—Requirements .....	03/14/06, Revised .....	06/16/06
VCAPCD .....	26.3	New Source Review—Exemptions .....	03/14/06, Revised .....	06/16/06
VCAPCD .....	26.4	New Source Review—Emissions Banking .....	03/14/06, Revised .....	06/16/06
VCAPCD .....	26.5	New Source Review—Essential Public Service Bank.	03/14/06, Revised .....	06/16/06
VCAPCD .....	26.6	New Source Review—Calculations .....	03/14/06, Revised .....	06/16/06

On July 21, 2006, the rule submittal of June 16, 2006 was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. On July 23, 2007, the rule submittal of May 8, 2007 was found to meet the completeness criteria.

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

We approved a version of VCAPCD Rules 26 and 26.5 on December 7, 2000 (65 FR 76567). We approved a version

of VCAPCD Rules 26.1, 26.2, 26.3, 26.4, and 26.6 on February 28, 2003 (68 FR 9561). We did not act on a version of VCAPCD Rule 26.1, revised on March 14, 2006 and submitted to us by CARB on June 16, 2006. While we can act on only the most recently submitted version, we have reviewed materials provided with the previous submittal.

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

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

- VCAPCD Rule 26: A reference to the new Rule 26.11 is added, along with the purposes of Rule 26.11, including (a) the process by which the APCO determines if Emission Reduction Credits (ERCs) are surplus at the time of use and (b) the implementation of an annual

equivalency demonstration program, are added to the rule.

- VCAPCD Rule 26.1: Four definitions relating to bio-solids, public service ERCs, and public service banking are added to the rule, and the definition for Community Bank is removed from the rule.

- VCAPCD Rule 26.2: The District name is added to the rule.

- VCAPCD Rule 26.3: The exemption from offset requirements for gasoline dispensing facilities that dispense into motor vehicles or marine pleasure craft, is removed.

- VCAPCD Rule 26.4.B.5: The banking of ERCs for gasoline dispensing facilities that dispense into motor vehicles or marine pleasure craft, shall be allowed for no more than the amount of ERCs provided by the applicant after 10/22/91. Previously these ERCs were not eligible for banking.

- VCAPCD Rule 26.4.B.7: The provisions are added that (a) after 10/22/91, any ROC or NO<sub>x</sub> emission increase calculated pursuant to Rule 26.6.D but not offset with ERCs shall be ineligible for banking and (b) an emission increase offset with a credit from the Community Bank between 10/13/91 and 03/14/06 shall be ineligible for banking.

- VCAPCD Rule 26.4.F.2: The provisions are added that (a) the District shall contact the owner of an ERC certificate annually to determine if the owner will renew the certificate and (b) if not renewed, the certificate will be deemed inactive and transferred to the Essential Public Service Bank.

- VCAPCD Rule 26.5: The title of this rule is changed from “New Source Review—Community Service Bank” to “New Source Review—Essential Public Service Bank.”

- VCAPCD Rule 26.5.A: The applicability of this banking section is changed to “essential public service credits” instead of “community ERCs.”

- VCAPCD Rule 26.5.C: The applicability of this disbursement section is also changed to “essential public service credits.” Other former community ERC transactions described in SIP Rule 25.5.C.2, such as disbursing community ERCs to sources not required to provide offsets on the date the Authority-to-Construct is issued, are deleted.

- VCAPCD Rule 26.5.E: Requirements for tracking community ERCs by the District are deleted from the rule. These provisions already exist in the SIP-approved version of VCAPCD Rule 26.11.

- VCAPCD Rule 26.6: The District name is added to the rule.

## II. EPA's Evaluation and Action

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

These rules describe administrative provisions and definitions that support the review and permitting of new and modified emission sources as required by Title I, subpart D, of the Clean Air Act for nonattainment areas. In combination with the other requirements, these rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193).

EPA guidance and policy documents that we used to help evaluate enforceability requirements consistently include the following:

- *Review of New Sources and Modifications*, U.S. EPA, 40 CFR part 51, subpart I.
- *Guidance Document for Correcting Common VOC & Other Rule Deficiencies*, EPA Region 9, (August 21, 2001). (The Little Bluebook)

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

We believe the rules are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. The TSD has more information on our evaluation.

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

The TSD describes an additional revision to VCAPCD Rule 26.1 that does not affect EPA's current action but is recommended for the next time the local agency modifies the rule.

### D. Proposed Action and Public Comment

Because EPA believes the submitted rules fulfill all relevant requirements, we are proposing full approval as described in section 110(k)(3) of the CAA. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

## III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act.

Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 24, 2008.  
**Alexis Strauss,**  
*Acting Regional Administrator, Region IX.*  
 [FR Doc. E8-27484 Filed 11-18-08; 8:45 am]  
**BILLING CODE 6560-50-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 67**

[Docket No. FEMA-B-1020]

**Proposed Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.  
**ACTION:** Proposed rule.

**SUMMARY:** Comments are requested on the proposed Base (1 percent annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents, and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

**DATES:** Comments are to be submitted on or before February 17, 2009.

**ADDRESSES:** The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community are available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA-B-1020, to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3151, or (e-mail) [bill.blanton@dhs.gov](mailto:bill.blanton@dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3151 or (e-mail) [bill.blanton@dhs.gov](mailto:bill.blanton@dhs.gov).

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

*Administrative Procedure Act Statement.* This matter is not a rulemaking governed by the Administrative Procedure Act (APA), 5

U.S.C. 553. FEMA publishes flood elevation determinations for notice and comment; however, they are governed by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and do not fall under the APA.

*National Environmental Policy Act.* This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601-612, a regulatory flexibility analysis is not required.

*Executive Order 12866, Regulatory Planning and Review.* This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

*Executive Order 13132, Federalism.* This proposed rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This proposed rule meets the applicable standards of Executive Order 12988.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

**PART 67—[AMENDED]**

1. The authority citation for part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 67.4 [Amended]**

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation**	* Elevation in feet(NGVD) + Elevation in feet(NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
<b>St. Joseph County, Indiana, and Incorporated Areas</b>				
Baugo Creek .....	Approximately 300 feet upstream of confluence with St. Joseph River/Baugo Bay.	+718	+719	Town of Osceola, Unincorporated Areas of St. Joseph County.
	Approximately 100 feet upstream of county boundary with Elkhart County.	None	+726	