

sonable length of time, which shall be not less than six months, to comply with the conditions established by the Secretary for the approval of resumption of operations on the lease, to be determined by the Secretary;

(B) In determining "adequate protection" the Secretary will weigh the value of the loss of the deposit to the Nation's economy against the probable damage from the hazard after appropriate mitigating measures have been imposed;

(C) Termination of a suspension of the running of the lease term will not be made effective until after the affected lessee has been given notice and an opportunity for a hearing, including the opportunity for the lessee to submit his own proposed mitigation measures; and

(D) Such a termination shall constitute a revocation of the previous approval of any exploration, development, or production plan, but shall not preclude consideration by the Supervisor of a new or amended exploration, development, or production plan, and the issuance of another suspension while that plan is reviewed.

2. Section 250.30 is revised to read as follows:

§ 250.30 Lease terms, regulations, waste, damage, and safety.

(a) The lessee shall comply with the terms of applicable laws and regulations, the lease terms, OCS Orders and other written orders and rules of the Supervisor, and oral orders of the Supervisor. All such oral orders shall be effective when issued and are to be confirmed in writing as provided in § 250.11.

(b) The lessee shall conduct operations on the lease in a manner which does not, in the opinion of the Supervisor, threaten significant irreparable harm or damage to life, including aquatic life, to property, to the leased deposits, or to the environment.

[FR Doc. 77-29111 Filed 10-3-77; 8:45 am]

[3910-01]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER C—PUBLIC RELATIONS

PART 819b—LICENSING GOVERNMENT-OWNED INVENTIONS IN THE CUSTODY OF THE DEPARTMENT OF THE AIR FORCE

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is adding a new Part 819b to 32 CFR. These rules were written as the Air Force implementation of DOD Directive 5535.3 and are consistent with GSA Licensing of Government-Owned Inventions, 41 CFR 101-4.1. They are intended to inform the public of the policies, procedures, terms and conditions for licensing of rights in Government-owned domestic patents and patent ap-

plications vested in the United States of America as represented by the Secretary of the Department of the Air Force.

EFFECTIVE DATE, July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Peterson, Judge Advocate Civil Division, Patent Office, Forrestal Building, Washington, D.C. 20314. Phone: (202-693-5715).

SUPPLEMENTARY INFORMATION: This rule is issued under the authority of 10 U.S.C. 8012. On November 23, 1976, the Department of the Air Force, DOD, published a proposed rule (41 FR 51615) to amend Title 32 of the Code of Federal Regulations by adding a new Part 819b to Subchapter C. No suggestions or objections were received. Accordingly, 32 CFR is amended by adding the new part to read as follows:

Subpart A—General

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| Sec. | |
| 819b.1 | Purpose. |
| 819b.2 | Air Force policy. |
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| 819b.4 | Delegation of authority. |
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Subpart B—Types of Licenses and Conditions for Licensing

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| 819b.6 | Inventions available for licensing. |
| 819b.7 | Nonexclusive license. |
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Subpart C—Procedures

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| 819b.12 | Publication requirements. |
| 819b.13 | Requests for a nonexclusive or a limited exclusive license. |
| 819b.14 | Contents of a nonexclusive license application. |
| 819b.14 | Contents of a limited exclusive license application. |
| 819b.16 | Published notices. |
| 819b.17 | Modification or revocation. |
| 819b.18 | License requests received by Air Force field activities. |
| 819b.19 | Appeals. |

Subpart D—Litigation

- | | |
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| 819b.20 | Government policy. |
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Subpart E—Transfer of Custody of Government Inventions

- | | |
|---------|-------------|
| 819b.21 | Procedures. |
|---------|-------------|

AUTHORITY: 10 U.S.C. 8012.

Subpart A—General

§ 819b.1 Purpose.

This part describes the policies, administrative requirements, procedures, terms, and conditions for licensing of rights in Government-owned domestic patents and patent applications vested in the United States of America as represented by the Secretary of the Department of the Air Force. It implements DOD Directive 5535.3, November 2, 1973 and is consistent with GSA Licensing of Government-Owned Inventions, 41 CFR 101-4.1.

§ 819b.2 Air Force policy.

(a) A major premise of the Presidential Statement of Government Patent Policy, August 23, 1971 (36 FR 16887, August 26, 1971), is that Government-owned inven-

tions normally will best serve the public interest when they are developed to the point of practical application and made available to the public in the shortest possible time. The granting of express nonexclusive or exclusive licenses for the practice of these inventions may assist in the accomplishment of the national objective to achieve a dynamic and efficient economy.

(b) The granting of nonexclusive licenses generally is preferable since the invention is thereby laid open to all interested parties and serves to promote competition in industry, if the invention is in fact promoted commercially. However, to obtain commercial utilization of the invention, it may be necessary to grant an exclusive license for a limited period of time as an incentive for the investment of risk capital to achieve practical application of an invention.

(c) Whenever the grant of an exclusive license is deemed appropriate, it will be negotiated on terms and conditions most favorable to the public interest. In selecting an exclusive licensee, consideration shall be given to the capabilities of the prospective licensee to further the technical and market development of the invention, his plan to undertake the development, the projected impact on competition, and the benefit to the Government and the public. Consideration will be given also to assisting small business and minority business enterprises, as well as economically depressed, low income, and labor surplus areas, and whether each or any applicant is a U.S. citizen or corporation. Where there is more than one applicant for an exclusive license, that applicant will be selected who is determined to be most capable of satisfying the criteria and achieving the goals set forth in this part.

(d) No license will be granted or implied in any invention under the custody of the Department of the Air Force other than as provided for in this part except under:

(1) Any existing or future treaty or agreement between the United States and any foreign government or intergovernmental organization, or

(2) Licenses under or other rights to inventions made or conceived in the course of or under Department of the Air Force research and development contracts where such licenses or other rights to such inventions are granted to or provided for in the contract and retained by the party contracting with the Department of the Air Force.

(e) No grant of a license under this part will be construed to confer upon any licensee any immunity from the antitrust laws or from a charge of patent misuse, and the acquisition and use of rights pursuant to this part will not be immunized from the operation of State or Federal law by reason of the source of the grant.

§ 819b.3 Execution of licenses.

Nonexclusive and exclusive licenses will be executed on behalf of the Department of the Air Force by the Secretary.

§ 819b.4 Delegation of authority.

The administration of this part is delegated to the Judge Advocate General and, while he is so acting, to any individual who is Acting The Judge Advocate General. The Judge Advocate General may redelegate, without the power of redelegation, to the Chief, Patents Division, Office of the Judge Advocate General, the administration of this part.

§ 819b.5 Definitions.

(a) "Government invention" means an invention covered by a domestic patent application that is vested in the United States and in the custody of the Department of the Air Force, and is designated by the Air Force as appropriate for the grant of an express nonexclusive or exclusive license.

(b) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

Subpart B—Types of Licenses and Conditions for Licensing

§ 819b.6 Inventions available for licensing.

Government inventions normally will be made available for the granting of express nonexclusive or limited exclusive licenses to responsible applicants according to the factors and conditions set forth in §§ 819b.7 and 819b.8, subject to the applicable procedures of Subpart C of this part.

§ 819b.7 Nonexclusive license.

(a) *Availability of licenses.* Each Government invention normally will be made available for the granting of nonexclusive revocable licenses, subject to the provisions of any other licenses, including those under § 819b.9.

(b) *Terms of grant.* (1) The duration of the license will be for a period as specified in the license agreement, provided that the licensee complies with all the terms of the license.

(2) The license will require the licensee to bring the invention to the point of practical application within a period specified in the license, or such extended period as may be agreed upon, and to continue to make the benefits of the invention reasonably accessible to the public.

(3) The license may be granted for all or less than all fields of use of the invention, and throughout the United States of America, its territories and possessions, the Commonwealth of Puerto Rico, and the District of Columbia, or in any lesser geographic portion thereof.

(4) After termination of a period specified in the license agreement, the Air Force may restrict the license to the fields of use and/or geographic areas in which the licensee has brought the invention to the point of practical application and continues to make the bene-

fits of the invention reasonably accessible to the public.

(5) The license may extend to subsidiaries and affiliates of the licensee but will be nonassignable without approval of the Air Force, except to the successor of that part of the licensee's business to which the invention pertains.

(6) The Government makes no representation or warranty as to the validity of any licensed patent or patent application, or of the scope of any of the claims contained therein, or that the exercise of the license will not result in the infringement of any other patent. Moreover, the Government assumes no liability whatsoever resulting from the exercise of the license.

§ 819b.8 Limited exclusive license.

(a) *Availability of licenses.* Each Government invention may be made available for the granting of a limited exclusive license provided that:

(1) The invention has been published as available for licensing pursuant to § 819b.12 for a period of at least 6 months;

(2) It has been determined that (i) the invention may be brought to the point of practical application in certain fields of use and/or in certain geographical locations by exclusive licensing, (ii) the desired practical application has not been achieved under any nonexclusive license granted on the invention, and (iii) the desired practical application is not likely to be achieved expeditiously in the public interest under a nonexclusive license or as a result of further Government-funded research or development;

(3) The notice of the prospective licensee has been published, pursuant to § 819b.6 for at least 60 days; and

(4) After termination of the period set forth in § 819b.8 (a) (3), the Air Force has determined that no applicant for a nonexclusive license has brought or will bring, within a reasonable period, the invention to the point of practical application as specified in the exclusive license, and that to grant the exclusive license would be in the public interest.

(b) *Selection of exclusive licensee.* An exclusive licensee will be selected on bases consistent with the policy set forth in § 819b.2 and in accordance with the procedures set forth in Subpart C of this part.

(c) *Terms of grant.* (1) The license may be granted for all or less than all fields of use of the Government invention and throughout the United States of America, its territories and possessions, the Commonwealth of Puerto Rico, and the District of Columbia, or in any lesser geographic portion thereof.

(2) Subject to the rights reserved to the Government in § 819b.8 (c) (6) and (c) (7), the licensee will be granted the exclusive right to practice the invention in accordance with the terms and conditions specified in the license.

(3) The duration of the license will be negotiated but will be for a period less than the terminal portion of the patent,

the period remaining being sufficient to make the invention reasonably available for the grant of a nonexclusive license; and such period of exclusivity will not exceed 5 years unless it has been determined on the basis of a written submission supported by a factual showing that a longer period is reasonably necessary to permit the licensee to enter the market and recoup his reasonable costs in so doing.

(4) The license will require the licensee to bring the invention to the point of practical application within a period specified in the license, or within a longer period as approved by the Air Force, and to continue to make the benefits of the invention reasonably accessible to the public.

(5) The license will require the licensee to expend a specified minimum amount of money and/or to take other specified actions, within a specified period of time after the effective date of the license, in an effort to bring the invention to the point of practical application.

(6) The license will be subject to the irrevocable royalty-free right of the Government of the United States to practice and have practiced the invention by or on behalf of the Government of the United States and on behalf of any foreign government or intergovernmental organization pursuant to any existing or future treaty or agreement with the United States.

(7) The license will reserve to the Air Force the right to require the licensee to grant sublicenses to responsible applicants on terms that are reasonable in the circumstances (i) To the extent that the invention is required for public use by Government regulations, or (ii) as may be necessary to fulfill health or safety needs, or (iii) for other public purposes stipulated in the license.

(8) The license may extend to subsidiaries and affiliates of the licensee but will be nonassignable without approval of the Air Force, except to successors of that part of the licensee's business to which the invention pertains.

(9) An exclusive licensee may grant sublicenses under his license, subject to the approval of the Air Force. Each sublicense granted by an exclusive licensee will make reference to the exclusive license, including the rights retained by the Government under the exclusive license, and a copy of such sublicense will be furnished to the Air Force.

(10) The license may be subject to such other terms as may be in the public interest.

(11) The Government makes no representation or warranty as to the validity of any licensed patent or patent application, or of the scope of any of the claims contained therein, or that the exercise of the license will not result in the infringement of any other patent. Moreover, the Government assumes no liability whatsoever resulting from the exercise of the license.

§ 819b.9 Additional licenses.

Subject to any outstanding licenses, nothing in this part will preclude the Air

Force from granting additional nonexclusive or limited exclusive licenses for Government-owned inventions when the Air Force determines that to do so would provide for an equitable exchange of patent rights. The following exemplify circumstances wherein such licenses may be granted:

(a) In consideration of the settlement of an interference;

(b) In consideration of a release of a claim of infringement; or

(c) In exchange for or as part of the consideration for a license under adversely held patents.

§ 819b.10 Royalties.

(a) Normally, royalties will not be charged under nonexclusive licenses granted to U.S. citizens and U.S. corporations on Government inventions; however, the Air Force may require other considerations.

(b) A limited exclusive license on a Government invention will contain a royalty provision and/or other consideration flowing to the Government.

§ 819b.11 Reports.

A license will require the licensee to submit periodic reports to the Air Force on his efforts to achieve practical application of the invention. The reports will contain information within his knowledge, or which he may acquire under normal business practices, pertaining to the commercial use being made of the invention and other information which the Air Force may determine is pertinent to its licensing activities and is specified in the license.

Subpart C—Procedures

§ 819b.12 Publication requirements.

The Department of the Air Force will cause to be published in the FEDERAL REGISTER, the Official Gazette of the U.S. Patent and Trademark Office, and at least one other publication that the Air Force deems would best serve the public interest, a list of the Government inventions in custody of the Department of the Air Force available for licensing under the conditions specified in Subpart B of this part. The list will be revised periodically to include directly, or by reference to a previously published list, all inventions currently available for licensing. Other publications on inventions available for licensing may be made and may include abstracts of the inventions, when appropriate, as well as information on the design, construction, use, and potential market for the inventions.

§ 819b.13 Requests for a nonexclusive or a limited exclusive license.

Requests for licenses under a Government invention in the custody of the Department of the Air Force should be addressed to the Chief, Patents Division, HQ USAF/JACP, Washington, D.C. 20314.

§ 819b.14 Contents of a nonexclusive license application.

An application for a nonexclusive license will include:

(a) Identification of the invention for which a license is desired, including the patent application serial number or patent number, title and date, if known, and any other identification of the invention;

(b) Name and address of the person, company, or organization applying for license and whether the applicant is a U.S. citizen or a U.S. corporation;

(c) Name and address of representative of applicant to whom correspondence should be sent;

(d) Nature and type of applicant's business;

(e) Source of information concerning the availability of a license on this invention;

(f) Purpose for which license is desired and a brief description of applicant's plan to achieve that purpose;

(g) A statement of the fields of use for which applicant intends to practice the invention; and

(h) A statement as to the geographic areas in which the applicant would practice the invention.

§ 819b.15 Contents of a limited exclusive license application.

In addition to the information indicated in § 819b.14, an application for a limited exclusive license will include:

(a) Applicant's status, if any, in any one or more of the following categories:

- (1) Small business firm,
- (2) Minority business enterprise,
- (3) Location in a surplus labor area,
- (4) Location in a low-income area, and
- (5) Location in an economically depressed area;

(b) A statement of applicant's capability to undertake the development and marketing required to achieve the practical application of the invention;

(c) A statement describing the time, expenditure, and other acts which the applicant considers necessary to achieve practical application of the invention and the applicant's offer to invest the facilities and funds to perform such acts if the license is granted;

(d) A statement that contains the applicant's best knowledge of the extent to which the Government invention is being practiced by private industry and the Government; and

(e) Any other facts which the applicant believes are evidence that it is in the public interest for the Air Force to grant a limited exclusive license rather than a nonexclusive license and that such limited exclusive license should be granted to the applicant.

§ 819b.16 Published notices.

(a) A notice that a prospective limited exclusive licensee has been selected will be published by the Air Force in the FEDERAL REGISTER, and a copy of the notice will be sent to the Attorney General. The notice will include:

- (1) Identification of the invention;
- (2) Identification of the selected licensee;
- (3) Duration and scope of the contemplated license;

(4) A statement to the effect that the license will be granted unless;

(i) An application for a nonexclusive license, submitted by a responsible applicant pursuant to § 819b.4, is received by the Air Force within 60 days from the publication of the notice in the FEDERAL REGISTER; and the Air Force determines in accordance with its prescribed procedures, under which procedures the Air Force will record and make available for public inspection all decisions made pursuant thereto and the basis therefor, that the applicant has established that he has already achieved or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or

(ii) The Air Force determines that a third party has presented evidence and argument which has established that it would not be in the public interest to grant the exclusive license.

(b) If a limited exclusive license has been granted pursuant to this part, notice thereof will be published in the FEDERAL REGISTER. Such notice will include:

- (1) Identification of the invention;
- (2) Identification of the licensee; and
- (3) Duration and scope of the license.

(c) If a limited exclusive license has been modified or revoked pursuant to § 819b.17, notice thereof will be published in the FEDERAL REGISTER. Such notice will include:

- (1) Identification of the invention;
- (2) Identification of the licensee; and
- (3) Effective date of modification or revocation.

§ 819b.17 Modification or revocation.

(a) Any license granted pursuant to this part may be modified or revoked by the Air Force if the licensee at any time defaults in making any report required by the license or commits any breach of any covenant or agreement therein contained.

(b) A license may also be revoked by the Air Force if the licensee willfully makes a false statement of a material fact or willfully omits a material fact in the license application or any report required in the license agreement.

(c) Before modifying or revoking any license granted pursuant to this regulation for any cause, the Air Force will furnish the licensee and any sublicensee of record a written notice of intention to modify or revoke the license; and the licensee and any sublicensee will be allowed 30 days after such notice to remedy any breach of any covenant or agreement as referred to in § 819b.7(a) or to show cause why the license should not be modified or revoked.

§ 819b.18 License requests received by Air Force field activities.

All communications received in any Air Force activity requesting information regarding the licensing of a Government invention will be acknowledged and forwarded without further action directly to HQ USAF/JACP, Washington, D.C. 20314.

§ 819b.19 Appeals.

An applicant for a license, a licensee, or such other third party who has participated under § 819b.6 (a) (4) (ii) shall have the right to appeal to the Judge Advocate General, or in his absence, to the Acting Judge Advocate General, any decision concerning the granting, denial, interpretation, or modification, or revocation of a license. Such appeal must be made in writing and within 60 days from the date the decision was mailed.

Subpart D—Litigation

§ 819b.20 Government policy.

The property interest in a patent is the right to exclude. It is not the intent of the Government to transfer the property right in a patent when a license is issued pursuant to this part. Accordingly, the right to sue for infringement will be retained with respect to all licenses so issued by the Government.

Subpart E—Transfer of Custody of Government Inventions

§ 819b.21 Procedure.

Under certain circumstances it may be in the best interest of the Air Force to enter into an agreement to transfer its custody of an invention to another Government agency for purposes of administration including the granting of licenses pursuant to this part. Such transfers will be made on a case-by-case basis.

FRANKIE S. ESTEP,
Air Force Federal Register
Liaison Officer, Directorate of
Administration.

[FR Doc.77-29109 Filed 10-3-77;8:45 am]

[1410-03]

Title 37—Patents, Trademarks, and Copyrights

CHAPTER II—COPYRIGHT OFFICE,
LIBRARY OF CONGRESS

[Docket RM 77-8]

PART 201—GENERAL PROVISIONS

Filing of Copies of Certain Contracts by Cable Systems

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulation.

SUMMARY: This notice is issued to advise the public that the Copyright Office of the Library of Congress is adopting a new regulation to implement section 111 (e) (2) of the Act for General Revision of the Copyright Law. That section requires the filing, in particular cases, of certain contracts entered into by cable television systems located outside of the forty-eight contiguous states. The new regulation establishes formal requirements governing the nature of the document to be filed for recordation.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Jon Baumgarten, General Counsel,
Copyright Office, Library of Congress,
Washington, D.C. 20559 (703-557-8731).

SUPPLEMENTARY INFORMATION: Section 111 of the first section of Pub. L. 94-553 (90 Stat. 2541) establishes a compulsory licensing system under which cable systems may make secondary transmissions of copyrighted works. As a general rule, secondary transmissions must occur simultaneously with the primary transmission in order to be eligible for the compulsory license. However, section 111 provides for an exception to this general requirement for simultaneous retransmission. Because of the limited availability of over-the-air signals in certain areas outside of the forty-eight contiguous States, cable systems located in these areas are eligible for the compulsory license even if their secondary transmissions are "non-simultaneous"—that is, even if they use videotapes or the like to record a broadcast program off-air and later retransmit the program from the recording.

Section 111(e) (2) of the Act deals with exchanges of videotapes and similar recordings of programs between cable systems located in these areas. It provides that recordings embodying a program nonsimultaneously transmitted by a system may, under certain circumstances, be transferred to another system, but only "pursuant to a written nonprofit contract providing for the equitable sharing of the costs of such videotape and its transfer." Among other conditions it also requires that "a copy of such contract [be] filed, within thirty days after such contract is entered into, with the Copyright Office (which Office shall make such contract available for public inspection) * * *."

On August 17, 1977, we published in the FEDERAL REGISTER (42 FR 41438; corrected 42 FR 42362) a proposal that the filing and recordation of these documents be covered by the addition of a new § 201.12 to the regulations of the Copyright Office. Interested parties were given until September 16, 1977, to submit comments.

No comments have been received. The proposed regulation is adopted without change and is set forth below.

(17 U.S.C. 207, and under the following sections of Title 17 of the U.S.C. as amended by Pub. L. 94-553; §§ 111; 702; 708(11).)

Dated: September 23, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved:
DANIEL J. BOORSTIN,
Librarian of Congress.

Part 201 of 37 CFR chapter II is amended by adding a new § 201.12 to read as follows:

§ 201.12 Recordation of certain contracts by cable systems located outside of the forty-eight contiguous states.

(a) Written, nonprofit contracts providing for the equitable sharing of costs

of videotapes and their transfer, as identified in section 111(e) (2) of Title 17 of the United States Code as amended by Pub. L. 94-553, will be filed in the Copyright Office by recordation upon payment of the fee prescribed by this section. The document submitted for recordation shall meet the following requirements:

(1) It shall be an original instrument of contract; or it shall be a legible photocopy or other full-size facsimile reproduction of an original, accompanied by a certification signed by at least one of the parties to the contract, or an authorized representative of that party, that the reproduction is a true copy;

(2) It shall bear the signatures of all persons identified as parties to the contract, or of their authorized agents or representatives;

(3) It shall be complete on its face, and shall include any schedules, appendixes, or other attachments referred to in the instrument as being part of it; and

(4) It shall be clearly identified; in its body or a covering transmittal letter, as being submitted for recordation under 17 U.S.C. 111(e).

(b) For a document consisting of six pages or less the recordation fee is \$10; an additional charge of 50 cents is made for each page over six. If titles of works are specified in the contract, an additional charge of 50 cents is made for each title over one.

(c) The date of recordation is the date when all of the elements required for recordation, including the prescribed fee, have been received in the Copyright Office. A document is filed in the Copyright Office and a filing in the Copyright Office takes place on the date of recordation. After recordation the document is returned to the sender with a certificate of record.

[FR Doc.77-29162 Filed 10-3-77;8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL
PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 783-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revisions: San Joaquin
County Air Pollution Control District
(APCD)

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on changes to the San Joaquin County portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: November 3, 1977.
FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, Calif. 94111. Attn: David R. Souten, (415-556-7288).

SUPPLEMENTARY INFORMATION: On May 26, 1977, in 42 FR 26999, EPA published a Notice of Proposed Rulemaking for revisions to the San Joaquin County Air Pollution Control District's Rules and Regulations submitted on November 10, 1976 by the California Air Resources Board for inclusion in the California SIP.

Rules concerning new source review and gasoline vapor recovery have been submitted; however, no action is being taken at this time, and these rules will be acted upon in separate FEDERAL REGISTER notices.

The changes contained in this submittal and being acted on by this notice, include the following: changes are made to a number of rules to reflect the recodification numbering changes that have been made to the State of California Health and Safety Code; wording changes are made to certain definitions; requests for a "trade secret" designation are required to be made in writing; a time period is specified for making public records available to requesting parties; wording changes are made to the agricultural operations exemptions to visible emissions limitations; and certain burning operations are added to the list of agricultural burning operations. A list of the rule numbers and titles initially considered for this notice, was published as part of the notice of proposed rulemaking and can be found in 42 FR 26999 (May 26, 1977). The proposed rulemaking provided 30 days for public comments. No comments were received.

It is the purpose of this notice to approve all of the changes contained in the November 10, 1976, submittal for San Joaquin County and to incorporate them into the California SIP, with the exception of those rules not being acted upon and the rule discussed below.

Paragraph e. of Rule 402 *Exceptions*, is disapproved because it exempts "other equipment in agricultural operations" from the visible emission prohibitions imposed by Rule 401. "Other equipment" is not defined, and it is therefore not clear what operations this exemption is intended to cover. Since this provision might permit sources otherwise regulated to violate applicable emission limitations, it should be disapproved. In addition, this exemption is not justified by a control strategy analysis which demonstrates that it will not violate section 110 of the Clean Air Act by interfering with the attainment or maintenance of National Ambient Air Quality Standards.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the rules and regulations as State Implementation Plan revisions.

(Secs. 110, 301(a), Clean Air Act, as amended, (42 U.S.C. 1857c-5, 1857g(a)))

Dated: September 27, 1977.

DOUGLAS M. COSTLE,
 Administrator.

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c) (35) (v) (A) is added as follows:

§ 52.220 Identification of plan.

(c) * * *
 (35) * * *
 (v) San Joaquin County APCD.
 (A) Rules 102, 103, 103.1, 104, 105, 111, 112, 301, 305, 402, 416.1, 501, 504, 511.

2. Section 52.273 paragraph (a) (3) (i) (A) is added as follows:

§ 52.273 Open burning.

(a) * * *
 (3) San Joaquin Valley Intrastate Region:
 (i) San Joaquin County APCD.
 (A) Paragraph e. of Rule 402.

[FR Doc. 77-29122 Filed 10-3-77; 8:45 am]

[6560-01]

[FRL 784-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Sacramento County Air Pollution Control District (APCD)

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on changes to the Sacramento County portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: November 3, 1977.
FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, CA 94111, Attn: David R. Souten, 415-556-7288.

SUPPLEMENTARY INFORMATION: On May 26, 1977, in 42 FR 27001, EPA published a Notice of Proposed Rulemaking for revisions to the Sacramento

County Air Pollution Control District's Rules and Regulations submitted on November 10, 1976 by the California Air Resources Board for inclusion in the California SIP.

Rules concerning new source review and gasoline vapor recovery have been submitted; however, no action is being taken at this time, and these rules will be acted upon in separate FEDERAL REGISTER notices.

The changes contained in the above mentioned submittal and being acted on by this notice, include the following: procedural changes, which update California Health and Safety Code citations contained in the rules, and which delete obsolete effective dates from various rules; procedural changes are made with several definitions; the deletion of a "Gasoline Storage" rule (the requirements of this rule are added to another rule which will be acted on at a future date); permit fees are raised and clarifying language is added to the "Permit Fees" rule; miscellaneous changes are made to rules affecting agricultural burning; and a definitions list is added to the end of Regulation VII. A list of the Rules initially considered for this notice was published as part of the notice of proposed rulemaking and can be found in 42 FR 27001 (May 26, 1977). The proposed rulemaking provided 30 days for public comments. No comments were received.

It is the purpose of this final rulemaking to approve all of the changes contained in the November 10, 1976 submittal for Sacramento County and incorporate them into the California SIP, with the exception of those rules not being acted upon and the rule discussed below.

EPA is disapproving paragraph a. of Rule 96, *Emergency Permits*, which authorizes the Air Pollution Control Officer to permit agricultural burning otherwise prohibited, if the denial of such authorization would threaten imminent and substantial loss. This allowance is disapproved because Section 110 of the Clean Air Act does not allow exceptions on the basis of economic factors absent a showing that other requirements of this section have been met. In addition, no analysis has been presented to show that such exemptions will not interfere with the attainment or maintenance of National Ambient Air Quality Standards or will not violate other Section 110 requirements.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

Pursuant to Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions.

(Sections 110 and 301 (a) of the Clean Air Act, as amended, (42 U.S.C. § 1857c-5 and 1857g(a)))

Dated: September 27, 1977.

DOUGLAS M. COSTLE,
 Administrator.