4. AFRTS outlets and host country commercial or government broadcasters, with the approval of the Director, AFIS. This direct link would be authorized for such local matters as lifting area program restrictions and the use of satellite broadcasters.

January 15, 1981.

M. S. Healy,

OSD Federal Register Liaison Officer
Washington Headquarters Services
Department of Defense.

[FR Doc. 81-2060 Filed 1-19-81; 8:45 am]

BILLING CODE 3810-70-M

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) has determined that USNS MOHAWK (T-ATF 170) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with Annex I, section 2(f) of the 72 COLREGS without interfering with its special function as a naval fleet tug, and (2) has found that USNS MOHAWK (T-ATF 170) is a member of the T-ATF 166 Class of ships, certain exemptions for which have been previously granted under 72 COLREGS Rules 38(a), 38(b), and 38(d)(i). The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: January 7, 1981.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Charles Stanley Prentace, JAGC, USN, Admiralty Division, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, Virginia 22332, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. § 1605 and Executive Order 11964, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USNS MOHAWK (T-ATF 170) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS Annex I, section 2(f), in that, during those situations when the USNS MOHAWK must simultaneously display masthead lights used for towing as required by Rule 24 and the task lights of a vessel restricted in its ability to maneuver as required by Rule 27, the masthead lights used for towing will not be located above and clear of the task lights. Full compliance with this provision would interfere with the special function of the ship. The Secretary of the Navy has also certified that the aforementioned masthead lights are located in closest possible compliance with the applicable 72 COLREGS requirement.

Notice is also provided to the effect that the Secretary of the Navy has previously authorized the use by T-ATF 166 Class of vessels of certain exemptions permitted by 72 COLREGS Rule 38. Specifically, the use of the exemptions has been authorized as allowed in Rule 38(a), pertaining to lights with ranges and intensities prescribed in Rule 22; Rule 38(b), pertaining to lights with color specifications prescribed in Annex I, section 7; and, Rule 38(d)(i), pertaining to the repositioning of masthead lights on vessels less than 150 meters in length required by Annex I, section 3(a).

The Secretary of the Navy has determined that USNS MOHAWK is a member of the T-ATF 166 Class, is in compliance with the 1960 Rules of the Road, and the keel of the T-ATF 166 Class lead ship was laid prior to July 15, 1977.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to the public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function. Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table Four of § 706.2 is amended by adding the following note 14 which reflects the certification issued by the Secretary of the Navy:

* * * * *

14. On USNS MOHAWK (T-ATF 170), the masthead lights used for towing required by Rule 24 will be displayed approximately 4.1 meters below the lowest of the lights required to be displayed by Rule 27 when a vessel is not under command or is restricted in its ability to maneuver.

* * * * *

Dated: January 7, 1981.

Robert J. Murray,

Acting Secretary of the Navy.

[FR Doc. 81-2060 Filed 1-19-81; 8:45 am]

BILLING CODE 3810-71-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 3

[FRL AS-FRL 1728-8]

Employee Responsibilities and Conduct

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule revokes the procedures for filing public financial disclosure statements under the Toxic Substances Control Act, the Solid Waste Disposal Act, the Clean Air Act, and the Environmental Research, Development, and Demonstration Authorization Act of 1978. The Ethics in Government Act of 1978 (Pub. L. 95-521) supersedes financial disclosure requirements under these statutes. This rule also sets forth procedures for administrative enforcement of the post-employment restrictions of 18 U.S.C. 207, as required by the Ethics in Government Act and Office of Government Ethics regulations published February 1, 1980, at 45 FR 7402. This rule is intended to implement these requirements.

EFFECTIVE DATE: January 21, 1981.

FOR FURTHER INFORMATION CONTACT: Donnell Nantkes, Office of General Counsel, Contract and General Administration Branch (A-134), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone: 202-426-8830.

SUPPLEMENTARY INFORMATION: Four statutes under which the Environmental Protection Agency (EPA) conducts business contain provisions requiring certain EPA employees to file public reports of their financial interests in persons regulated under the statutes or persons receiving funds under the statutes. In response to these requirements, EPA promulgated regulations to implement the reporting of such financial interests. The procedures for filing such reports under section 26(e) of the Toxic Substances Control Act (15 U.S.C. 2625(e)) are contained in 40 CFR 3.305. Section 3.306 contains the procedures for filing such reports under section 1007 of the Solid Waste Disposal Act (also referred to as the Resource Conservation and Recovery Act, 42 U.S.C. 6906). Section 3.307 contains the procedures for filing such reports under section 218 of the Clean Air Act (42 U.S.C. 7618). Section 3.308 contains the procedures for filing such reports under section 12 of the Environmental Research, Development, and

Demonstration Authorization Act of 1978 (Pub. L. 95–155).

On October 26, 1978, the Ethics in Government Act (Pub. L. 95–521) became law. Section 207(c) of the Act provides in pertinent part:

The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest.

On April 11, 1980, the Office of Legal Counsel of the Department of Justice rendered its opinion that section 207(c) has displaced the financial reporting requirements of the four specific statutes discussed above "and brought the provision of Title II of the Ethics Act into play in their stead." Accordingly, this rule revokes the reporting procedures under the four statutes.

The Ethics in Government Act contains certain amendments concerning post-employment restrictions for government employees and requires agencies to establish procedures for administrative enforcement of these restrictions. EPA drafted such procedures and, as required by the act, EPA sent these procedures to the Office of Government Ethics for review. On April 14, 1980, the Office of Government Ethics found that "EPA's proposed administrative procedures, implementing the provisions of 18 U.S.C. 207(j) conform with the law and the regulations promulgated by this Office on February 1, 1980, (45 FR 7402)." Accordingly, this rule establishes those procedures as a new Appendix C to Subpart A of the rules.

Dated: January 13, 1981.

(88 U.S.C. 301)

Douglas Costle,

Administrator.

40 CFR Chapter I, Part 3, is amended as follows:

1. The Table of Sections, Subpart A, is amended by adding Appendix C to read as follows:

Subpart A—General Provisions

Sec.

* * * * *

Appendix C—Procedures for Administrative Enforcement of Post-Employment Restrictions

2. The Table of Sections, Subpart C, is amended by Revising §§ 3.305, 3.306, 3.307 and 3.308, and Appendices D, E, F, G and H to read as follows:

Subpart C—Financial Interests and Investments

Sec.

* * * * *

3.305 Special requirements under the Clean Air Act.

* * * * *

3.306 3.308 [Reserved]

* * * * *

Appendix D—Employees exempt from special requirements under the Clean Air Act.

Appendices E—H [Reserved]

3. Subpart A is amended by adding the following new Appendix C after Appendix B:

Appendix C.—Procedures for Administrative Enforcement of Post-Employment Restrictions

1. Purpose

The purpose of this Appendix is to implement provisions of The Ethics in Government Act which concern restrictions on post-EPA employment. This Appendix contains procedures which EPA follows whenever it believes that a former EPA employee has violated 18 U.S.C. 207 (a), (b), or (c), as implemented by 5 CFR Part 737.

Authority: 18 U.S.C. 207 (a), (b), (c), as implemented by 5 CFR Part 737.

2. Delegation

The Administration delegates the authority to carry out this Appendix to the Inspector General, with the following exceptions:

(a) The General Counsel has the authority to appoint the presiding official of a hearing, as provided by paragraph (9)(a) of this Appendix;

(b) The Agency Ethics Official has the authority to designate the Agency Counsel, as provided by paragraph 9(b) of this Appendix;

(c) The Deputy Administrator has the authority to impose appropriate administrative sanctions, as provided by paragraph (15) of this Appendix.

3. Preliminary Review and Referral of Information About Violations

The Inspector General receives and reviews written or oral information concerning a possible violation of the post-employment restrictions of 18 U.S.C. 207 (a), (b), or (c) as implemented by 5 CFR Part 737. The Inspector General reviews the information to determine whether the matter is clearly frivolous and does not merit further action. If the Inspector General (IG) determines that the matter merits further action, the IG informs the Director of the Office of Government Ethics and consults with the Criminal Division of the Department of Justice regarding the conduct of an investigation. The purpose of the consultation is to avoid prejudicing any criminal proceeding that the Justice Department may have under consideration.

4. Investigation by the Inspector General

If the Criminal Division of the Justice Department agrees that EPA should handle the matter, the IG must conduct an investigation of the possible violation of the post-employment restrictions of 18 U.S.C. 207 (a), (b), or (c).

5. Initiating Process to Impose Sanctions: Notice

If the Inspector General's investigation establishes that there are reasonable grounds to believe that a former EPA employee has violated the post-employment restrictions of 18 U.S.C. 207 (a), (b), or (c), the IG may initiate the process of imposing sanctions under 18 U.S.C. 207(j). The Inspector General must send the former EPA employee a written notice of charges and a copy of this Appendix by certified mail, return receipt requested. The notice of charges must describe the allegations against the former employee in sufficient detail to enable the former employee to prepare an adequate defense and must contain the following final paragraph:

You must request a hearing by mailing or otherwise furnishing written notice of your request to me within 30 days after the date you receive this notice of charges. If you do not request a hearing within 30 days, the Agency may nonetheless determine that you have violated the provisions of 18 U.S.C. 207 (a), (b), (c) as implemented by 5 CFR Part 737 and impose administrative sanctions set forth in paragraph 15 of the enclosed Appendix to 40 CFR Part 3, Subpart A: You have a right to counsel, at your own expense, at all stages of this administrative enforcement proceeding. The procedures for administrative enforcement of the post-employment restrictions are set forth in the enclosed Appendix.

6. Request for a Hearing

A former EPA employee must request a hearing within 30 days after receiving the notice of charges. Otherwise, the initial determination of the charges is made without a hearing.

7. Initial Decision Without a Hearing

If a former EPA employee fails to make a timely request for a hearing, the Inspector General must prepare an initial decision in writing. The Inspector General must furnish this decision to the former employee by certified mail, return receipt requested within 60 days after the time for requesting a hearing expires. The initial decision must set forth the findings of fact and conclusions of law on which it is based.

8. Appeal of an Initial Decision Made Without a Hearing

A former employee may appeal an initial decision made without a hearing. The appeal must be submitted to the Deputy Administrator in accordance with paragraph (10)(b) of this Appendix.

9. Initial Decision After a Hearing

If the former employee requests a hearing, an initial decision is made after a hearing takes place.

(a) *Appointment of a Presiding Official*

The General Counsel must appoint an impartial examiner to preside over the hearing. The examiner must be an attorney and an employee of the Environmental Protection Agency. The General Counsel must promptly notify the former employee and the Inspector General of the examiner's name, address and telephone number.

The examiner shall preside at the hearing, conduct it in a fair and impartial manner, and issue an initial decision as promptly as possible after the record is complete, but in no event later than 60 days after the hearing is terminated. No person who has participated in any way in the investigation or in the decision to initiate administrative enforcement, or is a subordinate of the Agency Counsel, or who has had any connection or dealings with the former employee may serve as an examiner. The General Counsel may remove an examiner for cause.

(b) *Appointment of Agency Counsel*

The Agency Ethics Official shall designate an attorney to act as Agency Counsel. The Agency Ethics Official must notify the examiner and the former employee (or if the former employee is represented by counsel, his or her attorney) of the name, address and telephone number of the Agency Counsel.

(c) *Hearings*

Hearings will be held at EPA Headquarters in Washington, D.C., or at an EPA regional office or laboratory. After conferring with the parties, the examiner shall set a reasonable time, date and place for the hearing with due regard for the former employee's need for adequate time to prepare a defense and the need to expeditiously resolve allegations which may damage the former employee's reputation. At least 15 days before the date set for the hearing, the examiner shall notify the parties of the time, date and place by certified mail, return receipt requested. Hearings will be as informal as reasonably possible consistent with establishing an orderly record. Federal rules of evidence do not control the hearing, although the examiner may use these rules as guidance. The examiner generally will admit evidence unless it is clearly irrelevant, immaterial or unduly repetitious. The parties have the right to:

(i) Introduce and examine witnesses;

(ii) Offer documentary evidence;

(iii) Confront and cross-examine adverse witnesses; and

(iv) Present oral argument in the form of brief opening and closing statements.

In addition, the former employee has the right:

(i) To represent himself or herself or be represented by counsel at all stages of administrative enforcement; and

(ii) To require that all persons be excluded from the hearing room except the reporter, the examiner, the Agency Counsel and witnesses during the time they are actually testifying.

Witness shall testify under oath or affirmation administered by the examiner.

The examiner must arrange for a transcript of the hearing through the EPA Procurement and Contracts Management Division using the funds of the Office of Management and Agency Services. The former employee is entitled to a copy of the transcript at no charge, and the examiner must furnish it as soon as it is received from the reporter.

(d) *Burden of Proof*

The Agency has the burden of proof and must establish a violation by clear and convincing evidence.

(e) *Initial Decision*

The Examiner must make an initial decision exclusively on matters of record in the proceeding. The initial decision must be made within 60 days after the hearing and must set forth the findings of fact and conclusions of law on which it is based. The examiner must furnish this decision to the former employee by certified mail, return receipt requested to the Agency Counsel and to the Inspector General.

10. Appeal of an Initial Decision Made After a Hearing

(a) *Initial Decision After a Hearing*

The initial decision of the examiner becomes the final Agency decision unless, within 30 days after receiving the initial decision, either party appeals by mailing or otherwise furnishing to the Deputy Administrator written notice of appeal, with a copy to the opposing party. The notice of appeal may discuss the reasons why the party contends that the initial decision is erroneous, subject to the right of the opposing party to present a written response to the Deputy Administrator within 30 days after receiving a copy of the notice of appeal. Neither party may submit new evidence.

The Deputy Administrator must base his or her decision solely on the record of the proceedings or those portions cited by the parties to limit the issue, and the notice of appeal and response. If the Deputy Administrator modifies or reverses the initial decision, he or she must state in writing why the initial decision was erroneous.

(b) *Initial Decision Without a Hearing*

If the former employee did not request a hearing, the initial decision of the Inspector General will become the final Agency decision unless the former employee submits a written notice of appeal to the Deputy Administrator within 30 days after receipt of the initial decision, with a copy to the Inspector General. The notice of appeal may discuss reasons why the initial decision is erroneous, subject to the right of the Inspector General to present a written response to the Deputy Administrator within 30 days after receiving the notice of appeal. The Deputy Administrator's review will be based on an examination of the Inspector General's evidence and any legal arguments which the former employee or the Inspector General presents.

11. Exparte Communications (communications outside the record)

Neither an examiner nor the Deputy Administrator will receive from any person any written or oral communication outside the record about the merits of an administrative enforcement proceeding or appeal. This does not apply to exparte discussions concerning administrative functions or procedures under this Appendix, or to consultations between the Deputy Administrator and the judicial officer or other staff member who assists the Deputy Administrator.

12. Calculating Deadlines

If a deadline falls on a Saturday, Sunday or federal holiday, the next working day is considered the deadline.

13. Administrative Sanctions

Whenever a final determination is made that a former employee has violated 18 U.S.C. 207 (a), (b) or (c) as implemented by 5 CFR Part 737, the Deputy Administrator may impose an appropriate administrative sanction, which may include one or more of the following:

(i) Prohibiting the former employee from making, on behalf of any other person (except the United States) any formal or informal appearance before, or, with the intent to influence, any oral or written communication to, the U.S. Environmental Protection Agency on any matter of business for a period not to exceed 5 years. This will be accomplished by a memorandum to all EPA employees directing them to refuse to participate in any such appearance or to accept any such communication during the restriction period.

(ii) Debarring the former employee receiving any EPA contract, grant, cooperative agreement or loan for a period of up to 3 years, provided that the violation was committed in the context of seeking or performing a government contract, grant, cooperative agreement or loan.

(iii) A written reprimand with a copy to be placed in the former employee's official personnel file.

(iv) A written reprimand without a copy to the former employee's official personnel file.

The Deputy Administrator may confer with the parties before deciding upon an administrative sanction. The former employee must be notified of any administrative sanction by certified mail, return receipt requested.

14. Confidentiality

All records and information regarding administrative enforcement proceedings under this Appendix will be kept confidential and will not be disclosed except as required by law or regulation.

15. Judicial Review

Any person found to have violated 18 U.S.C. 207 (a), (b) or (c) as implemented by 5 CFR, Part 737, may seek judicial review of this administrative determination.

4. Subpart C is amended by revising §§ 3.305, 3.306, 3.307 and 3.308 and Appendices D, E, F, G and H to read as follows:

§ 3.305 Special requirements under the Clean Air Act.

(a) Notwithstanding the other provisions of this part, after August 7, 1978, no employee who is not listed in Appendix D as exempt may be employed by, serve as attorney for, act as consultant for, or hold any other official or contractual relationship to (other than ownership of stock, bonds, or other financial interest)—

(1) The owner or operator of any major stationary source or any stationary source which is subject to a standard of performance or emission standard under section 111 (42 U.S.C. 7411) or section 112 (42 U.S.C. 7412) of the Act;

(2) Any manufacturer of any class or category of mobile sources if such mobile sources are subject to regulation under the Act;

(3) Any trade or business association of which an owner or operator referred to in paragraph (h)(1) of this section or a manufacturer referred to in paragraph (h)(2) of this section is a member;

(4) Any organization (whether non-profit or not) which is a party to litigation, or engaged in political, educational, or informational activities, relating to air quality.

(b) In reviewing financial interest statements, Deputy Counselor and the Agency Counselor shall consider whether certain financial interests of non-exempt employees may be inconsistent with the particular employee's position and duties. In particular, any financial interest that presents a conflict of interest or an apparent conflict of interest with an employee's duties under the Act shall be resolved under § 3.203.

(c) Under § 318(d) of the Clean Air Act, any employee subject to this provision who knowingly violates the provisions of this section is subject to a fine of not more than $2500 or imprisonment for not more than one year, or both.

§ 3.306–3.308 [Reserved.]

Appendix D.—Employees Exempt From Special Requirements Under the Clean Air Act

The positions listed below have been determined to be of a non-regulatory or non-policymaking nature under section 318(d) of the Clean Air Act. Whenever the title of a position is listed, it includes any person who occupies the position as "acting" and any person who occupies a successor position under a subsequent reorganization.

Exemptions:

(1) All special government employees.

(2) Under the Office of the Administrator:

All employees except the Administrator, Deputy Administrator, General Counsel, Deputy General Counsel, Associate General Counsel for Air, Noise and Radiation and Director of the Science Advisory Board.

(3) Under the Office of Planning and Management:

All employees except the Assistant Administrator for Planning and Management, Associate Assistant Administrator for Planning and Management, Deputy Assistant Administrator for Planning and Evaluation and the Director of the Standards and Regulations Evaluation Division.

(4) Under the Office of Enforcement:

All employees except the Assistant Administrator for Enforcement, Deputy Assistant Administrator for General Enforcement, Director of the Stationary Source Enforcement Division and Director of the Mobile Source Enforcement Division.

(5) Under the Office of Air, Noise and Radiation:

All employees except the Assistant Administrator for Air, Noise and Radiation, Director of the Office of Policy Analysis, Director of the Office of Transportation and Land Use Policy, Deputy Assistant Administrator for Air Quality Planning and Standards and Division Directors reporting to this official, and the Deputy Assistant Administrator for Mobile Source Air Pollution Control and Division Directors reporting to this official.

(6) All other employees.

Appendices E–H [Reserved]

[FR Doc. 81–1881 Filed 1–19–81; 8:45 am]

BILLING CODE 6560–36–M

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40 CFR Part 52

[A–9–FRL 1729–5]

South Coast Air Basin Nonattainment Area Plan; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Rulemaking.

SUMMARY: On April 1, 1980 (45 FR 21271), the Environmental Protection Agency (EPA) published a notice of proposed rulemaking for the South Coast Air Basin nonattainment area plan (NAP) for ozone, carbon monoxide (CO), particulate matter (PM), and nitrogen dioxide (NO_2). The April 1, 1980 notice proposed to disapprove the NAP because the lack of the following constituted major deficiencies with respect to Part D of the Clean Air Act, "Plan Requirements for Nonattainment Areas:"

1. For ozone, CO, PM, and NO_2, new source review (NSR) rules.

2. For ozone, rules reflecting reasonably available control technology (RACT) for certain volatile organic compound (VOC) sources.

3. For ozone and CO, legal authority to implement an inspection and maintenance (I/M) program.

The State has submitted the necessary VOC RACT and NSR rules and therefore has corrected two of the major deficiencies. However, the California State Legislature has not provided the necessary legal authority to implement and enforce an I/M program. Because the major deficiency of the lack of the I/M program has not been corrected, today's notice takes final action to disapprove the NAP for ozone and CO. Further, since the major deficiency concerning PM and NO_2 has been corrected and the State has provided assurances to correct the minor deficiencies in the NAP, today's notice takes final action to conditionally approve the NAP for PM and NO_2. These actions retain the prohibition on construction of certain major new or modified VOC and CO sources, but removes the prohibition for PM and oxides of nitrogen (NO_x) sources.

This notice also provides a brief summary of the proposed rulemaking notice, describes recent revisions which supplement the NAP, discusses public comments received, specifies deadlines by which the State is required to submit material to correct minor deficiencies in the NAP, and describes EPA's final action on the NAP.

DATES: This action is effective January 21, 1981.

FOR FURTHER INFORMATION CONTACT: Louise P. Giersch, Director, Air and Hazardous Materials Division, 215 Fremont Street, San Francisco, CA 94105. Environmental Protection Agency, Region IX, Attn: Douglas Grano (415) 556–2938.

A copy of today's revision to the California State Implementation Plan (SIP) is located at: The Office of the Federal Register, 1100 "L" Street, N.W., Room 8401, Washington, D.C. 20408.

SUPPLEMENTARY INFORMATION:

Background

The Clean Air Act, as amended in 1977, requires states to revise their SIPs for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). On July 25, 1979, the Executive Officer of the California Air Resources Board (ARB), the Governor's official designee, submitted revisions to the California SIP consisting of a control strategy and regulations for the South Coast Air Basin. These revisions, submitted as the South Coast Air Basin NAP, are intended to provide for the attainment of the ozone, CO, NO_2, and PM NAAQS in the South Coast Air Basin.

On April 1, 1980 (45 FR 21271), EPA published a notice of proposed rulemaking for the South Coast Air Basin NAP. That notice provided a description of the NAP, summarized the applicable Clean Air Act requirements into 14 criteria, compared the NAP to those criteria, and, as described below, proposed to approve, conditionally approve, or disapprove portions of the NAP. The April 1, 1980 notice should be used as a reference in reviewing today's action.

EPA proposed to approve the reasonable further progress, emissions growth, annual reporting, public and government involvement, and public hearing portions of the NAP for ozone, CO, NO_2, and PM because they were found to be consistent with Part D of the Clean Air Act. EPA also proposed to

approve the modeling portion of the NAP for CO and NO_2.

EPA proposed to conditionally approve the emission inventory, emission reduction estimates, attainment provision, and resources portions of the NAP for ozone, CO, NO_2, and PM because they were found to contain minor deficiencies with respect to Part D. EPA also proposed to conditionally approve the modeling portion of the NAP for ozone and PM.

EPA proposed to disapprove the legally adopted measures/schedules, permit program, extension requirements, and extension requirements for VOC RACT portions of the NAP. EPA proposed to disapprove these portions because the lack of an I/M program, NSR rules, and rules reflecting RACT for certain VOC sources constituted major deficiencies with respect to Part D. As a result of the absence of an I/M program, NSR rules, and nine VOC rules, the April 1, 1980 notice proposed to disapprove the overall South Coast Air Basin NAP with respect to Part D and continue the construction prohibition.

After publication of the April 1, 1980 notice, the State submitted the necessary VOC and NSR rules as SIP revisions. As a result of the State's submittal of these rules, two of the three major deficiencies in the NAP were corrected.

However, the California State Legislature has failed to provide the necessary legal authority to implement and enforce an I/M program. On September 8, 1980 (45 FR 59180), EPA published a rulemaking which proposed to limit certain Federal funding assistance for specific areas in the State of California, including the South Coast Air Basin. This action was proposed in response to Sections 176(a) and 316(b) of the Clean Air Act because the State has failed to submit or make a reasonable effort to submit an SIP revision containing an I/M program including the legal authority to implement and enforce the I/M program. On December 12, 1980 (45 FR 81746), EPA published a final rulemaking on the September 8, 1980 proposal. This rulemaking took action to limit certain Federal funding assistance for the South Coast Air Basin and other areas in California. These limitations apply to funds provided under the Clean Air Act (42 U.S.C. 7401 et seq.), the Clean Water Act (33 U.S.C. 1251 et seq.), and the Surface Transportation Act (23 U.S.C. 101 et seq.).

Supplemental Revisions

After EPA's review of the July 25, 1979 submittal, the State submitted revisions which correct some of the deficiencies noted in the April 1, 1980 notice. These revisions are discussed below.

New Source Review

As discussed in the April 1, 1980 notice, a legally enforceable NSR rule was not included in the NAP and this constituted a major deficiency. However, the State did submit a draft NSR rule. EPA reviewed the draft NSR rule (See EPA's Evaluation Report) and concluded that it contained only minor deficiencies with respect to the Part D requirements. Thus, EPA proposed that the permit program portion of the NAP could be conditionally approved if the State submitted an adopted NSR rule similar and equivalent to the draft rule.

On the dates noted below, the Governor's designee submitted the following NSR rules for the South Coast Air Quality Management District (AQMD):

Regulation XIII—New Source Review

April 3, 1980:

Rule 1301—General
Rule 1302—Definitions
Rule 1303—Applicability and Analysis
Rule 1304—Exemptions from Regulation XIII
Rule 1305—Special Permit Provisions
Rule 1306—Emission Calculations
Rule 1307—Emission Offsets
Rule 1308—Eligibility of Emission Offsets
Rule 1310—Analysis, Notice, and Reporting
Rule 1311—Power Plants
Rule 1313—Permits to Operate

August 15, 1980:

Rule 1302—Definitions
Rule 1308—Eligibility of Emission Offsets

Section 173 of the Act contains the requirements for approval of a permit program. EPA has established guidance based on Section 173 in: (1) EPA's Emission Offset Interpretative Ruling (January 16, 1979, 44 FR 3274) and (2) EPA's proposed amendments to regulations for NSR and the Emission Offset Interpretative Ruling (September 5, 1979, 44 FR 51924).

EPA has reviewed the South Coast AQMD's NSR rules with respect to both the draft NSR rule and to the guidance based on Section 173. The South Coast AQMD's NSR rules do contain differences from both the draft rule and the Section 173 guidance. The only significant differences are as follows:

1. Rule 1306, "Emission Calculations" does not count emission increases up to 100 lbs/day when the October 8, 1976 cutoff date is used and it allows company records to be used in some cases to calculate emissions for offsets using the highest three years of the past five year period.

2. Rule 1307, "Emission Offsets" does not require offsets for the first 150 lbs/day of emission increases for VOC, NO_x, and PM and for the first 750 lbs/day for CO.

An NSR permit program cannot be approved or conditionally approved with these deficiences, hence the two rules noted above are being disapproved. Aside from these disapproved portions, the South Coast AQMD's NSR rules contains only minor deficiencies with respect to the Section 173 requirements, including the definitions of "stationary source" and lowest achievable emission rate (LAER) (All of the deficiencies are described in EPA's Evaluation Report Addendum, which is available at the Region IX Office, the ARB, the South Coast AQMD, Southern California Association of Governments (SCAG), and the EPA Library in Washington, D.C.) Thus, the NSR rules being approved in this notice are (1) similar to the draft rule in that the definitions and requirements are substantially the same and are equivalent to the draft rule in that they are at least as effective in meeting the requirements of Section 173, and (2) contain only minor deficiences with respect to Section 173.

It should be noted that EPA has published two final rulemaking notices on the September 5, 1979 proposed amendments to EPA's NSR regulations and the Emission Offset Interpretative Ruling. These notices, published on May 13, 1980 (45 FR 31307) and August 7, 1980 (45 FR 52676), amend EPA's Interpretative Ruling and set out new requirements for NSR under Section 173. The State is required to comply with the August 7, 1980 requirements by May 7, 1981. In revising the South Coast AQMD's NSR rules, the State/AQMD must address (1) any new requirements in EPA's amended regulations for NSR (45 FR 31307, May 13, 1980 and 45 FR 52676, August 7, 1980) which the AQMD rules do not currently satisfy and (2) those deficiencies cited in EPA's Evaluation Report Addendum which still apply despite EPA's new NSR requirements (contained in Document File NAP-CA-9 at the EPA Library in Washington D.C. and the Region IX Office).

VOC RACT Rules

As discussed in the April 1, 1980 notice, nine legally enforceable VOC rules were not included in the NAP and this constituted a major deficiency. However, the State did submit model VOC rules. EPA reviewed these model rules and concluded that they contained only minor deficiencies with respect to the Part D requirements. Thus, EPA proposed that the legally enforceable measures/schedules and extension requirements for VOC RACT portions of

the NAP could be conditionally approved if the State submitted legally adopted rules which were similar and equivalent to the model rules.

On the dates noted below, the State submitted the following VOC rules for the South Coast AQMD:

December 17, 1979:

Rule 1108—Cutback Asphalt
Rule 1108.1—Emulsified Asphalt
Rule 1128—Paper and Fabric Coating Operations
Rule 1107—Manufactured Metal Products and Coatings

April 2, 1980:

Rule 1122—Solvent Metal Cleaners (Degreasers)

April 23, 1980:

Rule 464—Wastewater Separators
Rule 465—Vacuum Producing Devices and Systems
Rule 1123—Refinery Process Turnaround
Rule 1125—Can and Coil Operations

EPA has reviewed each of these rules against both the applicable model rule and Control Technique Guideline document (CTG) (See Evaluation Report Addendum). EPA has concluded that the adopted rules (1) are similar to the model rules in that the definitions and requirements are substantially the same and are equivalent to the model rules in that they are at least as effective in meeting RACT and (2) are consistent with the applicable CTG. Therefore, all the deficiencies noted in the April 1, 1980 notice concerning these rules have been corrected.

Rule 461, "Gasoline Transfer and Dispensing" submitted on July 25, 1979 was proposed to be conditionally approved in the April 1, 1980 notice. However, in response to public comments (See *Public Comment* Section, Criterion 14), EPA has decided that rule 461 is fully approvable. On February 7, 1980 the ARB submitted a revised rule 461. This revised rule is being approved and incorporated into the SIP without further notice and comment because the revisions to the rule are minor (See 5 U.S.C. Section 553(b)(B), Administrative Procedure Act). Therefore, the minor deficiencies concerning Rule 461 has been corrected.

In addition, Rules 1122, 1125, and 1128 contain exemptions for the use of methylene chloride and methyl chloroform (1,1,1 trichloroethane). On May 16, 1980, EPA published a clarification of Agency policy concerning the control of methyl chloroform and methylene chloride in ozone SIPs (45 FR 32424). EPA explained that it cannot approve or enforce controls on either of these two compounds as part of a Federally enforceable ozone SIP because current information indicates that neither compound is an ozone precursor. Consequently, EPA is not disapproving California's exemption of methyl chloroform and methylene chloride.

This policy is in no way an expression of EPA's view on the desirability of controls on these compounds. States retain the authority to control these compounds under the authority reserved to them in Section 116 of the Clean Air Act. However, State officials and sources should be advised that there is a strong possibility of future regulatory action by EPA to control emissions of these two compounds (See Proposed New Source Performance Standards for Organic Solvent Cleaners, 45 FR 39766, June 11, 1980).

California Environmental Quality Act (CEQA)

The April 1, 1980 notice proposed to conditionally approve the NAP based upon the submittal of those portions of CEQA that relate to the requirement providing for an analysis of alternatives for new sources which demonstrates that the benefits of the source outweigh the environmental costs (Section 172(b)(11)(A) of the Clean Air Act).

On October 20, 1980, the State submitted the following portions of CEQA:

Sections 2100; 21001; 21002; 21002.1; 21061; 21063; 21065; 21080.1; 21080.4(a); 21080.5 (a), (b), (c) and (d); 21081; 21082; 21100; 21104; 21151; 21153; and 21160.

These portions of CEQA require all "State agencies, boards, and commissions" to certify the completion of an environmental impact report (EIR) on any project "which may have a significant effect on the environment." The EIR shall include "a detailed statement" setting forth, among other things, "alternatives to the proposed action." In order to approve a project under CEQA, the agency must find either (1) that changes have been required in the project "which mitigate or void the significant environmental effects thereof as identified in the completed environmental impact report" or (2) that "[S]pecific economic, social, or other considerations make infeasible mitigation measures or project alternatives identified in the environmental impact report.

EPA has determined that these portions of CEQA satisfy the requirements of Section 172(b)(11)(A) of the Clean Air Act and therefore this minor deficiency has been corrected.

Public Comments

Comments Specific to the South Coast Air Basin NAP

During the public comment period, EPA received numerous comments. The comments received were both general comments and comments related to EPA's criteria for approval which are described in the April 1, 1980 notice. In response to these comments, EPA has revised certain proposed actions. Each of the points raised by the commenters and EPA's responses follow.

I. General Comments

Comment: The ARB, SCAG, and the South Coast AQMD believe that EPA should modify the proposed conditions of approval because they will require them to take several actions that will impair their ability to develop an acceptable 1982 NAP.

Response: Because the South Coast Air Basin NAP did not satisfy all of the Part D requirements for the 1979 NAP, EPA cannot approve it. However, EPA believes that most of the materials that will be required to satisfy the conditions of approval are also necessary steps directed toward developing the 1982 NAP. Therefore, correcting the minor deficiencies should not significantly impair the development of the 1982 NAP.

Comment: The South Coast AQMD and SCAG commented that EPA's proposed dates for satisfying the conditions of approval should be revised as follows: (1) the minimum deadline should be 90 days after the final rulemaking is published, (2) the January, 1981 proposed deadline should be set at six months after the final rulemaking is published, and (3) the June and July 1981 proposed deadlines should be set at one year after the final rulemaking is published. The Federal Highway Administration (FHWA) commented that the dates of May 1, 1980 are almost impossible to meet because the proposal was published on April 1, 1980, and that the dates should be tied to ongoing work specified in the Overall Work Program (OWP).

Response: EPA is revising the dates as recommended by the South Coast AQMD, SCAG, and the ARB. However, EPA is extending certain dates recommended by these agencies so that there will be fewer deadlines. EPA is also making the dates consistent with the OWP, where possible.

Comment: The Western Oil and Gas Association (WOGA) commented that EPA should make every effort to allow State and local governments maximum flexibility in developing NAPs. WOGA further commented that EPA should not scrutinize the NAPs by a point-by-point

review, but should look at the NAP as a whole when determining compliance with the Clean Air Act.

Response: Throughout the NAP development process, EPA has encouraged State and local governments to initiate, study, develop, and adopt an attainment plan which reflects the unique characteristics of each nonattainment area. While the Clean Air Act allows for State and local governments to use unique approaches in satisfying NAP requirements, EPA does not have the flexibility to "trade-off" any of these requirements, because they all must be satisfied.

Comment: WOGA requested that EPA extend the public comment period.

Response: Prior to the May 1, 1980 deadline, the Regional Office contacted WOGA and informed them that all comments would be accepted until May 16, 1980. All the comments made during this period have been incorporated into this notice.

Comment: The Southern California Edison Company requested that a public hearing be held to provide a full examination of the actions taken by the ARB in submitting the NAP.

Response: A public hearing was held in January 1979, when the NAP was adopted by the South Coast AQMD and SCAG. The ARB held public hearings on April 26, 27, and 28, 1979. The NAP was adopted by the Board at a public hearing held on May 10, 1979. As a result, EPA believes that there has been adequate opportunity to orally comment on the NAP and that the requirements of Section 172(b) and 40 CFR 51.4 have been met.

Comment: The Urban Mass Transportation Administration (UMTA) commented that sub-regional plans (i.e., air quality plans prepared by a County) were apparently prepared by the four counties in the South Coast Air Basin and the City of Los Angeles, but were not made available for review nor effectively summarized in the NAP. They further commented that they must review these plans in order to provide informed comments on the NAP and its implications.

Response: EPA did not receive these plans with the NAP for the South Coast Air Basin. Therefore, these plans cannot be considered in EPA's evaluation of the NAP.

II. Comments on EPA's Criteria For Approval

1. Emission Inventory

Comment: The ARB stated that they disagreed with EPA's proposed conditions of approval which required that certain revisions be made to the CO, NO_x and PM emission inventories. The ARB stated that they are developing appropriate 1979 base year emission inventories for CO, NO_x and PM. The South Coast AQMD and SCAG agreed with EPA's proposed conditions.

Response: The 1979 base year emission inventories will satisfy the proposed conditions of approval concerning the submittal of an annual NO_x inventory, winter inventory for CO, and an inventory for PM which includes non-traditional emission sources.

Comment: The South Coast AQMD, SCAG, and the ARB commented that Tables VI–1 and VII–12 presented emission inventories that only include emissions from the South Coast Air Basin. The South Coast AQMD and SCAG also stated that no additional work should be done on the inventories in the 1979 NAP and that the conditions of approval concerning these inventories should be deleted. The ARB, however, also commented that they would submit an inventory that does not include emissions from Ventura County.

Response: While it appears that Tables V–1 and VII–12 included emissions from Ventura County, the 1979 base year inventories that will be submitted (see previous comment) can satisfy this condition of approval if the emissions from the South Coast Air Basin are specifically delineated.

Comment: WOGA commented that emissions from tankers and outer continental shelf (OCS) facilities should not be included in the emission inventories as proposed by EPA.

Response: EPA believes that emissions from OCS activities should be included in the inventories to improve the accuracy of the air quality analyses that will be conducted in the future.

2. Modeling

Comment: The ARB stated that the documentation and procedures needed to satisfy EPA's proposed condition of approval regarding ozone modeling is contained in the public hearing record.

Response: EPA has reviewed the information contained in the hearing record and concluded that it supports the hydrocarbon emission reduction estimate. EPA is therefore deleting this condition of approval.

Comment: The ARB commented that they will submit a revised modeling analysis for PM to satisfy EPA's proposed condition of approval concerning PM modeling. The South Coast AQMD and SCAG agreed with the proposed condition, but requested clarification from EPA on the input data required.

Response: As noted in the April 1, 1980 notice, an inventory which includes non-traditional source categories is necessary to use as input to the air quality model for PM. EPA has published many technical reports which provide emisson factors for non-traditional sources. Each factor specifies the input data needed for its emission calculation. With regard to secondary aerosols, emission inventories of the precursor pollutant emitting source categories need to be developed and used in the modeling. The simplest approach would be to assume that each precursor source contributes secondary aerosol to each downwind monitor in direct proportion to the level of secondary aerosol determined to be in the total suspended particulate (TSP) sample. Emission factors for each precursor source are also available in published EPA technical documents.

Comment: FHWA stated that the air quality base year in the modeling analyses must be consistent with the emissions inventory base year.

Response: Air quality concentrations are directly related to meteorological conditions as well as to the emission inventory. While meteorological conditions can vary considerably from year to year, the emission inventory is relatively stable. In order to account for this meteorological variability, it is not always appropriate to use the same base year air quality data and emission inventory data.

Comment: FHWA believes that it is not reasonable to require a state to submit a photochemical modeling analysis in the 1979 NAP. FHWA further commented that EPA should modify its statement concerning the State's use of an accurate photochemical model to assess the relationship between ozone and NO_x.

Responses: EPA did not require the State to submit a photochemical modeling analysis in the 1979 NAP. However, in the South Coast Air Basin, reductions in NO_x emissions are needed to attain the NO_2 NAAQS. Since NO_x emissions also affect ozone concentrations, EPA Region IX feels that a photochemical model is necessary to assess the relationship of VOC to NO_x in ozone formation, and to evaluate the effectiveness of varying degrees of VOC and NO_x controls.

3. Emission Reduction Estimates

Comment: The ARB, South Coast AQMD, and SCAG commented that they will submit revised emission reduction estimates for the pre-1982 stationary source and transportation control measures and thereby satisfy EPA's proposed condition of approval concerning emission reduction estimates.

Response: EPA believes that the ARB's submittal of the emission reduction estimates for the pre-1982 control measures will satisfy this proposed condition of approval.

Comment: The Southern California Edison Company believes that the NO_2 control strategy is misdirected. They believe that emphasis should be placed on controlling emissions from motor vehicles, rather than stationary sources, because they are the primary source of NO_x emissions in the South Coast Air Basin. The City of Newport Beach commented that the control of NO_x emissions from stationary sources is inadequate.

Response: As discussed in the April 1, 1980 notice and in today's notice, further air quality and emission reduction control strategy analyses are required as conditions of approval. These analyses will help identify the most effective control strategy for attaining the NO_2 and ozone NAAQS.

Comment: The Southern California Edison Company commented that Rule 475.1, "Controlling Emissions of Oxides of Nitrogen from Electric Power Generating Equipment" (submitted to EPA as Rule 1135.1) does not accurately reflect LAER nor best available control technology (BACT).

Response: The ARB has rescinded Rule 1135.1. Therefore, EPA cannot evaluate this rule. However, EPA cannot disapprove a rule because it is too stringent (See Section 116 of the Clean Air Act), and LAER and BACT refers to NSR and prevention of significant deterioration (PSD) provisions, respectively, while Rule 1135.1 is a rule for existing sources.

Comment: UMTA commented that the baseline data in the NAP reflect regional growth factors between 20%–35%, while the baseline transit system is projected to remain at the current level. UMTA feels that this constitutes a decrease in the level of transit service in view of the significant growth forecast. UMTA believes that the baseline assumption for transit should reflect service improvements between a "do nothing" situation and full RTP implementation.

Response: EPA agrees that the baseline assumption may not be appropriate. However, the assumption will be corrected in the 1982 NAP, which will discuss how the State and local agencies will use Federal, State, and local funds to implement public transportation programs to meet basic transportation needs.

Comment: UMTA stated that there was little documentation for control tactic H–13, "Trip Reduction Programs." UMTA further commented that they do not believe that this control tactic can reduce VMT by 5.8 percent.

Response: EPA has accepted this estimate for initial planning purposes, recognizing that a limited amount of data exist to make such an estimate. While EPA is approving this estimate, it should be noted that the Annual Reports submitted to EPA each year by the State will include verification of emission reductions by monitoring of transportation control measures and updated emission reduction estimates for the transportation control measures.

4. Attainment Provision

Comment: The ARB commented that the condition of approval concerning the inclusion of emissions from planned highway and freeway projects in the baseline inventory should be deleted for two reasons. First, it is not the intent of the State to preempt, preclude, or circumvent the federal process for determining consistency between the SIP and these projects. The identification and inclusion of these projects in the baseline inventory was to provide an estimate of the potential emissions which may require mitigation. Second, most of these projects have already moved through the federal approval process and have already been determined by FHWA to be consistent with the SIP.

SCAG and the Orange County Chapter of the Building Industry Association of Southern California, Inc. commented that EPA should agree that the baseline inventory documents SIP conformance for four reasons. First, the inclusion of these projects in the baseline inventory was an attempt to account for both mobility and air quality needs. Second, the emissions from these projects were mitigated by the control measures in the NAP and are therefore consistent with the SIP. Third, EPA staff has misinterpreted the status of the projects in that these measures are not placed in the same priority category as the transportation control measures. Fourth, their inclusion in the baseline inventory has removed SIP conformance as an issue that will unnecessarily block the implementation of these projects. FHWA commented that the air quality analyses included these projects and therefore their air quality impacts were considered. FHWA further commented that if the air quality analyses are found to be inadequate, they should be done over in the 1982 SIP revision.

Response: EPA agrees with the ARB in that the inclusion of these projects in the baseline inventory does not remove demonstration of SIP conformance as a necessary requirement. Therefore, based upon the ARB's clarification, EPA is deleting this condition of approval. Since the NAP does not demonstrate attainment, the claim that emissions from these projects have been mitigated is not acceptable. While EPA is deleting this as a condition of approval, a demonstration of SIP conformance remains a requirement for approval of any transportation project, program, or plan.

Comment: SCAG disagreed with EPA's statement that the NAP does not demonstrate a commitment to an emission reduction target for the transportation sector. SCAG stated that an emission reduction target is committed to in the NAP. The emission reduction target is the sum of all the adopted transportation control measures shown in Chapter IX. SCAG also stated that the local commitment is identified in Chapter I.

Response: EPA disagrees in that the NAP does not demonstrate attainment. Without such a demonstration, an acceptable target cannot be provided.

Comment: The ARB commented that the proposed condition of approval concerning the selection of a design value for PM should be deleted because additional study was necessary before either the annual geometric mean (AGM) or the 24-hour NAAQS could be projected to be attained.

The South Coast AQMD disagreed with this proposed condition of approval for three reasons. First, the Friedlander/Trijonis modified rollback model, which was used in the NAP, can only estimate reductions to meet the AGM NAAQS. Second, a simple linear rollback model is not appropriate for the South Coast Air Basin because a major portion of the PM concentration is aerosol. Third, there are no other PM air quality models that are valid or appropriate for the South Coast Air Basin.

Response: The selection of a design value does affect the projected attainment date, but only to the extent that it provides the means from which to calculate a first-order approximation for an emission reduction goal. It makes little difference whether a quantifiable amount of air quality improvement is achieved by eliminating the directly contributing PM or by eliminating a percentage of the precursor pollutant in proportion to the desired aerosol air quality improvement. In response to the South Coast AQMD's rationale: (1) the model used in the NAP is not an EPA approved model and any limitations inherent in its use are solely the responsibility of the user, (2) simple linear rollback can be adapted to TSP situations involving aerosol, and (3) EPA does not agree that "no other air quality models are valid or appropriate . . .;"

other models are appropriate for use and valid to varying degrees of accuracy within certain limitations.

Comment: The ARB commented that the proposed condition of approval regarding the submittal of a schedule and work program to study nontraditional control measures and a revised modeling work program for PM should be deleted in the final rulemaking notice. The ARB believes that this condition of approval should be deleted because they committed to study and adopt all measures found to be reasonably available and effective in reducing emissions from sources of precursors of secondary particulates. The ARB also provided a schedule that identifies the measures that will be studied and the time frame, and stated that they are developing a work plan that identifies the elements that will be submitted as part of the December 1981 SIP revision that will demonstrate attainment of the PM NAAQS.

Response: EPA disagrees and feels that a schedule and work program must be submitted. Further, EPA has determined that the schedule which identifies the non-traditional control measures that will be studied is adequate. However, the schedule must be submitted as an SIP revision. Therefore, to satisfy this condition of approval, the State must submit as an SIP revision the schedule and a revised modeling work program for PM.

Comment: The ARB commented that the date for submitting the material to satisfy the condition of approval regarding the estimation of the emission reduction needed to attain the NO_2 NAAQS should be extended at least 60 days beyond the final rulemaking notice. The South Coast AQMD commented that the material to satisfy this condition of approval should be submitted with the draft 1982 NAP.

Response: EPA has revised the deadline to May 20, 1981.

5. Reasonable Further Progress

Comment: The ARB commented that EPA should modify its comment on the annual reports because EPA/ARB guidance has been provided to the local agencies.

Response: The comment was modified in a letter dated February 29, 1980. This letter transmitted EPA's and the ARB's guidance on what is required to be contained in the Annual Reports to the South Coast AQMD and SCAG.

Comment: SCAG agreed with EPA's comments concerning the concept of a transportation monitoring program, but indicated that the date for a system to be in place should be submitted as part of the 1982 Annual Report.

Response: Although this is not a condition of approval, EPA policy requires that the transportation monitoring program be in place by 1980 as a basis for emission reduction credit and that the program be discussed in the 1980 Annual Report.

Comment: SCAG and the Orange County Chapter of the Building Industry Association of Southern California, Inc. commented that EPA should employ the criteria contained in the ARB resolution (79–27) for reviewing wastewater treatment facilities and not continue individual project review.

Response: Until the details of the air quality and water quality integration policy are reviewed and committed to by the implementing agencies and approved by EPA after public notice and review, the requirements of RFP concerning wastewater treatment facilities must be satisfied by individual project review. In addition, EPA's policy on Section 316 of the Clean Air Act was published on August 11, 1980 (45 FR 53382). This policy must also be followed in reviewing wastewater treatment facilities.

Comment: The South Coast AQMD commented that the proposed condition of approval requiring the submittal of a refined RFP assessment for non-traditional PM control measures should be deleted in the final rulemaking notice. The South Coast AQMD further commented that this information should be submitted in the draft 1982 NAP because no new information is currently available.

Response: This was not a condition of approval in the April 1, 1980 notice. However, based on the work being accomplished under the condition of approval in Criterion 4, "Attainment Provision," EPA feels that the next Annual Report must include a refined assessment of reasonable further progress for the PM non-traditional control measures.

6. Legally Adopted Measures

Comment: The ARB commented that all the applicable CTG Group I rules have been submitted as SIP revisions and therefore the major deficiency concerning the submittal of these rules has been corrected.

Response: EPA agrees and a discussion of these rules is contained in the April 1, 1980 notice, Supplemental Revisions section of this notice, and in EPA's Evaluation Report Addendum.

Comment: The ARB commented that EPA should structure its final rulemaking action such that the major deficiency is based solely on the failure of the State to submit evidence of legal authority to implement an I/M program and, upon correction of the major deficiency, the NAP could be automatically conditionally approved.

Response: EPA agrees that the only major deficiency remaining in the South Coast Air Basin NAP is the lack of legal authority to implement an I/M program. However, EPA believes that there must be an opportunity for public comment on the adequacy with respect to Part D of any I/M program authorized by the State before the NAP can be conditionally approved. Thus, the NAP cannot be automatically conditionally approved upon correction of the major deficiency.

Comment: The Sierra Club commented that the South Coast Air Basin NAP should not be approved until the legal authority to implement an I/M program has been provided by the State Legislature.

Response: EPA agrees.

Comment: WOGA believes that applying the construction prohibition to major sources which totally offset any emission increases goes beyond the requirements of the Act.

Response: This comment pertains to the question of which "sources" should be subject to the construction moratorium. This issue is addressed by EPA's regulations promulgated on August 7, 1980 (45 FR 52675), which define "source" for the purposes of the moratorium. Under those regulations, only significant net increases in emissions at a major source are covered by the moratorium. "Source" is defined as both an entire plant and a piece of process equipment. WOGA argues that EPA should look only at the entire plant. WOGA's comments therefore really go to EPA's August 7 rulemaking and not to EPA's proposal on the South Coast Air Basin NAP. In fact, similar comments were submitted when EPA proposed its definition of source on September 5, 1979 (44 FR 51924). EPA's rationale for its definition and its response to comments can be found at 45 FR 52696–98.

Comment: SCAG commented that they will continue to seek the general commitments from the responsible local jurisdictions to implement the six transportation control measures that are identified in the NAP to satisfy EPA's proposed condition of approval concerning the State's submittal of these commitments and schedules. SCAG further commented that the submittal of these commitments should be part of an ongoing Annual Reporting process. SCAG also stated that EPA must recognize the limits on local governments for providing legally enforceable schedules for an extended period.

Response: EPA feels that policy level commitments and schedules for implementation from the agencies and local jurisdictions responsible for implementing the six transportation control measures identified in the 1979 NAP must be submitted as SIP revisions to satisfy this condition of approval.

Comment: The South Coast AQMD and the ARB agreed with EPA's proposed condition of approval regarding the submittal of a schedule which identifies the dates that the non-CTG stationary source hydrocarbon control measures will be adopted and submitted to EPA. The South Coast AQMD and the ARB also commented that these measures will be adopted in accordance with the State-wide rule development schedule submitted to EPA with their public comments. The ARB also stated that this proposed condition of approval should be modified to (1) reflect that the schedules have been provided for most measures and (2) identify specifically the measures which EPA considers to have inadequate schedules.

Response: Because the State requested an extension of the attainment date to December 31, 1987, EPA feels that the schedule that was submitted satisfies this condition of approval. Therefore, the submittal of the schedule by the ARB satisfies the Part D requirements and the proposed condition of approval is being deleted.

Comment: The ARB commented that they are working with SCAG and the other transportation agencies to obtain the necessary commitments to evaluate and implement the transportation control measures contained in Section 108(f) of the Act that were not adopted in the 1979 NAP. SCAG commented that the Executive Committee and the South Coast AQMD Board committed to implement reasonably available control measures by 1982 and to study other measures for implementation after 1982. SCAG also commented that they cannot obtain commitments to implement further study measures as required by EPA until these measures are found to be "reasonable."

Response: EPA agrees that commitments for the further study measures should not be submitted at this time. The commitments and schedules for implementation must be submitted with the 1982 NAP for all measures found to be reasonably available between 1979 and 1982. Therefore, the condition of approval concerning the submittal of commitments to implement the further study measures is being deleted.

Comment: The ARB commented that the condition of approval regarding the submittal of a schedule to study non-traditional and secondary particulate control measures should be modified to (1) reflect that the schedules have been provided for most measures and (2) identify specifically which measures EPA considers to have inadequate schedules. The South Coast AQMD provided a schedule which identifies the dates by which the non-traditional control measures will be adopted. The South Coast AQMD also commented that additional measures will be adopted in accordance with the State-wide rule development schedule.

Response: EPA agrees that the schedule was provided by the ARB along with its comments on the April 1, 1980 notice. EPA has determined that this schedule will satisfy this condition of approval if it is submitted as an SIP revision.

Comment: The ARB commented that EPA's proposed condition of approval regarding the specific schedules for rule development and adoption of the NO_x control measures should be deleted for several reasons. First, Rule 1135.1, "Controlling Emissions of Oxides of Nitrogen from Electric Power Generating Equipment" submitted to EPA in April, 1980 will reduce NO_x emissions from power plants by approximately 90%. Second, schedules for the study of additional NO_x control measures have been established as part of the State-wide rule development schedule. Third, Table 18–3 of the NAP contains several measures identified for further study. Fourth, the ARB has committed to submit an SIP revision in 1981 that will demonstrate attainment of the NO_2 NAAQS by December 31, 1982.

Response: EPA agrees that the schedule was provided by the ARB along with its comments on the April 1, 1980 notice. EPA has reviewed this schedule and has determined that it is adequate. However, it must be submitted as an SIP revision to satisfy this condition of approval. Further, the ARB has requested EPA to delay its review of Rule 1135.1 until a rehearing is completed. EPA has delayed review, but notes that the Rule is still part of the control strategy in the NAP as submitted by the State.

Comment: UMTA commented that they could not conduct a thorough review of the NAP because no commitments for implementing the transportation control measures were included. UMTA further commented that they would like to review the commitments when they are submitted to EPA.

Response: These commitments will be available for review after they are submitted to EPA from the State in response to the conditions of approval.

Comment: Riverside County commented that they should not be penalized for not providing resolutions supporting the implementation of the six transportation control measures because they adopted the necessary resolutions. They further commented that no provision was made for review of sub-regional plans within the South Coast Air Basin.

Response: EPA can apply funding restrictions by geographic area if the NAP is disapproved because of the State's failure to satisfy Part D requirements. Because EPA did not receive the resolutions as part of the NAP, EPA cannot determine the adequacy of Riverside County's resolutions. Further, EPA must review the NAP for the South Coast Air Basin as a whole as submitted by the State and not by sub-region because sub-regional plans were not submitted by the State.

7. Emissions Growth

No comments were received.

8. Annual Reporting

No comments were received.

9. Permit Program

Comment: The ARB stated that EPA should be more specific in its final rulemaking notice with respect to identifying the deficiencies in the South Coast AQMD's NSR rules and how to correct the deficiencies.

Response: EPA's review of the NSR rules and the deficiencies found by EPA are summarized in the Supplemental Revisions section of this notice and are described in EPA's Evaluation Report Addendum.

Comment: Several commenters stated that the major deficiency concerning the submittal of legally adopted NSR rules has been corrected by the ARB's submittal of the South Coast AQMD's NSR rules.

Response: EPA agrees that the major deficiency concerning the submittal of legally adopted NSR rules for the South Coast AQMD has been corrected. EPA's evaluation of these rules is discussed in the Supplemental Revisions and EPA Actions sections of this notice.

Comment: The ARB commented that the deficiency cited by EPA (Number 2 in the April 1, 1980 notice) concerning the modeling requirement that oxides of sulfur (SO_x) PM, and CO show a net air quality benefit has been corrected because Regulation XIII allows offset credit without modeling only for sources of offsets located within a 5 mile radius of the new or modified source. (Note:

SO_x was inadvertently referred to in the April 1, 1980 notice.)

Response: EPA disagrees in that the 1 : 1.2 offset ratio will not provide a net air quality benefit in all cases within 5 miles of the new or modified source. The rules should be revised so that this determination will be based upon an air quality model or the State must demonstrate that this ratio will result in a net air quality benefit.

Comment: The ARB disagreed with EPA's statement that offsets must be made for the same pollutant. The ARB commented that a interprecursor offset should be acceptable when a decrease in one precursor can be shown to offset an increase in emissions of another precursor to the same pollutant so that the ambient levels of that pollutant do not increase.

The ARB further commented that (1) the South Coast AQMD's NSR rules are more restrictive than the draft rule in that it allows interprecursor offsets only for PM and only when the applicant demonstrates that reductions in directly emitted PM are not available, (2) this provision is based upon estimates calculated from air quality monitoring data, and (3) interprecursor offsets will result in a reduction of small particulates which will result in greater health and visibility benefits.

Response: EPA's offset guidance does not allow NO_x, SO_x, or hydrocarbon (HC) emissions to be used in lieu of PM offsets for a PM program. EPA interprets the rules to preclude such an occurrence and thus, based upon the ARB's three conditions, EPA feels that such offsets are warranted in this case.

WOGA and the Southern California Edison Company submitted several comments concerning EPA's review of the ARB's draft NSR rule for the South Coast AQMD. Each of the points raised and EPA's responses follow.

Comment: WOGA noted that since the South Coast AQMD's legally adopted NSR rule may differ substantially from the ARB's draft NSR rule, review of any other rule is meaningless.

Response: As discussed in the Supplemental Revisions and EPA ACTIONS sections, the South Coast AQMD's NSR rules differ significantly only with respect to certain requirements pertaining to emission calculations and offset provisions, which EPA is disapproving. Otherwise, EPA has found that the rules are similar and equivalent. Therefore, EPA's review of the draft rule was meaningful.

Comment: WOGA stated that EPA is ignoring the actual NSR rules adopted by the South Coast AQMD and is explicitly encouraging them to merely parrot the ARB, and not adopt rules adapted to their local needs.

Response: Prior to the time EPA published its notice of proposed rulemaking, the NSR rules had been adopted by the South Coast AQMD with the exception of a minor revision submitted to EPA on August 15, 1980. Thus, EPA's notice did not lead the South Coast AQMD to parrot the ARB's draft rule. In addition, the proposal clearly stated that it is EPA's policy to approve any NSR rules adopted by the South Coast AQMD that would meet the requirements of the January 16, 1979 Interpretative Ruling (44 FR 3274) or the criteria of the September 5, 1979 proposal (44 FR 51924). Therefore, the South Coast AQMD was provided the flexibility to adopt any NSR rules it chose, provided they satisfied either of EPA's two sets of criteria.

Comment: WOGA stated that in reviewing the South Coast AQMD's legally adopted NSR rules, EPA should look at the overall stringency of the rules, and not be concerned with a point-by-point check of isolated portions of the rules. WOGA also commented that EPA should consider that the ARB's draft rule is more stringent than EPA's criteria.

Response: EPA's policy regarding NSR programs allows states to develop rules which differ in some respects from EPA's criteria (44 FR 3280, January 16, 1979 and 44 FR 51924, September 5, 1979). EPA may approve such rules if the State submits a demonstration that the overall impact on emissions in the areas where the rules apply is at least as stringent as EPA's criteria. Since the State did not provide such a demonstration, EPA reviewed the South Coast AQMD's NSR rules by comparing them to both the January 16, 1979 and September 5, 1979 criteria.

Comment: WOGA argued that the ARB's requirement that a new onshore source offset emissions generated by associated tankers while they are loading, unloading, and operating on the outer shelf (OCS) constitutes regulation of such tankers and offshore facilities. This provision, according to WOGA, is beyond EPA, State, and local jurisdiction. In addition, WOGA cited two recent court cases, *California v. Kleppe*, 13 E.R.C. 1577 (9th Cir., August 2, 1979) and *California v. Exxon*, (U.S. District Court, Central District of California, No. 78-249 RMT, November 14, 1978), which held that neither EPA nor ARB have authority over sources on the OCS for the purpose of controlling air pollution.

Response: The ARB's draft NSR rule requires that a new *onshore* source offset emissions from tankers while they are operating on the OCS. Therefore, only the onshore source is regulated and the cases cited by WOGA are not applicable.

Comment: WOGA noted that a 1979 Court decision on EPA's regulations for Prevention of Significant Deterioration (PSD) of Air Quality affect EPA's NSR requirements for NAPs as well. WOGA stated that EPA should not require APCD's to adopt either (1) the September 5, 1979 regulations until they have been finalized or (2) "de minimis" significance levels until adequate scientific studies have been conducted.

Response: In the September 5, 1979 Proposal (44 FR 51924), EPA's views were presented on how the *Alabama Power* decision affects NSR requirements for NAPs. EPA also responded to WOGA's concerns in the May 13, 1980 (45 FR 31307) and August 7, 1980 (45 FR 52676) Federal Registers. Further, today's notice requires that the South Coast AQMD adopt rules that are consistent with EPA's final NSR requirements that were published on May 13, 1980 and August 7, 1980.

Comment: WOGA commented that the South Coast Air Basin is an attainment area for sulfur dioxide and therefore sulfur dioxide offsets should not be required as proposed by EPA in the April 1, 1980 notice.

Response: EPA inadvertently referred to sulfur dioxide in the April 1, 1980 notice.

Comment: WOGA noted that EPA objected to the provision in the draft rule which describes the areas in which offsets may be allowed. WOGA also noted that EPA indicated that EPA's criteria call for offsets to be made in the immediate vicinity of the site of increased emissions. WOGA commented that the draft rules' approach may be justified for site-specific pollutants (CO and PM), but that it is inappropriate for VOC and NO_x emissions which often do not form ozone or NO_2 until they are well away from the source.

Response: EPA agrees.

Comment: WOGA stated that EPA should disapprove the ARB's oxides of nitrogen (NO_x) offset requirement for ozone if EPA does not approve provisions allowing interpollutant offsets. WOGA further stated that EPA must disapprove this requirement because (1) EPA only requires VOC offsets as a precursor to ozone and (2) EPA's policy regarding the control of ozone is based in part on the belief that there is a substantial risk involved in controlling NO_x as a precursor to ozone. WOGA also submitted a modeling study for the Bay Area which showed that NO_x control would result in higher

ozone levels than would occur with a hydrocarbon only control strategy. The Southern California Edison Company commented that the ARB's definition of "precursors" is too broad and should be limited to NO as a precursor to NO_2 and VOC as a precursor to ozone.

Response: To meet the minimum Federal NSR requirements, only emissions of the nonattainment pollutants are subject to NSR requirements. For ozone, whose precursors are VOC and NO_x, federal requirements specify that, at a minimum, VOC emissions be offset. However, the State has the option of requiring offsets for NO_x in addition to VOC if they wish.

EPA's present policy requiring the control of ozone, as noted by WOGA, is based upon controlling VOC emissions. This strategy appears to reduce both maximum concentrations of ozone and area-wide exposure to ozone. The effectiveness of controlling NO_x emissions is not well known. The current research suggests that controlling NO_x will increase ozone concentrations near sources of NO, but this effect becomes less pronounced downwind. In addition, there is good reason to believe that a beneficial impact would be observed downwind and during multi-day stagnation periods if NO_x emissions were controlled. As a result, EPA is neither encouraging nor discouraging states to control NO_x as a precursor to ozone. However, EPA is recommending that states not ignore NO_x emissions growth and is encouraging that NO_x emissions remain at the same level, if possible. The ARB's requirement of NO_x offsets essentially accomplishes this in that it will help keep NO_x emissions at the same level.

In addition, the modeling study submitted by WOGA for the Bay Area is inconclusive in that it does not address the effect of controlling NO_x emissions on ozone concentrations downwind of the Bay Area or the effect of multi-day stagnation periods.

Comment: WOGA stated that the public should be given the opportunity to comment on EPA's evaluation of the South Coast AQMD's legally adopted NSR rules, and that failure to allow an opportunity to comment on these rules would be a violation of the Administrative Procedure Act.

Response: As stated in the SUPPLEMENTAL REVISIONS section, EPA has determined that the South Coast AQMD's NSR rules are similar and equivalent to the ARB's draft rule and Section 173 of the Act, with the exception of certain requirements pertaining to emission calculations and offset provisions. Since these requirements in the South Coast AQMD's NSR rules are not consistent with Section 173, EPA must disapprove them. As a result, the NSR rules being conditionally approved in this notice are similar and equivalent to the ARB's draft rule which are discussed in the April 1, 1980 notice. Therefore, EPA feels that the public has been provided adequate opportunity to comment on the approvability of the South Coast AQMD's NSR rules through EPA's evaluation and notice of proposed rulemaking on the ARB's draft rule.

Comment: The Southern California Edison Company commented that an exemption is needed for subparagraph B.4. of the draft rule to allow minor modifications to be made to obtain a marginal increase in the capacity of an electric generating unit. According to Southern California Edison, this is needed to forestall the building of new generating facilities where the BACT requirements would render the increase in capacity infeasible.

Response: EPA policy allows exemptions only for minor modifications where the increase in emissions is below EPA's "de minimis" levels (See August 7, 1980, 45 FR 52676).

Comment: The Southern California Edison Company believes that sections C and D of the draft rule should be completely revised because the requirements reflected in these provisions go beyond the intent of the Clean Air Act.

Response: The State's draft rule and Regulation XIII of the South Coast AQMD each contain provisions which are both more and less stringent then EPA's criteria. The rules must be corrected in those cases where it is less stringent, and Section 116 of the Clean Air Act allows the State to adopt more stringent regulations. Further, the State's draft rule and Regulation XIII serve not only as an NSR regulation but also as a control measure to attain the NAAQS. Therefore, Sections C and D of the State's draft rule are consistent with the overall intent of the Clean Air Act.

Comment: The Southern California Edision Company commented that the maximum impact of a new or modified facility should be based on the emission rates achieved at maximum designed capacity *or demonstrated capacity, whichever is greater.* Southern California Edison further commented that the emission offset requirements should be determined on the basis of annual average emissions because it is impossible to mitigate the impact of a new source upon pollutant concentrations under varying conditions as the draft rule attempts to do. They also commented that annual average emissions should be used because the net air quality benefit of emission changes can be considered "on balance" for the area affected by the source.

Response: EPA can only approve or disapprove revisions submitted by the State. EPA is approving the approach used in Regulation XIII because the impact of a new or modified source is based upon the emission rates achieved at maximum design capacity and because this approach is consistent with the Clean Air Act. Further, EPA feels that the approach taken by both the draft rule and Regulation XIII of mitigating seasonal emissions is better than using annual emissions.

Comment: The Southern California Edison Company commented that where more than one source is owned by an applicant, the effect of a new or modified source on emissions from the existing sources should be considered in determining offset requirements. They noted that this is particularly true for electric utilities, where the effect of operation of a new unit will have an immediate effect on the operation of and the emissions from all other units on the system. For this reason, they believe that section D.2.a.1. of the draft rule should be revised so that emission offset requirements are based on changes in basin-wide emissions for each basin within the system from the 3-year period to the in-service date and not the date of application. They further commented that if the new unit results in an emission reduction because of better controls, offsets should not be required until the years when system load increases to the point where the emissions from the electric generating system were projected to be above the base period for the air basin.

Response: Section D.2.a.1. of the draft rule refers to air quality and not establishing an emissions baseline. However, EPA cannot approve an approach such as the one recommended by Southern California Edision because EPA's criteria specifies that the emission baseline should be determined by using emissions data from one to two years prior to the date of application (See August 7, 1980, 45 FR 52676, 40 CFR 51.18(j)(1)(vii) and (xv)).

Comment: The Southern California Edison Company commented that emission offsets should not be restricted to 15 miles, and arbitrary offset ratios should not be included as requirements in the draft rule. They further commented that such ratios should be determined on a case-by-case basis, and there may very well be justifiable reasons where a 10% reduction in emissions would be more than adequate.

Response: Offsets are not restricted to 15 miles in either the draft rule or

Regulation XIII. In the draft rule when offsets are obtained outside of 15 miles the applicant shall conduct a modeling analysis to determine an offset ratio sufficient to show a net air quality benefit in the area affected by emissions from the new source or modification. For ozone and NO_2, Regulation XIII requires the ratio to be increased as the distance increases from the source. This approach is consistent with EPA's criteria. For CO and PM, EPA requires a case-by-case demonstration that offsets will provide a net air quality benefit. To the extent that Regulation XIII does so it is approvable.

Comment: The City of Newport Beach objected to the offset provision in the draft rule because there is no requirement that offsets be obtained directly upwind of a source.

Response: The NSR rules that were adopted by the South Coast AQMD are being conditionally approved. One of the conditions of approval is that the rules be revised to require that a net air quality benefit be obtained for ozone, CO, NO_2, and PM before a new source is built. For CO and PM, this net air quality benefit is based upon modeling. However, EPA allows offsets for VOC and NO_x emissions to be obtained within a broad area because area-wide ozone and NO_2 levels are generally not as dependent on specific VOC or NO_x source locations as they are on overall areawide emissions.

Comment: The Southern California Edison Company commented that the emission offset bank for electric utilities should not be site specific, but should be at least a basin-wide bank.

Response: Regulation XIII does not contain a banking provision.

Comment: The Southern California Edison Company stated that provisions for power plant siting are assigned to the Energy Commission by the Warren-Alquist Act and therefore the State and the South Coast AQMD should only serve as a reviewing agency for compliance with their rules and regulations.

Response: In the development of Regulation XIII, the ARB, South Coast AQMD, and the Energy Commission together established procedures for reviewing power plants. These procedures are consistent with the Warren-Alquist Act.

Comment: The Southern California Edison Company commented that the ARB uses BACT for its definition of LAER and this creates a confusing situation. Southern California Edison further commented that the definition of "stationary source" is *too* broad and should be made consistent with the Act.

Response: Although the definitions are somewhat different, EPA does not require the State to use identical wording. However, the definitions of BACT and "stationary source" in Regulation XIII are not fully consistent with the Act. Therefore, the State must correct these deficiencies.

Comment: The Southern California Edison Company commented that Section I.1.a. of the draft rule should be clarified to prevent requiring unproven emission control techniques when the LAER determination is made and that Section I.1.b. should be deleted as unnecessary given Section I.1.a.

Response: EPA feels that Section I.1.a. of the draft rule would not result in the application of unproven emission control techniques because the applicant is involved with negotiations when the LAER determination is made. Further, this points was clarified in Regulation XIII, which states that a specific control technique shall not apply if the owner or operator of the proposed source demonstrates to the satisfaction of the Executive Officer that such control techniques are not available. EPA also feels that Section I.1.b. is necessary because new information may be found which will result in a new LAER determination.

10. Resources

Comment: The ARB commented that the condition of approval requesting information identifying (1) the personnel and financial resources needed to implement the control measures and (2) the commitments which identify the resources necessary for implementation of the NAP should be deleted. The ARB requested that this condition of approval be deleted because it is not legally possible for California agencies to commit to multi-year budget commitments. The ARB commented that EPA's concerns regarding this issue can be addressed in the Annual Reports. SCAG also commented that resolutions which demonstrate commitments made by the major implementing agencies for the individual transportation control measures were submitted to the ARB on August 31, 1979.

Response: EPA agrees that it is not legally possible for California to provide multi-year budget commitments. Therefore, the identification of necessary resource commitments for implementation of the NAP for the future year as well as the South Coast AQMD and ARB identification of the personnel and financial resources needed to implement the control measures for the future year must be submitted by the State to EPA when the local budgets are adopted. The NAP must include a commitment to provide this information annually.

Comment: UMTA commented that attainment of the NAAQS will apparently require transportation control measures which will result in a funding shortfall. UMTA further commented that their analysis of the funding sources for the transportation control measures was hampered by the lack of any specific indication of the funding sources being considered.

Response: Because the NAP must provide reasonable assurances for implementation, the State and local agencies must obtain the necessary commitments and sources of funding, or new measures with more realistic assurances of funding must be developed. The funding sources for the transportation control measures will be provided with the commitments from the local agencies that will implement the transportation control measures. When the State submits this material in response to the conditions of approval, EPA will provide UMTA with a copy and request additional comments at that time.

11. Public and Government Involvement

No comments were received.

12. Public Hearing

No comments were received.

13. Extension Requirements

Comment: The ARB commented that the condition of approval regarding the submittal of the relevant portions of CEQA should be deleted in the final rulemaking because they have been submitted.

Response: As discussed in the SUPPLEMENTAL REVISIONS section, the CEQA provisions have been submitted by the State and they satisfy the Clean Air Act requirements providing for an analysis of alternative sites, sizes, processes, and controls which demonstrate that the benefits of the facility outweigh the environmental costs. Therefore, this condition is being deleted.

Comment: SCAG commented that EPA's proposed condition of approval requiring the submittal of a commitment to use federal grants and state and local funds as necessary to meet basic transportation needs has been substantially satisfied and that additional commitments should not be required until the plan to meet basic transportation needs is developed and adopted.

Response: EPA feels the existing commitments satisfy the requirements for the 1979 NAP for a commitment to meet basic transportation needs.

Comment: The ARB commented that the proposed condition of approval regarding the prioritization of federal funds for highway projects should be deleted. The ARB believes that this condition of approval should be deleted because (1) it is not the State's intent in submitting the NAP to reject the requirements of Section 176(d), (2) the policy of programming 50% of available funds for "air quality measures" constitutes a conceptual response to the requirements of Section 176(d), and (3) this issue should be directed toward the federally required transportation planning process and not the subject of a condition of approval on 1979 NAP.

SCAG commented that this condition of approval should be deleted because (1) this policy was adopted as a commitment to implement the transportation control measures in the NAP, (2) the transportation control measures contained in the NAP are given top priority in the programming policies and (3) the procedures and criteria adequately address the Section 176(d) procedures.

FHWA disagreed with EPA's critique of SCAG's programming an equal proportion of funding of "air quality projects" and "capital highway projects" as not meeting the prioritization requirement.

Response: EPA believes that the policy contained in the NAP may be in potential conflict with Section 176(d). Further, EPA feels that no commitment was adopted as part of the NAP which will ensure continued compliance with Section 176(d). Consequently, there is no assurance that priority will be given to the implementation of the transportation control measures. Also, EPA did not critique SCAG's programming an equal proportion of funding of "air quality projects" and "capital highway projects" because they were not included in the NAP as submitted by the ARB. This provision was developed at a later date and it has not been submitted to EPA as an SIP revision. Therefore, to satisfy this condition of approval, the State must submit SCAG's greater weight and equal proportion programming policy and procedures as they relate to prioritization and funding of "air quality projects" and "capital highway projects" and justification that the NAP provisions are consistent with Section 176(d) of the Clean Air Act.

Comment: SCAG commented that the procedures to ensure that priority be given to projects in the Transportation Improvement Plan (TIP) which have air quality benefits have been submitted.

Response: EPA agrees that SCAG has submitted draft procedures to EPA. However, these procedures must be submitted as an SIP revision in order to meet the requirements of the condition of approval concerning this issue.

14. Extension requirements for VOC RACT

Comment: The ARB commented that EPA's proposed condition of approval regarding exemptions from the Stage I Gasoline Vapor Recovery rule should be deleted in the final rulemaking because the cost of retrofitting the exempted tanks is prohibitive.

Response: EPA agrees.

Comment: The Can Manufacturers Institute commented that the ARB's model rule emission limitations for can manufacturing do not reflect current or near future RACT for the can coating industry. The Can Manufacturer's Institute recommended that EPA adopt Rule 1125 of the South Coast AQMD rather than the ARB's model rule.

Response: As discussed in the SUPPLEMENTAL REVISIONS section, Rule 1125 meets EPA's RACT requirements for can coating. Therefore, EPA is approving Rule 1125 of the South Coast AQMD.

National Comments

One commenter submitted extensive comments and requested that they be considered part of the record for each state plan. Another commenter, a national environmental group, discussed EPA's action on permit fee systems and the composition of state boards. Although some of the issues raised are not relevant to provisions in the South Coast Air Basin NAP, the November 10, 1980 Federal Register (45 FR 74480) should be referred to for a discussion of these comments and EPA's responses.

EPA Actions

Introduction

It is important for reviewers of this notice to understand the overall nature of NAPs and of EPA's review and approval role. Central to such an understanding is recognition that action may be taken on a portion of the NAP for a specific pollutant. Therefore, a portion of the NAP may be adequate for one pollutant but inadequate for others. It is EPA's policy to take final action on all portions of the NAP for each pollutant. As a result, this notice contains a series of actions for each pollutant and for each portion of the NAP rather than a single action. The following three actions are taken for each portion of the NAP:

1. Disapproval where the State does not agree to correct minor deficiencies or where deficiencies are of such magnitude as to significantly interfere with the basic objective; or

2. Approval where the portion of the NAP under consideration meets all requirements;

3. Approval with conditions where deficiencies exist, but where the effect of the deficiency is not judged to be major and where the State has agreed to take those steps necessary to correct the deficiency. In this case, it is EPA's intent that the State proceed expeditiously to correct the noted deficiency by certain dates.

EPA's final action on each portion of the NAP for each pollutant is based upon the proposed rulemaking notice, supplemental revisions submitted by the State, and public comments received by EPA. Each action is described below.

Disapproved Portions of the NAP

As proposed in the April 1, 1980 notice and as discussed in the BACKGROUND and PUBLIC COMMENTS sections of this notice, EPA has determined that the legally adopted measures/schedules for I/M and the extension requirements for I/M portions of the NAP for ozone and CO cannot be approved because of the State's failure to submit the necessary legal authority along with schedules and commitments to implement and enforce an I/M program. Therefore, EPA takes final action under Part D of the Clean Air Act to disapprove these two portions of the NAP for ozone and CO.

Approved Portions of the NAP

As proposed in the April 1, 1980 notice and as discussed in the Background and Public Comments sections of this notice, EPA has determined that the reasonable further progress, emissions growth, annual reporting, public and governmental involvement and public hearing portions of the NAP for ozone, CO, NO_2 and PM are consistent with the Part D requirements. Therefore, EPA takes final action under Part D to approve these portions of the NAP.

In addition, without legal authority to implement and enforce an I/M program, the NAP cannot demonstrate reasonable further progress for ozone and CO through 1987. However, at this time there is no point in disapproving the reasonable further progress portion of the NAP for ozone and CO since the key deficiency, the I/M portion of the NAP, is disapproved and causes disapproval of the overall NAP for ozone and CO. Once I/M legislation is passed, the State would be able to demonstrate reasonable further progress and the NAP could be approved. Therefore, EPA is approving the reasonable further progress portion of the NAP.

As proposed in the April 1, 1980 notice, EPA is taking final action under Section 110 of the Clean Air Act to approve Rule 461 (VOC rule) because it strengthens existing requirements. Also as proposed, EPA is taking final action under Section 110 and Part D to approve Rules 461, 462, 1104, 1115, and 1126 (VOC rules) because they satisfy the requirements for RACT.

The State did not officially submit nine VOC rules with the NAP in July 1979, but they did submit their model VOC rules and requested EPA to review them. As described in the April 1, 1980 notice, EPA reviewed these model rules, determined that they contained only minor deficiencies, stated that the NAP could be conditionally approved upon submittal of rules similar and equivalent to the model rules, and provided an opportunity for public comment on these actions. As stated in the SUPPLEMENTAL REVISIONS section, EPA has found that the South Coast AQMD's rules are (1) similar and equivalent to the State's model rules and (2) satisfy the RACT requirements of Part D. Therefore, EPA is taking final action under Section 110 and Part D to approve Rules 464, 465, 1107, 1108, 1108.1, 1122, 1123, 1125 and 1128 because they strengthen existing SIP requirements and satisfy the RACT requirements of Part D.

Conditionally Approved Portions of the NAP

Although the State did not officially submit the NSR rules with the NAP in July 1979, the State did submit their draft NSR rule and requested EPA to review this rule. As described in the April 1, 1980 notice, EPA reviewed the draft rule, determined that it contained only minor deficiencies with respect to Section 173, stated that the NAP could be conditionally approved upon submittal of an NSR rule similar and equivalent to the draft rule, and provided an opportunity for public comment on these actions. As stated in the SUPPLEMENTAL REVISIONS and PUBLIC COMMENTS sections, EPA has found that the South Coast AQMD's NSR rules (1) are similar and equivalent to the State's draft rule and (2) contain only minor deficiencies with respect to Section 173, with the exception of certain deficiencies pertaining to emission calculations and offset provisions. Further, EPA found that a NAP containing these deficiencies cannot be approved or conditionally approved. Therefore, EPA disapproves those provisions in the NSR rules that contain these deficiencies. As a result, the South Coast AQMD's NSR rules are conditionally approvable with respect to Section 173 and contain only insignificant differences which tend to make the rules more stringent, than the model rule, and since the rules which are being conditionally approved are similar and equivalent to the draft rule which was subject to public comment and since the effect of the conditional approval will be to lift the construction prohibition for PM and NO_x sources, EPA finds that good cause exists for taking action on the South Coast AQMD's NSR rules without additional comment on those rules (See 5 U.S.C. Section 553(b)(B), Administrative Procedure Act). Further, new rules will be submitted by May 7, 1981 which will be subject to notice and comment. Therefore, EPA takes final action to conditionally approve the South Coast AQMD's NSR rules (permit program portion of the NAP) with the exception of the provisions noted above which are disapproved.

The State, South Coast AQMD, and SCAG have assured EPA that they will submit the material to correct the minor deficiencies noted in the April 1, 1980 notice and discussed in the PUBLIC COMMENTS section of this notice. EPA therefore takes final action to conditionally approve the following portions of the South Coast Air Basin NAP:

1. For ozone, CO, PM, and NO_x, emission inventory, emission reduction estimates, attainment provision, permit program, and resources.
2. For ozone and CO, legally adopted measures and extension requirements.
3. For ozone, extension requirements for VOC RACT.
4. For PM, modeling.

To correct the minor deficiencies, the State must submit the following material as SIP revisions by the following dates:

New Source Review

1. By May 7, 1981, NSR rules must be revised and submitted as an SIP revision. The rules must satisfy Section 173 and 40 CFR 51.18, "Review of new sources and modifications." In revising the South Coast AQMD's NSR rules, the State/AQMD must address (1) any new requirements in EPA's amended regulations for NSR (45 FR 31307, May 13, 1980 and 45 FR 52676, August 7, 1980) which the AQMD rules do not currently satisfy and (2) those deficiencies cited in EPA's Evaluation Report Addendum which still apply despite EPA's new NSR requirements (contained in Document File NAP–CA–9 at the EPA library in Washington D.C. and the Region IX Office).

Resources

1. By May 20, 1981, a commitment to submit annual implementing agency fiscal and personnel commitments to implement the South Coast Air Basin NAP.

Ozone and Carbon Monoxide

1. By May 20, 1981, a refined emission inventory for the South Coast Air Basin for (1) CO which is based upon winter emissions and (2) for VOC.
2. By May 20, 1981, revised emission reduction estimates for each year for the adopted control measures which are based upon the refined emission inventories.
3. By May 20, 1981, a schedule for the submittal of the revised emission reduction estimates for the pre-1982 control measures that are not yet adopted.
4. By May 20, 1981. Written evidence of local adoption of legally enforceable commitments and implementation schedules consistent with reasonable further progress for the six transportation control measures presently found to be reasonable.
5. By May 20, 1981. A schedule to analyze alternative packages of transportation control measures, including but not limited to those measures listed in Section 108(f)(1)(A) of the Clean Air Act.
6. By May 20, 1981. The Southern California Association of Governments (SCAG) greater weight and equal proportion programming policy and procedures as they relate to prioritization and funding of "air quality projects" and "Highway Projects" and justification that the NAP provisions are consistent with Section 176(d) of the Clean Air Act.

Particulate Matter

1. By December 31, 1981, a refined emission inventory which includes estimates of emissions from traditional and nontraditional (fugitive dust) sources for the South Coast Air Basin.
2. By December 31, 1981, documentation for the PM design value used to determine the allowable PM emission level, and a modeling analysis using the new emissions inventory data which shows the emission reductions necessary to provide for attainment of the PM NAAQS by December 31, 1982.
3. By December 31, 1981, revised emission reduction estimates per control measure for each year which are based upon the revised emission inventory.
4. By May 20, 1981. A work program for modeling, a commitment and schedule to study and adopt nontraditional PM control measures,

and a commitment to implement those control measures necessary to provide for attainment.

Nitrogen Dioxide

1. By May 20, 1981. An annual average emission inventory for the South Coast Air Basin.

2. By May 20, 1981. The results of an air quality analysis giving a preliminary quantification of the total emission reductions needed to attain the NO_2 NAAQS.

3. By May 20, 1981. Revised emission reduction estimates for each year which are based upon the revised emission inventory for the control measures that are adopted.

4. By May 20, 1981. A schedule and work program for the submittal of a detailed air quality analysis giving the final quantification of the needed emission reductions needed to attain the NO_2 NAAQS.

5. By May 20, 1981. A commitment and schedule to develop and adopt NO_2 control measures and a commitment to implement those control measures necessary to provide for attainment.

Final Action of the NAP

Since the major deficiency concerning I/M has not been corrected, EPA is taking final action to disapprove the NAP for ozone and CO. This action continues the construction prohibition for these two pollutants.

Since the major deficiencies noted in the April 1, 1980 notice for NO_2 and PM have been corrected and only minor deficiencies remain, EPA is taking final action to conditionally approve the NAP for PM and NO_2. As a result, the current prohibition on construction of certain major new or modified sources in the South Coast Air Basin is no longer in effect for NO_2 and PM sources.

In those areas for which the State of California has submitted approvable or conditionally approvable NAPs in accordance with the requirements of Part D of the Clean Air Act, EPA has a responsibility to take final action as soon as possible in order to lift the construction prohibition. Since the NO_2 and PM portions of the NAP are conditionally approvable for the South Coast Air Basin, EPA finds that good cause exists for making this action immediately effective. Under Section 307(b)(1) of the Clean Air Act, judicial review of today's final action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Conditional Approval Procedure

A discussion of conditional approval and its practical effect appears in two supplements to the General Preamble (44 FR 38583, July 2, 1979 and 44 FR 67192, November 23, 1979). Conditional approval of the NAP requires the State to submit additional meterial by the deadlines specified in today's notice. There will be no extensions granted to the condition of approval deadlines being promulgated today. EPA will follow the procedures described below when determining if the State has satisfied the conditions.

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the Federal Register announcing receipt of the material. EPA will also announce that the conditional approval is continued pending EPA's final action on the submittal.

2. EPA will evaluate the State's submittal to determine if the conditions are fully met. After EPA's review is completed, a Federal Register notice will be published proposing to either (1) find the conditions have been met and approve the submittal or (2) find the conditions have not been met and disapprove the submittal. If the submittal is disapproved, the Section 110(a)(2)(I) prohibitions on construction would be effective.

3. If the State fails to submit the required materials to meet a condition, EPA will publish a Federal Register notice shortly after the expiration of time limit for the submittal. The notice will announce that the conditional approval is withdrawn, the NAP is disapproved, and the Section 110(a)(2)(I) prohibition on construction is in effect.

Certain deadlines for satisfying conditions have been changed from those proposed and are being promulgated today without further notice and comment. EPA finds that for good cause additional notice and comment on these deadlines are unnecessary (see 5 U.S.C. Section 553(b)(B), Administrative Procedure Act). The State is the party responsible for meeting the deadlines and the State has agreed to the deadlines. In addition, the public has had an opportunity to comment generally on the concept of conditional approval and on what deadlines should apply for these conditions (44 FR 38583, July 2, 1979 and 45 FR 21271, April 1, 1980).

40 CFR Part 52 Rescissions

EPA is taking final action to rescind certain federally promulgated regulations from 40 CFR Part 52 as proposed. No supplemental revisions or public comments addressed EPA's proposed rescissions.

VOC RACT Requirements

The April 4, 1979 General Preamble (44 FR 20376) requires agencies to submit VOC RACT regulations for certain sources located in ozone nonattainment areas. The first set of RACT regulations were required for sources covered by the Group I CTG documents published before January 1978. Regulations for sources covered by the Group I documents were to have been submitted by January 1, 1979. A second set of RACT regulations are required for sources covered by the GROUP II CTG documents, published between January 1978 and January 1979. Regulations for sources covered by the Group II documents were to have been submitted by January 1, 1981 (45 FR 78121, November 5, 1980). Regulations must be submitted in order for the Part D requirements of the ozone portion of the South Coast Air Basin NAP to be fully approvable. Further, these requirements have been set forth in 40 CFR 52.223.

Attainment Dates

The 1979 edition of 40 CFR Part 52 lists, in the Subpart for California, the applicable deadlines for attaining the NAAQS (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a NAP provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on California's attainment date chart in 40 CFR Part 52. The earlier attainment dates will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as the new Section 172 requirements. Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements, and to permit previously uncontrolled sources to comply with the newly applicable emission limitations. These new deadlines were not included to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As noted by

Congressman Paul Rogers in discussing the 1977 Amendments.

Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable," but not later than three years after approval of a plan. This provision was not changed by the 1977 Amendments.

It would be a perversion of clear Congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the National Ambient Air Quality Standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D (123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond the attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions, even though a NAP with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment (44 FR 20373–74, April 4, 1979).

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a NAP imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

Note.—EPA has determined that this action is "specialized," and therefore not subject to the procedural requirements of Executive Order 12044.

Authority: Sections 110, 129, 171–178, and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7410, 7429, 7501–7508, and 7601(a)].

Dated: January 12, 1981.

Douglas M. Costle,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1980.

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

Subpart F—California

1. Section 52.220, paragraph (c) is amended by adding subparagraphs (47)(i)(B), (58)(ii), (63), (65), (66), (67), (68), (69,) and (70), as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(47) * * *

(i) * * *

(B) New or amended rules 462, 481, and 1104.

(58) * * *

(ii) South Coast AQMD.

(A) New or amended Rules 1107, 1108, 1108.1 and 1128.

* * * * *

(63) The following portions of the *California Environmental Quality Act* submitted on October 20, 1980, by the Governor's designee: Sections 21000; 21001; 21002; 21002.1; 21061; 21063; 21065; 21080.1; 21080.4; 21080.5 (a), (b), (c) and (d); 21081; 21082; 21100; 21104; 21151; 21153; 21160.

* * * * *

(65) The *South Coast Air Basin Control Strategy* (Chapter 18 of the Comprehensive Revision to the State of California Implementation Plan for the Attainment and Maintenance of Ambient Air Quality Standards), submitted on July 25, 1979 by the Governor's designee. Those portions of the *South Coast Air Basin Control Strategy* identified by Table 18–1, "Location of Plan Elements Which Meet Clean Air Act Requirements," together with Rules 1115 and 1126, comprise the submitted nonattainment area plan control strategy. The remaining portions are for informational purposes only.

(66) Revised regulations for the following APCD's, submitted on February 7, 1980, by the Governor's designee.

(i) South Coast AQMD.

(A) New or amended Rule 461.

(67) Revised regulations for the following APCD's, submitted on April 2, 1980, by the Governor's designee.

(i) South Coast AQMD.

(A) New or amended Rule 1122.

(68) Revised regulations for the South Coast AQMD, submitted on April 3, 1980, by the Governor's designee.

(i) New or amended Rules 1301, 1303, 1304, 1305, 1306, 1307, 1310, 1311, and 1313.

(69) Revised regulations for the South Coast AQMD submitted on April 23, 1980, by the Governor's designee.

(i) New or amended Rules 464, 465, 1123, and 1125.

(70) Revised regulations for the following APCD's submitted on August 15, 1980, by the Governor's designee.

(i) South Coast AQMD.

(A) New or amended Rules 1302 and 1308.

2. Section 52.222 is amended by adding subparagraph (b)(2), and removing and reserving paragraph (c), as follows:

§ 52.222 Extensions.

* * * * *

(b) * * *

(2) South Coast Air Basin for NO_2 and particulate matter (PM).

(c) [Reserved].

* * * * *

3. Section 52.223 is amended by adding subparagraphs (b)(3), (c), and (c)(1) as follows:

§ 52.223 Approval status.

* * * * *

(b) * * *

(3) South Coast Air Basin for NO_2 and PM.

* * * * *

(c) The Administrator finds that the plan does not satisfy all the requirements of Part D, Title I of the Clean Air Act as amended in 1977, for the nonattainment areas listed in this paragraph.

(1) South Coast Air Basin for ozone and CO.

4. In § 52.229, paragraph (a) is removed and reserved.

5. Section 52.223 is amended by adding subparagraph (a)(3), as follows:

§ 52.232 Part D conditional approval.

(a) * * *

(3) *The South Coast Air Basin portion of the California SIP.* The following material must be submitted as SIP revisions by the following dates.

(i) For ozone, CO, NO_2 and PM:

(A) By May 7, 1981, the NSR rules must be revised and submitted as an SIP revision. The rules must satisfy Section 173 of the Clean Air Act and 40 CFR 51.18, "Review of new sources and modifications." In revising the South Coast AQMD's NSR rules, the State/AQMD must address (1) any new requirements in EPA's amended regulations for NSR (45 FR 31307, May 13, 1980 and 45 FR 52676, August 7, 1980) which the AQMD rules do not currently satisfy and (2) those deficiencies cited in EPA's Evaluation Report Addendum which still apply despite EPA's new NSR requirements (contained in Document File NAP–CA–9 at the EPA Library in Washington, D.C. and the Regional Office).

(B) By May 20, 1981. A commitment to submit annual implementing agency fiscal and personnel commitments to implement the South Coast Air Basin NAP.

(ii) For ozone and CO:

(A) By May 20, 1981. A refined emission inventory for the South Coast

Air Basin for (1) CO which is based upon winter emissions and (2) for VOC.

(B) By May 20, 1981. Revised emission reduction estimates for each year for the adopted control measures which are based upon the refined emission inventories.

(C) By May 20, 1981. A schedule for the submittal of the revised emission reduction estimates for the pre-1982 control measures that are not yet adopted.

(D) By May 20, 1981. Written evidence of local adoption of legally enforceable commitments and implementation schedules consistent with reasonable further progress for the six adopted transportation control measures.

(E) By May 20, 1981. A schedule to analyze alternative packages of transportation control measures, including but not limited to those measures listed in Section 108(f)(1)(A) of the Clean Air Act.

(F) By May 20, 1981. The Southern California Association of Governments (SCAG) greater weight and equal proportion programming policy and procedures as they relate to prioritization and funding of "air quality projects" and "Highway Projects" and justification that the NAP provisions are consistent with Section 176(d) of the Clean Air Act.

(iii) For particulate matter:

(A) By December 31, 1981, a refined emission inventory which includes estimates of emissions from fugitive dust sources for the South Coast Air Basin.

(B) By December 31, 1981, documentation for the PM design value used to determine the allowable PM emission level, and a modeling analysis using the new emissions inventory data which shows the emission reductions necessary to provide for attainment of the PM NAAQS by December 31, 1982.

(C) By December 31, 1981, revised emission reduction estimates per control measure for each year which are based upon the revised emission inventory.

(D) By May 20, 1981. A commitment and schedule to study and adopt non-traditional PM control measures and a commitment to implement those control measures necessary to provide for attainment.

(iv) For nitrogen dioxide:

(A) By May 20, 1981. An annual average emission inventory for the South Coast Air Basin.

(B) By May 20, 1981. The results of an air quality analysis giving a preliminary quantification of the total emission reductions needed to attain the NO_2 NAAQS.

(C) By May 20, 1981. Revised emission reduction estimates for each year which are based upon the revised emission inventory for the control measures that are adopted.

(D) By May 20, 1981. A schedule and work program for the submittal of a detailed air quality analysis giving the final quantification of the needed emission reductions needed to attain the NO_2 NAAQS.

(E) By May 20, 1981. A commitment and schedule to develop and adopt NO_2 control measures and a commitment to implement those control measures necessary to provide for attainment.

6. Section 52.233 is revised by adding subparagraph (a)(3), as follows:

§ 52.233 Review of new source and modifications.

(a) * * *

(3) South Coast AQMD.

(i) In Rule 1306(a)(i), submitted on April 3, 1980, sentence 3 is disapproved.

(ii) In Rule 1306(d)(1)(B)(ii), submitted on April 3, 1980, the following portion of the rule is disapproved: "which have occurred during the highest three years of the last five year period, divided by three, provided the applicant demonstrates that such permit units have been operated at least 90 days during each of such three years."

(iii) In Rule 1307(a) submitted on August 15, 1980, the following portion of the rule is disapproved: "greater than 68 kilograms (150 pounds) per day, except carbon monoxide, for which the value is an increase greater than 340 kilograms (750 pounds) per day."

7. Section 52.237 is amended by adding subparagraph (a)(1), as follows:

§ 52.237 Part D disapproval.

(a) The following portions of the California SIP are disapproved because they do not meet the requirements of Part D of the Clean Air Act.

(1) The portions of the *South Coast Air Basin Control Strategy* that pertain to an I/M program.

8. Section 52.252 is amended by adding subparagraph (b)(2)(ii) to read as follows:

§ 52.252 Control of degreasing operations.

* * * * *

(b) * * *

(2) * * *

(ii) South Coast AQMD.

* * * * *

9. In § 52.238, the "Metropolitan Los Angeles Intrastate" line is revised to read as follows:

§ 52.238 Attainment dates for national standards.

* * * * *

Air quality control region and nonattainment area	Pollutants						
	TSP		SO_x		NO_x	CO	O_x
	Primary	Secondary	Primary	Secondary			
* * *	*	*	*	*	*		
South Coast Air Basin	h	c	d	e	h	i	i

10. Section 52.253 is amended by revising paragraph (b)(2) to read follows:

§ 52.253 Metal surface coating thinner and reducer.

* * * * *

(b) * * *

(2) In the following portions of the Metropolitan Los Angeles Intrastate Region, this section is either fully rescinded or partially rescinded subject to the conditions specified as follows:

(i) This section is fully rescinded for the Ventura County APCD.

(ii) This section is rescinded for magnet wire insulators, can and coil coaters, metal parts coaters, and auto assembly line coaters which are subject to and in full compliance with Rules 1107, 1115, 1125, and 1126 in the South Coast AQMD.

* * * * *

11. Section 52.255 is amended by removing and reserving paragraph (b)(1)(vii), and by adding paragraph (b)(3) to read as follows:

§ 52.255 Gasoline transfer vapor control.

* * * * *

(b) * * *

(3) The control requirements of this section are rescinded in the following air pollution control districts:

(i) South Coast AQMD.

* * * * *

12. Section 52.256 is amended by revising paragraph (b) to read as follows:

§ 52.256 Control of evaporative losses from the filling of vehicular tanks.

* * * * *

(b) This section is applicable in the Metropolitan Los Angeles, Sacramento

Valley and San Joaquin Valley Intrastate Air Quality Control Regions, except as follows:

(1) In the following portions of the Metropolitan Los Angeles Intrastate Region, this section is rescinded.

(i) South Coast AQMD.

* * * * *

[FR Doc. 81-2095 Filed 1-20-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-1-FRL 1729-8]

Approval and Promulgation of Implementation Plans; Revision

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: The Director of the Rhode Island Department of Environmental Management (DEM) submitted on August 28, 1980 a request for EPA approval of a revision to the Rhode Island State Implementation Plan (SIP). This revision constitutes a variance from Regulation 8, "Sulfur Content of Fuels" of DEM's Rules and Regulations for the Prevention, Control and Abatement, and Limitation of Air Pollution which requires fuel oil burning sources to use fossil fuel containing 0.55 pounds or less of sulfur per million Btu heat release (approximately equivalent to 1 percent by weight). The revision allows an alternative emission reduction option for control of sulfur dioxide in accordance with EPA's controlled trading policy (Federal Register Vol. 44, No. 239, Tuesday, December 11, 1979), commonly refered to as the "Bubble Policy." This revision allows the Narragansett Electric Company to increase its sulfur-in-fuel oil content from 1 percent to 2.2 percent at its electric power generating station on South Street in Providence during such times that it ceases operation or burns natural gas at its electric power generating station on Manchester Street in Providence. EPA published a proposed approval of this revision on October 24, 1980 (45 FR 70513). No letters of comment were received during the thirty (30) day comment period which ended November 24, 1980. EPA is today approving this revision.

EFFECTIVE DATE: January 21, 1981.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, Air Branch, Environmental Protection Agency, Region I, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203, (617) 223-4448.

ADDRESSES: Copies of the Rhode Island revision document, which is incorporated by reference, are available for public inspection during regular business hours at the Environmental Protection Agency, Region I, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Room 8401, Washington, D.C. 20460; and the Rhode Island Department of Environmental Management, 75 Davis Street, Room 204, Cannon Building, Providence, Rhode Island 02908.

SUPPLEMENTARY INFORMATION: On October 24, 1980 (45 FR 70513) EPA proposed approval of a revision to the Rhode Island SIP which would allow the Narragansett Electric Company (NEC) to increase its sulfur-in-fuel oil limit from 1 percent to 2.2 percent at its electric power generating station on South Street in Providence when it ceases operation or burns natural gas at its electric power generating station on Manchester Street in Providence. This revision involves a variance from Regulation 8, "Sulfur Content of Fuels," of DEM's Rules and Regulation for the Prevention, Control and Abatement, and Limitation of Air Pollution and is being undertaken in accordance with EPA's controlled trading policy (Federal Register, Vol. 44, No. 239, Tuesday, December 11, 1979), commonly referred to as the "Bubble Policy."

The SIP revision and EPA's reasons for approving it were explained in the Notice of Proposed Rulemaking, cited above, and will not be repeated here. No comments having been received, EPA is now taking final action to approve the revision.

EPA finds good cause for making this revision immediately effective for the following reasons:

1. The revision to the SIP is already in effect under State law and EPA approval imposes no additional regulatory burden.

2. The NEC estimates fuel cost savings of 2.7 to 4 million dollars annually as a result of the revision.

3. The revision will result in a 600,000 barrel per year reduction of imported oil.

Under Section 307(b)(1) of the Clean Air Act, judicial review of (this action) is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

After evaluation of the State's submittal, the Administrator has determined that the Rhode Island revision meets the requirements of the Clean Air Act and 40 CFR part 51. Accordingly, this revision is approved as a revision to the Rhode Island SIP.

(Sec. 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq.)

Dated: January 12, 1981.

Douglas M. Costle,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the state of Rhode Island was approved by the Director of the **Federal Register** on July 1, 1980.

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

Subpart 00—Rhode Island

1. Section 52.2070, paragraph (c) is amended by adding subparagraph (13) as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) * * *

(13) A revision to Regulation 8, "Sulfur Content in Fuels," for the Narragansett Electric Company, Providence, submitted on August 28, 1980 by the Director of the Department of Environmental Management.

[FR Doc. 81-2072 Filed 1-19-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 180

[PH-FRL 1731-4; PP 4F1514/R296]

Polyamide Polymer Derived From Sebacic Acid

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for polyamide polymer derived from sebacic acid, vegetable oil acids with or without dimerization, terephthalic acid and/or ethylenediamine when used as an encapsulating medium for methoprene only.

EFFECTIVE DATE: Effective on January 21, 1981.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M-3708, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: John Shaughnessy, Registration Division (TS-767), Office of Pesticide Programs,