

approval of an abbreviated new animal drug application (ANADA) filed by Inhalon Pharmaceuticals, Inc. The ANADA provides for the use of a generic isoflurane for induction and maintenance of anesthesia in horses and dogs.

**EFFECTIVE DATE:** August 29, 1994.

**FOR FURTHER INFORMATION CONTACT:** Larry D. Rollins, Center for Veterinary Medicine (HFV-110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1612. **SUPPLEMENTARY INFORMATION:** Inhalon Pharmaceuticals, Inc., P.O. Box 21170, Lehigh Valley, PA 18002, filed ANADA 200-141, which provides for the use of a generic isoflurane (99.9 percent isoflurane solution) for induction and maintenance of anesthesia in horses and dogs.

Inhalon Pharmaceuticals' ANADA 200-141 for isoflurane is approved as a generic copy of Anaquest's NADA 135-773 for isoflurane. The ANADA is approved as of July 26, 1994, and the regulations are amended in 21 CFR 529.1186 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In addition, Inhalon Pharmaceuticals, Inc., has not previously been listed in 21 CFR 510.600 (c)(1) and (c)(2) as sponsor of an approved application. That section is amended to add entries for the firm.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

**List of Subjects**

**21 CFR Part 510**

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

**21 CFR Part 529**

**Animal drugs.**

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 529 is amended as follows:

**PART 510—NEW ANIMAL DRUGS**

1. The authority citation for 21 CFR part 510 continues to read as follows:

**Authority:** Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

2. Section 510.600 is amended in the table in paragraph (c)(1) by adding alphabetically a new entry for "Inhalon Pharmaceuticals, Inc." and in the table in paragraph (c)(2) by adding numerically a new entry for "060307" to read as follows:

**§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.**

Firm name and address		Drug labeler code
Inhalon Pharmaceuticals, Inc., P.O. Box 21170, Lehigh Valley, PA 18002		060307
(2) * * *		
Drug labeler code	Firm name and address	
060307	Inhalon Pharmaceuticals, Inc., P.O. Box 21170, Lehigh Valley, PA 18002	

**PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS**

1. The authority citation for 21 CFR part 529 continues to read as follows:

**Authority:** Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

**§ 529.1186 [Amended]**

2. Section 529.1186 *Isoflurane* is amended in paragraph (b) by removing the phrase "Nos. 010019 and 000074" and adding in its place "Nos. 010019, 000074, and 06037".

Dated: August 19, 1994.

**Stephen F. Sundlof,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 94-21158 Filed 8-26-94; 8:45 am]

**BILLING CODE 4160-01-M**

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 117**

[CGD05-94-08]

**Drawbridge Operation Regulations; Spa Creek, MD**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** The Coast Guard is changing the regulations governing the SR 181 bridge over Spa Creek, mile 0.4, in Annapolis, Maryland, by restricting the number of bridge openings during the boating season between the hours of 7:30 p.m. to 7:30 a.m. This rule is intended to provide for regularly scheduled drawbridge openings to help reduce motor vehicle traffic delays and congestion on the roads and highways linked by this drawbridge.

**DATES:** This rule is effective August 29, 1994. Comments must be received on or before October 28, 1994.

**ADDRESSES:** Comments may be mailed to Commander (ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, or may be delivered to room 109 at the same address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (804) 398-6222. Comments will become part of this docket and will be available for inspection or copying at room 109, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004.

**FOR FURTHER INFORMATION CONTACT:** Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (804) 398-6222.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD5-94-008) and the specific section of this rule to which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be

submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Commander (ob) at the address under ADDRESSES. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

#### Drafting Information

The drafters of this notice are Linda L. Gilliam, Project Officer, and LT Monica L. Lombardi, Project Attorney, Fifth Coast Guard District.

#### Regulatory History

The current regulations for the SR 81 drawbridge were published in the Federal Register (54 FR 34530) as a proposed rule on August 21, 1989, and the proposal was announced in a Public Notice dated September 11, 1989. Comments were solicited through October 5, 1989, and three comments were received. The final rule was published in the Federal Register (55 FR 4603) on February 9, 1990, and the rule was also announced in a Public Notice dated March 7, 1990.

#### Background and Purpose

The Maryland Department of Transportation has requested further regulation of the drawbridge across Spa Creek, mile 0.4, at Annapolis, Maryland. The request specified is for the evening hours during the boating season. The Coast Guard is restricting the number of openings for the passage of vessels from May 1 to October 31 from 7:30 p.m. to 7:30 a.m., Monday through Friday, except Federal holidays.

The current regulation, § 117.571(a)(3), states that the draw shall open on signal for the passage of vessel traffic from May 1 to October 31 from 7:30 p.m. to 7:30 a.m., Monday through Friday, except Federal holidays. However, Public Notice 5-709 issued March 7, 1990, incorrectly published § 117.571(a)(3) to reflect that from May 1 to October 31 from 7:30 p.m. to 7:30 a.m. the draw will open for vessel traffic on the hour and half-hour. The Maryland Department of Transportation, State Highway Division, was provided with a copy of this notice and has been operating the draw according to this

public notice since early 1990. They wish to continue operating the bridge on the hour and half-hourly schedule from 7:30 p.m. to 7:30 a.m. that was published in the public notice, as opposed to the "open on signal" schedule contained in the Federal regulation. The Coast Guard has not received any complaints from the boating community, and the operating schedule has been posted on the bridge. Good cause exists for publishing this rule without notice and opportunity for comment, and making it effective less than 30 days after publication because the Maryland Department of Transportation has been operating the bridge according to this schedule since 1990, and this schedule has been acceptable for both boating and vehicle traffic. This rule should be effective immediately to bring this rule into conformity with prior practice as soon as possible.

#### Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the U.S. Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the regulatory flexibility requirements. Although exempt, the Coast Guard has reviewed this rule for potential impact on small entities.

Because it expects the impact of this rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. If, however,

you think that your business qualifies as a small entity and that this rule will have a significant economic impact on your business, please submit a comment (See ADDRESSES) explaining why you think your business qualifies and in what way and to what degree this rule will economically affect your business.

#### Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12812, and it has been determined that this rule will not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

#### Environment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2.g.(5) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

In consideration of the foregoing, the Coast Guard is amending Part 117 of Title 33, Code of Federal Regulations, as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.571(a)(3) is revised to read as follows:

#### § 117.571 Spa Creek.

\* \* \* \* \*

(a) \* \* \*

(3) The draw shall open on the hour and half hour, from 7:30 p.m. to 7:30 a.m.

\* \* \* \* \*

Dated: July 22, 1994.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Commander,  
Fifth Coast Guard District.

[FR Doc. 94-21145 Filed 8-26-94; 8:45 am]

BILLING CODE 4910-14-M

## 33 CFR Part 165

[CGD09-94-027]

RIN 2115-AA97

**Safety Zone; RIU 2115-AA97—Lake Erie, in the Vicinity of Euclid, OH**

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule with request for comments.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on Lake Erie with a one quarter mile radius centered on 41° 47.6'N, 081° 36.1'W. This safety zone is required to prevent recreational and commercial divers from tampering with the exposed valves on the tank barge Cleveco which sank at its present location in 1942 with an unknown quantity of oil onboard. This safety zone is also required to prevent personnel not involved with the federalized salvage actions from hindering or obstructing surface and subsurface operations.

**DATES:** This regulation becomes effective at 2:30 p.m. EST July 16, 1994, and terminates at 11 a.m. EST January 1, 1995, unless terminated earlier by the Coast Guard Captain of the Port, Cleveland, Ohio. Comments must be received on or before October 28, 1994.

**ADDRESSES:** Written comments may be mailed to Commander, Ninth Coast Guard District, Attn: Chief, Port and Environmental Safety Branch, 1240 E. 9th Street, Cleveland, OH 44199.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (Junior Grade) Eric M. King, Chief, Port Operations, Marine Safety Office Cleveland, Ohio at (216) 522-4405.

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective less than 30 days after *Federal Register* publication. Publication of a notice of proposed rulemaking and delay in the effective date would be contrary to the public interest because immediate action is necessary to prevent possible loss of life, injury, or damage to property or the environment.

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under **ADDRESSES** in this preamble. Commenters should include their names and addresses, identify the docket

number for the regulation, and give reason for their comments. Based upon comments received, the regulation may be changed.

**Background and Purpose**

On July 14, 1994, the Army Corps of Engineers and the Coast Guard located the tank barge Cleveco, sunk nine miles offshore from Euclid, Ohio in Lake Erie. The tank barge rests keel up in 70 feet of water, and contains up to 800,000 gallons of oil. The Coast Guard is in the process of determining the structural integrity of the vessel and the quantity of oil onboard. Based on the findings of the investigation, the Coast Guard will supervise the removal of oil from the vessel and possible salvage operations. Due to the inherent dangers associated with the site and with this activity, the presence of persons or vessels in this area is not in the best interests of human safety or the marine environment. Therefore, persons and vessels will be prohibited from transiting this area.

Persons or vessels requiring entry into or passage through the safety zone must first request authorization from the Captain of the Port or his designated representative. The designated representative of the Captain of the Port is the senior Coast Guard commissioned, warrant, or petty officer on the vessel enforcing the safety zone, and the Command Duty Officer at Marine Safety Office Cleveland, Ohio. The senior officer on the vessel enforcing the safety zone can be contacted on VHF-FM Channel 16. The Captain of the Port, Cleveland, and the Command Duty Officer at Marine Safety Office Cleveland can be contacted at telephone number (216) 522-4405.

**Drafting Information**

The drafters of this regulation are Lieutenant (Junior Grade) Eric M. King, project officer, Chief, Port Operations, Marine Safety Office Cleveland, Ohio, Commander M. Eric Reeves, program staff officer, Chief, Marine Port and Environmental Safety Branch, Ninth Coast Guard District and Lieutenant Karen E. Lloyd, project attorney, Ninth Coast Guard District Legal Office.

**Environment**

The Coast Guard has considered the environmental impact of this regulation and concluded that, under section 2.B.2.c of Coast Guard Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation, and has so certified in the docket file.

**Federalism**

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Regulatory Evaluation**

This regulation is considered to be nonsignificant under Executive Order 12866 on Regulatory Planning and Review and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034 of February 26, 1979).

**Collection of Information**

This regulation will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

**Authority:** This regulation is issued pursuant to 33 U.S.C. 1231, as set out in the authority section for all of Part 165.

**List of Subjects in 33 CFR Part 165**

Harbors, marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

**Regulations**

In consideration of the foregoing, Subpart F of Part 165 of title 33, Code of Federal Regulations, is amended as follows:

**PART 165—[AMENDED]**

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-6, and 160.5; and 49 CFR 1.46.

2. A new temporary § 165.T09-027 is added to read as follows:

**§ 165.T09-027 Safety Zone: Lake Erie, in the Vicinity of Euclid, OH.**

(a) *Location.* The following area is a safety zone: the waters of Lake Erie within a one quarter mile radius from 41° 47.6'N, 081° 36.1'W and the waters of Lake Erie beneath this area.

(b) *Effective times and dates.* This section becomes effective at 2:30 p.m. EST July 16, 1994, and terminates at 11 a.m. EST January 1, 1995, unless terminated earlier by the Coast Guard Captain of the Port.

(c) *Restrictions.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port or his designated representative. The safety zone encompasses lake surface areas as

well as all waters extending to the lake bottom.

Dated: July 16, 1994

J.L. Grenier,

Commander, U.S. Coast Guard, Captain of the Port, Cleveland.

[FR Doc. 94-21143 Filed 8-26-94; 8:45 am]

BILLING CODE 4910-14-M

### 33 CFR Part 165

[COTP Jacksonville Regulation 94-089]

RIN 2115-AA97

#### Safety Zone Regulations; St. Johns River, Jacksonville, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone on the St. Johns River in Jacksonville, FL. The safety zone is needed to protect boaters from the hazards associated with the Greater Jacksonville Offshore Grand Prix power boat time trials. Boats will be travelling at high rates of speed for approximately 1 Kilometer between the Hart and Main Street bridges.

Anchoring, mooring, or transiting within this zone is prohibited, unless authorized by the Captain of the Port.

**EFFECTIVE DATE:** This regulation becomes effective at 11 a.m. Eastern Daylight Time (EDT) on August 27, 1994 and terminates at 3 p.m. August 27, 1994 unless terminated earlier by the Captain of the Port.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant A. J. Varamo, Marine Safety Office Jacksonville at Tel: (904) 232-2648.

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to potential hazards to the spectators involved.

#### Drafting Information

The drafters of this regulation are Lieutenant A. J. Varamo, project officer for the Captain of the Port, and Lieutenant J. M. Losego, project attorney, Seventh Coast Guard District Legal Office.

#### Discussion of Regulation

The event requiring this regulation is a safety zone for all waters of the St.

Johns River between the Hart and Main Street Bridges. The safety zone is required to protect boaters from the hazards associated with high speed boats participating in time trials for the Greater Jacksonville Offshore Grand Prix Race on August 28, 1994. The event will require the sheltered environment of the river to perform accurate time trials for the participating power boats. Vessels will be prohibited from anchoring, mooring, or transiting the St. Johns River within the prescribed area during the prescribed times to prevent injury to spectators from hazards associated with the event.

This regulation is issued pursuant to 33 U.S.C. 1231 as set out in the authority citation for all of Part 165.

#### Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal consistent with Section 2.B.2.C of Commandant Instruction M16475.1B and actions to protect public safety have been determined to be categorically excluded from further environmental documentation.

#### Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Principle commercial users of the waterway have been contacted and no objections have been raised concerning the safety zone. Race organizers will provide sufficient time between heats to allow commercial vessels to transit that portion of the river while the safety zone is in effect. The safety zone will be in effect for a total of 4 hours on August 27, 1994.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

#### Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

#### PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

2. A new section § 165.T07-089 is added to read as follows:

#### § 165.T07-089 Safety Zone: St. Johns River, Jacksonville, Florida

(a) *Location.* The following area is a safety zone: All waters of the St. Johns River between the Hart and Main Street Bridges off Metropolitan Park, Jacksonville, Florida.

(b) *Effective date.* This section becomes effective at 11 a.m. EDT on Saturday, August 27, 1994. It terminates at 3 p.m. EDT on Saturday, August 27, 1994, unless terminated earlier by the Captain of the Port.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(2) This section does not apply to authorized law enforcement agencies operating within the safety zone.

Dated: August 12, 1994.

D. F. Miller,

Commander, U.S. Coast Guard, Alternate Captain of the Port, Jacksonville, Florida.

[FR Doc. 94-21144 Filed 8-26-94; 8:45 am]

BILLING CODE 4910-14-M

### 33 CFR Part 165

[CGD13-90-003]

RIN 2115-AE84

#### Regulated Navigation Area; Puget Sound and Adjacent Waters in Northwestern Washington

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** This rule revises the Regulated Navigation Area (RNA) in Puget Sound and adjacent waters in northwestern Washington.

This amendment is needed due to the large numbers of user conflicts and potentially hazardous situations which frequently develop during periods of vessel traffic congestion within the area, e.g., all citizens gillnet fishery. The intended effect of this action is to prevent vessel collisions and groundings, loss of property, loss of life, and environmental damage, resulting from conflicts between the varied users of these waters, including fishing vessels, pleasure craft, ferries, towboats, and deep draft vessels.

**EFFECTIVE DATE:** September 28, 1994.

**FOR FURTHER INFORMATION CONTACT:** LCDR M. E. Ashley, USCG, Puget Sound Vessel Traffic Service, telephone (206) 217-6040.

**SUPPLEMENTARY INFORMATION:**

**Drafting Information**

The principle persons involved in drafting this regulation are LCDR M. E. Ashley, USCG, Project Manager and LT L. Argenti, USCGR, Project Counsel.

**Regulatory History**

On October 1, 1990, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Regulated Navigation Area; Puget Sound, WA in the *Federal Register* (55 FR 39986). Based on oral testimony at an October 11, 1990 public hearing and written comments received through November 15, 1990, the Coast Guard determined the need for substantial revision and additional comment. On July 31, 1991 the Coast Guard published a supplemental notice of proposed rulemaking (SNPRM) in the *Federal Register* (56 FR 36121). Based upon 13 written comments received in response to that notice, and experience gained during trials of the procedures conducted during the 1990, 1991, and 1992 salmon fishing seasons, the Coast Guard submits this final rule.

**Background and Purpose**

On August 13, 1984 the Coast Guard published a final rule to establish a Regulated Navigation Area in Puget Sound and adjacent waters in northwestern Washington. The final rulemaking re-established provisions of a former U.S. Army Corps of Engineers' regulation. The regulation also established procedures for Puget Sound Vessel Traffic Service (PSVTS) to activate Temporary Special Traffic Lanes (TSTL) to facilitate the safe and orderly passage of navigation during

periods of vessel traffic congestion. When activated, the TSTL was a temporary 1000 yard wide traffic lane that was required to be vacated for through vessel traffic. Activating the TSTL confined two way ship traffic to a one-half mile wide lane and eliminated the separation zone of the Traffic Separation Scheme (TSS). After several years of experience, the TSTL proved to be ineffective in reducing user conflicts. Vessels following the TSTL were forced to maneuver to avoid concentrations of boats and nets, resulting in frequent close-quarters situations, both with fishing vessels and with opposing through traffic within the TSTL.

The October 1, 1990 NPRM proposed to eliminate provisions for the TSTL and associated implementing requirements. The NPRM also proposed the following new requirements: non-through traffic to clear the Traffic Lanes 15 minutes before the arrival of through traffic; prohibited fishing areas in the Edmonds/Kingston, Mukilteo/Clinton, and Fauntleroy/Vashon/Southworth ferry crossing routes; a prohibited fishing area at the Hood Canal bridge; and, vessels in the TSS to monitor the Vessel Traffic Service (VTS) VHF working frequency.

The July 31, 1991 SNPRM proposed to: (1) Discontinue the TSTL; (2) require non-through traffic to clear the Traffic Lanes 15 minutes before the arrival of through traffic; (3) prohibit fishing in the Edmonds/Kingston ferry crossing lane and in the vicinity of the drawspan of the Hood Canal Bridge (the prohibitions against fishing in the Mukilteo/Clinton, and Fauntleroy/Vashon/Southworth ferry crossing lanes proposed in the NPRM, were deleted from the SNPRM); (4) encourage vessels in the TSS to monitor the PSVTS marine radio frequency, vice require, as proposed in the NPRM; (5) delete the requirement proposed in the NPRM for vessels transiting the TSS to sound special signals when approaching areas of congestion; (6) limit speed by vessels transiting the TSS to 11 knots, vice 8 knots, as proposed in the NPRM; (7) require vessels engaged in gillnet fishing to display a 32 point white light at the end of the net most distant from the vessel (deleted from final rule because already included in existing rule); (8) provide for means of authorizing deviations from rule.

**Discussion of Comments and Changes**

The following discussion is based on the 13 written comments to the SNPRM and the experience gained through the procedural trials during the 1990, 1991, and 1992 salmon fishing seasons:

(1) *Elimination of the TSTL.* Three comments were received in support of elimination of the TSTL. No comments were received in objection to the proposal. Experience with the TSTL has demonstrated that even with enforcement vessels on scene, the Coast Guard had difficulty keeping the TSTL clear. Deep draft vessels following the lane were forced to maneuver to avoid concentrations of boats and nets, resulting in frequent close-quarters situations, both with fishing vessels and with opposing deep draft traffic within the single lane. The standard Traffic Separation Scheme (TSS) is designed to promote safety by directing vessel traffic through distinct, separated routes. The TSS's are clearly delineated on all official marine charts of the Puget Sound region. Use of the TSS without the TSTL should eliminate confusion among waterway users.

(2) *Requirement for Congesting Traffic to Clear the Traffic Lanes.* Five comments were received in support of the proposed requirement for vessels not following the TSS to clear the lanes at least 15 minutes before the arrival of a vessel following the TSS. No comments were received in objection to the proposal. The Coast Guard remains convinced that the 15 minute rule is an important safety element in managing vessel traffic, especially in conjunction with the speed limit provision included in this final rule. The requirement for vessels engaged in fishing or other operations to draw in their gear, maneuver, or otherwise clear the traffic lane no later than 15 minutes before arrival of a vessel following the TSS applies to both lanes of the TSS. Puget Sound Vessel Traffic Service (PSVTS) will broadcast the estimated time of arrival (ETA) of vessels following the TSS when such vessels are approaching areas of vessel traffic congestion. Vessels operating in but not following the TSS must clear the traffic lane when a vessel following the TSS approaches. In addition, when operating in the TSS east of New Dungeness, vessels not following the TSS must also clear the adjacent separation zone and connecting precautionary areas. The requirement for vessels engaged in fishing, sailing vessels, and vessels of less than 20 meters in length not to impede vessels following a TSS is delineated in *Rule 10* of the International Regulations for Prevention of Collisions at Sea (72 COLREGS).

(3) *Prohibited Fishing Areas.* Two comments were received in support of the proposed prohibited fishing areas in the Edmonds/Kingston ferry crossing lanes and at the Hood Canal Bridge. No

comments were received in objection to the proposal.

In 1984, when the TSTL was first implemented, the 15 minute rule was applied to the Edmonds/Kingston ferry crossing lanes. This rule proved to be ineffective as a traffic management tool. Ferry transit frequency coupled with the time required to set and retrieve nets caused ferries to be constantly stopped and delayed. The Coast Guard received numerous complaints from ferry commuters. Members of the Washington Congressional delegation also received numerous complaints and asked the Coast Guard to find a solution. During the 1990 and 1991 fishing seasons, PSVTS issued a "Vessel Traffic Service Direction", which prohibited fishing in the Edmonds/Kingston ferry crossing lanes when a hazardous level of vessel congestion was deemed to exist by PSVTS. During the 1992 fishing season, the Washington Department of Fisheries established a fisheries exclusion zone which prohibited "all citizen" fishing in an area encompassing the entire Edmonds/Kingston ferry crossing. These actions significantly decreased conflicts between ferries and fishing vessels, resulting in a much improved flow of ferry traffic along the route. There has also been a sharp reduction in the number of complaints received regarding ferry delays attributed to fishing vessels. Fishing will continue to be allowed within the Edmonds/Kingston ferry crossing lanes during nighttime periods when ferries do not operate.

Commanding Officers of U.S. Navy Trident Submarines and Commander, Submarine Group 9 have expressed grave concerns regarding the safety of fishing vessels that congregate near the drawspan of the Hood Canal Bridge and interfere with the passage of submarines. Submarines, while traveling on the surface at slow speed display poor maneuver capabilities. Fishing vessels clustered in the vicinity of the draw put themselves in danger and present an unnecessary hazard to transiting submarines. One supporter of the proposal described an extremely unsafe situation whereby vessels fishing in the area caused evasive maneuvering by a transiting U.S. Navy nuclear submarine. This rule establishes a prohibited fishing area within a one half nautical mile radius of the center of the draw of the Hood Canal Bridge to be in effect only when public vessels are transiting the draw.

(4) *Requirement to Listen to the VTS.* Four comments were received in support of the proposed requirement for vessels in the TSS to monitor the VTS frequency. No comments were received

in objection to the proposal. Despite the support of commenters to retain the VTS frequency monitoring requirement from the previous rule, this requirement has been deleted. The Bridge-to-Bridge Radiotelephone Act limits VHF requirements to certain classes of vessels which include power driven vessels of 20 meters and over in length. The majority of vessels which cause congestion in the TSS are less than 20 meters in length. Although not required to maintain a listening watch on the VTS Frequency, it is considered prudent for vessels of less than 20 meters in length to do so, and is highly encouraged. Experience and feedback from vessels following the TSS has shown that a key element to a safe transit through congested areas is the ability of fishing vessels and other craft to maintain a listening watch on VTS communications. PSVTS broadcasts the location, course, speed, and ETA of vessels following the TSS over VTS Frequencies. This information helps vessels causing congestion in the TSS to clear the traffic lanes and thereby comply with this regulation and the provisions of Rule 10 of the International Regulations for Prevention of Collisions at Sea (72 COLREGS). The information provided is particularly useful at night when darkness complicates maneuvering situations. Commenters noted that VHF communications between vessels allows a mariner to better discern a vessel's intentions, an integral element of safe passage. A safe alternative to the radio listening watch is to stay clear of the TSS.

(5) *Lights for Marking Fishing Gear.* The NPRM proposed to delete the provision of the existing rule that requires vessels engaged in fishing or other operations along the path of an approaching vessel in a traffic lane to show a quick flash of light and illuminate their nets or gear. Experience gained during previous salmon fishing seasons has shown this requirement to be ineffective and visually chaotic in congested areas. No comments were received on this proposal. The existing requirement for gillnetters to show a 32 point white light at the end of the net most distant from the fishing vessel has proven to be effective and has been retained in the final rule.

(6) *Sound Signal for Transiting Congested Areas.* Four comments were received in response to the proposal to allow the use of special sound signals by vessels transiting an area with heavy concentrations of vessels engaged in fishing or other operations. Two commenters opposed the use of any sound signal. One commenter stated

that the signal should be voluntary and one commenter stated that the signal should be mandatory. Opponents of the sound signal argued that it was in conflict with Rule 36 of the International Regulations for the Prevention of Collisions at Sea (72 COLREGS). This argument was reinforced by comments received from the Navigation Safety Advisory Council (NAVSAC). In response to the NPRM of October 1, 1990, NAVSAC acknowledged that mandatory use of the proposed signal may cause confusion with provisions of the 72 COLREGS. Most commenters asserted that the signals prescribed in Rule 34 and the guidance provided in Rule 36 of the 72 COLREGS should suffice when approaching areas of congestion. Commenters opposed to the signal were adamant that the Coast Guard should not define a signal to attract attention. In consideration of the comments received the Coast Guard will no longer define a specific signal to attract attention, but will continue to promote and encourage the use of such signals. Therefore, the sound signal provision has been eliminated from the final rule.

(7) *Speed Limit.* The SNPRM proposed an 8 knot speed limit for vessels making through transit of areas of congestion. Nine comments were received in response to the proposal. Three commenters, although not objecting to a speed limit, felt that 8 knots was too slow. Six commenters were adamantly opposed to the imposition of any speed limit. They argued that the existing regulations mitigate the need for a vessel following the TSS to reduce speed. Some argued that a speed reduction would create severe economic impact on carriers by causing delays and difficulties in meeting freight schedules. Some pointed out that Rule 6 of the 72 COLREGS already addresses safe speed and properly leaves the precise determination up to the vessel master based upon existing conditions. During the 1991 salmon fishing season, Puget Sound Vessel Traffic Service (PSVTS) issued a VTS direction which included an 8 knot speed limit. During the first half of the season, the direction encouraged the use of the 8 knot speed limit, but allowed vessel masters the discretion to transit at what they determined to be a safe speed. Most vessels slowed to some degree when approaching areas of congestion, but many deep draft vessels chose to transit in the 10-12 knot speed range for reasons of increased control and maneuverability. The inconsistent speeds made it difficult for PSVTS to

predict the precise arrival times of vessels following the TSS. During the second half of the season, the Coast Guard made the 8 knot speed limit mandatory except for those vessels whose handling characteristics made it impracticable. Most vessels following the TSS transited at 8 knots and it was noted that arrival times were more easily predicted and fishing boats were able to clear the lanes prior to arrival of the approaching vessel. Based on comment and experience gained during the 1991 season, PSVTS issued a VTS direction that set an 11 knot speed limit for the 1992 salmon fishing season. The speed limit was imposed on occasions when hazardous levels of vessel congestion were deemed to exist by PSVTS. These occasions included congestion caused by not only the commercial salmon fishing season, but recreational fishing and other marine activities. This speed limit was better received by the local maritime community and was followed without complaint by vessels following the TSS. The 11 knot speed limit has been included in the final rule.

The Coast Guard chose 11 knots for several reasons. Some commenters acknowledged the benefit of a speed limit, but felt that 8 knots was too slow. During the 1991 trial of the 8 knot speed limit, a few vessels reported that 8 knots was too slow for adequate maneuvering, but none claimed that they needed a speed greater than 11 knots. PSVTS Watch Supervisors noted that 10-11 knots was the typical speed at which vessels objecting to the 8 knot speed limit traveled. Also, 11 knots is the voluntary transit speed for tankers in adjoining Rosario Strait.

(8) *Deviation From the Regulation.* The SNPRM proposed a new section which provided criteria for the Coast Guard to authorize, in advance, deviations from the rule. Four comments were received in support of the provision proposed in the SNPRM to allow the Coast Guard to authorize deviations from the rule. No comments were received in opposition to the rule. However, one commenter noted that certain on-scene emergencies require immediate action which may prevent advance approval of a request for deviation. The rule takes this into account by providing that the master, pilot, or other person directing movement of a vessel may deviate from the rule to the extent necessary to avoid endangering persons, property, or the environment and shall report the deviation to the Vessel Traffic Center (VTC) as soon as possible.

### Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The economic impact of this action has been determined to be so minimal that a full Regulatory Evaluation is unnecessary. This decision is based on the infrequency of fishery openings, the arrival rate of vessels following the TSS, the usual practice of reducing speed when transiting areas of congestion, and the short distance to which the speed limit is applied. No adverse economic impact is expected on vessels following the TSS, as a result of this rule. Because of the infrequency of fishery openings the prohibited fishing areas are expected to have little or no impact on the overall success rate of the commercial fishing fleet. The requirement for gillnetters who fish in the TSS to mark their nets with an all-around white light should impose no economic impact on this group, because the majority already have this equipment. In addition, the light should reduce net loss and damage through net strikes by passing vessels.

### Small Entities

For reasons already given in the Regulatory Evaluation Section of this preamble, the Coast Guard expects this rule to have minimal impact on all entities coming under its provisions. In addition, no substantive comments concerning economic hardship due to the imposition of the rule, were received from potentially affected parties. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities.

### Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this final rule does not have sufficient federalism implications to warrant the preparation of a

Federalism Assessment. None of the comments received in response to the NPRM or SNPRM indicated that the rule would have an adverse impact on state fisheries regulations or Native American fishing rights.

### Environment

The Coast Guard considered the environmental impact of this action and concluded that preparation of an Environmental Impact Statement is not necessary. An Environmental Assessment and Finding of No Significant Impact are available in the docket for inspection and copying where indicated under "ADDRESSES". After reviewing the comments received and considering the effects of this action, it was concluded that the only environmental impact of this rulemaking would be to decrease the likelihood of either an oil spill or release of hazardous materials into the environment resulting from vessel collisions or groundings.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

### Final Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

### PART 165—[AMENDED]

1. The authority citation for Part 165 of Title 33, Code of Federal Regulations continues to read as follows:

**Authority:** 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5.

2. Section 165.1301 is revised to read as follows:

#### § 165.1301 Puget Sound, and Adjacent Waters in Northwestern Washington—Regulated Navigation Area.

The following is a regulated navigation area—All of the following northwestern Washington waters under the jurisdiction of the Captain of the Port, Puget Sound: Puget Sound, Hood Canal, Possession Sound, Elliott Bay, Commencement Bay, the San Juan Archipelago, Rosario Strait, Guemes Channel, Bellingham Bay, U.S. waters of the Strait of Juan de Fuca, Haro Strait, Boundary Pass, and Georgia Strait, and all lesser bays and harbors adjacent to the above.

(a) Definitions as used in this section:

(1) *Vessels engaged in fishing* are as identified in the definition found in Rule 3 of the International Regulations

for Prevention of Collisions at Sea, 1972, (72 COLREGS), found in Appendix A, Part 81 of this chapter.

(2) *Hazardous levels of vessel traffic congestion* are as defined at the time by Puget Sound Vessel Traffic Service.

(b) This section is intended to enhance vessel traffic safety during periods and in locations where hazardous levels of vessel traffic congestion are deemed to exist by Puget Sound Vessel Traffic Service.

Operations potentially creating vessel traffic congestion include, but are not limited to, vessels engaged in fishing, including gillnet or purse seine, recreational fishing derbies, regattas, or permitted marine events.

(c) *General regulations.* (1) Nothing in this section shall be construed as relieving any party from their responsibility to comply with applicable rules set forth in the 72 COLREGS.

(2) Vessels engaged in fishing or other operations—that are distinct from vessels following a Traffic Separation Scheme (TSS) or a connecting precautionary area east of New Dungeness, may not remain in, nor their gear remain in, a traffic lane or a connecting precautionary area east of New Dungeness when a vessel following a TSS approaches an area where hazardous levels of vessel traffic congestion are deemed to exist. Vessels not following a TSS or a connecting precautionary area east of New Dungeness shall draw in their gear, maneuver, or otherwise clear these areas so that their action is complete and the traffic lane and connecting precautionary area is clear at least fifteen minutes before the arrival of a vessel following the TSS. Vessels which are required by this section to leave the traffic lane or connecting precautionary area must also remain clear of the adjacent separation zone when in a TSS east of New Dungeness.

(3) Vessels engaged in fishing or other operations—that are distinct from vessels following a TSS or a connecting precautionary area east of New Dungeness and which are not required by the Bridge to Bridge Radiotelephone Regulations to maintain a listening watch, are highly encouraged to maintain a listening watch on the Puget Sound Vessel Traffic Service (PSVTS) VHF-FM radio frequency for the area in which the vessel is operating. A safe alternative to the radio listening watch is to stay clear of the TSS.

(4) Vessels engaged in fishing in a traffic lane or connecting precautionary area east of New Dungeness shall tend nets or other gear placed in the water so as to facilitate the movement of the vessel or gear from the traffic lane or

precautionary area upon the approach of a vessel following the TSS.

(5) Vessels engaged in gill net fishing at any time between sunset and sunrise in any of the above-listed waters shall, in addition to the navigation lights and shapes required by Part 81 of this title (72 COLREGS), display at the end of the net most distant from the vessel an all-round (32-point) white light visible for a minimum of two nautical miles and displayed from at least three feet above the surface of the water.

(6) A vessel following the TSS may not exceed a speed of 11 knots through the water when transiting areas where hazardous levels of vessel traffic congestion are deemed to exist.

(d) *Prohibited fishing areas.* Vessels engaged in fishing, including gillnet and purse seine fishing, are prohibited in the following areas:

(1) Edmonds/Kingston ferry crossing lanes, to include the waters within one-quarter nautical mile on either side of a straight line connecting the Edmonds and Kingston ferry landings during the hours that the ferry is operating.

(2) The Hood Canal Bridge, to include the waters within a one-half nautical mile radius of the center of the main ship channel draw span during the immediate approach and transit of the draw by public vessels.

(e) *Authorization to deviate from this section.* (1) Commander, Thirteenth Coast Guard District may, upon written request, issue an authorization to deviate from this section if the proposed deviation provides a level of safety equivalent to or beyond that provided by the required procedure. An application for authorization must state the need for the deviation and describe the proposed alternative operation.

(2) PSVTS may, upon verbal request, authorize a deviation from this section for a voyage, or part of a voyage, if the proposed deviation provides a level of safety equivalent to or beyond that provided by the required procedure. The deviation request must be made well in advance to allow the requesting vessel and the Vessel Traffic Center (VTC) sufficient time to assess the safety of the proposed deviation. Discussions between the requesting vessel and the VTC should include, but are not limited to, information on vessel handling characteristics, traffic density, radar contacts, and environmental conditions.

(3) In an emergency, the master, pilot, or person directing the movement of the vessel following the TSS may deviate from this section to the extent necessary to avoid endangering persons, property, or the environment, and shall report the

deviation to the VTC as soon as possible.

Dated: July 11, 1994.

J. W. Lockwood,

Rear Admiral, U.S. Coast Guard Commander,  
13th Coast Guard District.

[FR Doc. 94-21140 Filed 8-26-94; 8:45 am]

BILLING CODE 4910-14-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA83-1-6565a; FRL-5054-6]

### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

**SUMMARY:** EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). The revisions concern rules from the San Diego County Air Pollution Control District (SDCAPCD). This approval action will remove these rules from the federally approved SIP, as requested by the state. The removal of these rules from the SIP acknowledges that these rules are no longer necessary for achieving and maintaining the federal air quality standards because the sources subject to these rules no longer exist in the SDCAPCD. The rules that are being rescinded were originally approved into the SIP in order to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). They were adopted to control VOC emissions from the separation of oil-water mixtures. On the effective date of this action, any sanction or Federal Implementation Plan (FIP) requirement is permanently lifted.

EPA is finalizing the rescission of these rules from the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

**DATES:** This final rule action is effective on October 28, 1994, unless adverse or critical comments are received by September 28, 1994. If the effective date is delayed, a timely notice will be published in the *Federal Register*.

**ADDRESSES:** Copies of the rule revisions and EPA's evaluation report for each

rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105;

U.S. Environmental Protection Agency, Air Docket 6102, 401 "M" Street, SW., Washington, DC 20460;

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 92123-1095;

San Diego Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123-1096.

**FOR FURTHER INFORMATION CONTACT:** Erik H. Beck, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1190.

**SUPPLEMENTARY INFORMATION:**

**Applicability**

The rules being rescinded from the California SIP include: SDCAPCD Rule 61.9, "Separation of Organic Compounds from Water" and Rule 65, "Volatile Organic Compound Water Separators". This request to rescind was submitted to EPA on May 24, 1994. Rule 61.9 was adopted by the SDCAPCD on March 14, 1989, and was incorporated into the SIP on October 26, 1992 (57 FR 48457). Rule 65 was originally submitted to EPA as a SIP revision on June 30, 1972 and was approved into the SIP on September 22, 1972 (37 FR 19812). SIP revisions to this rule were submitted to EPA on October 13, 1977 and were approved into the SIP on August 31, 1978 (43 FR 38826).

**Background**

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included San Diego County. 43 FR 8964, 40 CFR 81.305. Because this area was unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987. (40 CFR 52.222). On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2) of the 1977 Act, that the above district's portion of the California SIP was inadequate to attain and maintain the ozone standard

and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.<sup>1</sup> EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. San Diego County is classified as Severe;<sup>2</sup> therefore, this area was subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on May 24, 1994, as well as the request to remove Rule 61.9 from the California SIP, which is being acted on in this notice. This notice addresses EPA's direct-final action for SDCAPCD Rule 61.9 and Rule 65.

The May 24, 1994 submittal to EPA from the State of California did not include a request to remove Rule 65 from the SIP. This request was made in the April 5, 1991 submittal to EPA which transmitted SDCAPCD Rule 61.9 for inclusion into the California SIP. With the adoption of Rule 61.9 by the SDCAPCD, Rule 65 was superseded by Rule 61.9. However, when EPA incorporated Rule 61.9 into the California SIP on October 26, 1992 (57 FR 48457), EPA did not remove Rule 65 from the SIP. That administrative oversight is being corrected with this notice, pursuant to section 110(k)(6).

<sup>1</sup> Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice" (Blue Book) (notice of availability was published in the Federal Register on May 25, 1988); and the existing control technique guidelines (CTGs).

<sup>2</sup> San Diego County retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

For purposes of its local regulations, SDCAPCD deleted Rule 65 on March 14, 1989, and deleted Rule 61.9 on April 19, 1994. The SIP submittals requesting deletion of these rules were found to be complete on May 21, 1991 (Rule 65) and on July 14, 1994 (Rule 61.9) pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, distinguished appendix V.<sup>3</sup>

These rules were originally adopted by the District to control VOC emissions from devices that remove oils from contaminated water. VOCs contribute to the production of ground level ozone and smog.

**EPA Evaluation**

EPA has evaluated the SDCAPCD's request to remove Rule 61.9 and Rule 65 from the California SIP and has determined that this request is consistent with the CAA, EPA regulations, and EPA policy because the SDCAPCD has demonstrated that there are no sources within the nonattainment area that would be subject to these requirements.<sup>4</sup> EPA has verified the absence of these sources by exhaustively searching EPA's Aerometric Information Retrieval System (AIRS) database for the existence of firms using wastewater separators, firms that had used wastewater separators in the past, and for the existence of firms whose industrial processes would suggest that they would use wastewater separators. No firms meeting these criteria were found. Therefore, SDCAPCD Rule 61.9 and 65 are being rescinded from the California SIP. The final action on Rule 61.9 serves as a final determination that the deficiency in this rule has been corrected. Therefore, if this direct final action is not withdrawn, on October 28, 1994, any sanction or FIP clock is stopped and any imposed sanctions would be permanently lifted.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in

<sup>3</sup> EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

<sup>4</sup> Pursuant to section 193 of the CAA, EPA cannot approve the deletion of a SIP requirement that was in effect prior to enactment of the 1990 CAA Amendments unless EPA determines that the SIP revision will provide for equivalent or greater reductions in emissions. Because there have been no sources subject to this regulation in the SDCAPCD since 1986, EPA believes that the deletion of this regulation will not result in the increase of emissions of VOCs.

relation to relevant statutory and regulatory requirements.

EPA is publishing this document without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective October 28, 1994, unless by September 28, 1994, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action, in conjunction with the document in the proposed rules section of today's Federal Register, serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on October 28, 1994.

#### Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

The removal of these rules from the SIP does not create any new requirements, because there are no longer any sources subject to these rules in the District. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. United States E.P.A.*, 427 U.S. 248, 256-66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

#### List of Subjects in 40 CFR Part 52

Environmental Protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**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, 1982.

Date: August 10, 1994.

Felicia Marcus,  
Regional Administrator.

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

#### PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.]

#### Subpart F—California

2. Section 52.220 is amended by revising paragraphs (c)(6) and (c)(183)(i)(A)(2); and by adding paragraph (c)(41)(ii)(A)(1) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(6) Revised regulations for all APCD's submitted on June 30, 1972, by the Governor, except for:

(i) San Diego County Air Pollution Control District.

(A) Rule 65 is now removed without replacement as of March 14, 1989.

\* \* \* \* \*

(41) \* \* \*

(ii) \* \* \*

(A) \* \* \*

(1) Rule 65 is now removed without replacement as of March 14, 1989.

\* \* \* \* \*

(183) \* \* \*

(i) \* \* \*

(A) \* \* \*

(2) Rule 61.9, adopted on March 14, 1989, is now removed without replacement as of April 19, 1994.

\* \* \* \* \*

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BILLING CODE 5560-50-M

#### 40 CFR Part 52

[WA-10-1-5830a; WA-21-1-6278a; FRL-5017-3]

#### Approval and Promulgation of Implementation Plans: Washington

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** Environmental Protection Agency (EPA) approves numerous amendments to Regulations I and II of the Puget Sound Area Pollution Control Agency's (PSAPCA) rules and the addition of Regulation III, for the control of air pollution in Pierce, King, Snohomish, and Kitsap Counties, Washington, as revisions to the Washington State Implementation Plan (SIP). In addition, EPA approves the part D New Source Review (Article 6) rules as they apply to PSAPCA's jurisdiction (Pierce, King, Snohomish, and Kitsap Counties). These revisions were submitted by the Director of the Washington State Department of Ecology (WDOE) on September 11, 1992 and October 20, 1993 in accordance with the requirements of section 110 and part D of the Clean Air Act (herein the Act) and superseded and replaced previously submitted rules by PSAPCA. In accordance with Washington statutes, PSAPCA rules must be at least as stringent as the WDOE statewide rules.

**DATES:** This final rule will be effective on October 28, 1994, unless adverse or critical comments are received by September 28, 1994. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Written comments should be addressed to:

Montel Livingston, SIP Manager, Air Programs Branch (AT-082), EPA, Docket #WA10-1-5830 and WA21-1-6278, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, EPA, 401 M Street, SW., Washington, DC 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air Programs Branch, 1200 Sixth Avenue (AT-082), Seattle, Washington 98101, and Washington Department of Ecology, PO Box 47600, Olympia, Washington 98504.

**FOR FURTHER INFORMATION CONTACT:** Montel Livingston, Air Programs Branch (AT-082), EPA, Region 10, Seattle, Washington 98101, (206) 553-0180.

## SUPPLEMENTARY INFORMATION:

## I. Background

On September 11, 1992, the Director of WDOE submitted to EPA Region 10 revised and updated regulations for PSAPCA affecting King, Pierce, Snohomish, and Kitsap Counties. Included in this submittal were numerous revisions, renumbering/movement of rules, additions, and deletions, as approved by the Board of Directors of PSAPCA, to its currently federally approved regulations I and II. Also included in this submittal was regulation III, a new regulation not previously in the EPA approved Washington SIP. On October 8, 1993, the Director of WDOE submitted to EPA Region 10 another set of updated PSAPCA revisions to regulations I, II, and III affecting King, Pierce, Snohomish, and Kitsap Counties which superseded the September 11, 1992, submittal. PSAPCA and WDOE held joint public hearings each time to receive public comment on the September 11, 1992 and October 8, 1993 revisions to PSAPCA's rules as updates to the Washington SIP, and no public testimony was offered. Among these amendments were technical amendments to bring PSAPCA regulations into conformance with the open burning program for the state of Washington, revisions to PSAPCA's New Source Review provisions to comply with new requirements under the Act, various definition changes to improve clarity of new and revised sections, and overall strengthening measures for the control of ozone within the affected nonattainment areas and, generally, the control of particulate matter.

## II. Description of Plan Revisions

The PSAPCA amendments submitted by WDOE on September 11, 1992 and October 8, 1993 for inclusion into the Washington SIP were essentially local air pollution regulations which are at least as stringent as the statewide rules of the WDOE.

To begin, this rulemaking action includes several revisions to the following Articles of the previously EPA approved PSAPCA regulations.

*Regulation I*

Article I Policy, Short Title and Definitions; Article 3 General Provisions; Article 6 New Source Review; Article 8 Outdoor Fires; and Article 9 Emission Standards.

*Regulation II*

Article I Purpose, Policy, Short Title and Definitions; Article 2 Gasoline

Marketing Emission Standards; Article 3 Miscellaneous Volatile Organic Compound Emission Standards; and Article 4 General Provisions.

For those revisions to regulations I and II which involve emission standards and are part of the current EPA approved Washington SIP, the overall effect of each of the amendments is to reduce the allowable emissions. The new source review provisions of article 6, regulation I were revised to meet the new requirements of part D of the Act as set forth in the General Preamble for the Implementation of title I of the Clean Air Act Amendments of 1990 (57 FR 13498, April 16, 1992). For those revisions to article I, regulation II, which involved definitions, some definitions were deleted which are no longer used and new definitions were added which apply to new sections of the Regulation.

This rulemaking action also includes the addition of the following elements for inclusion into the Washington SIP:

*Regulation I*

- Article 5 Registration, all sections.
- Article 6 New Source Review, section 6.10 Work Done Without an Approval.
- Article 9 Emission Standards, sections 9.08, 9.11, 9.13, 9.15, 9.16, 9.17, 9.20.
- Article 11 Ambient Air Quality Standards and Control Measure Required, all sections.
- Article 12 Standards of Performance for Continuous Emission Monitoring Systems, all sections.
- Article 13 Solid Fuel Burning Device Standards, all sections.

*Regulation II*

- Article 3 Miscellaneous Volatile Organic Compound Emission Standards, sections 3.03, 3.04, 3.08, and 3.11.

*Regulation III*

- Article 1 General Requirements, all sections.
- Article 2 Review of Toxic Air Contaminant Sources, all sections.
- Article 3 Source-Specific Emission Standards, all sections; and
- Article 4 Asbestos Control Standard, all sections.

The overall effect of the additions to regulation I which involve emission standards is to reduce allowable emissions as they are additional requirements and do not supersede the requirements already in the SIP. The overall effect of the addition of regulation III provides for additional control measures for ozone and particulate matter, and strengthens measures for the control of ozone and

particulate matter within the affected nonattainment areas.

Finally, this rulemaking action includes action taken by PSAPCA's Board of Directors which approved the deletion of some elements from PSAPCA's regulations I and II of the Washington SIP and the renumbering and movement of certain rules within PSAPCA's regulations. Where the rules previously had been approved by EPA, EPA is approving the renumbering and movement of rules as submitted by the State.

*Regulation I—Deletions and Movement of Rules*

Deletions: Sections 3.03 Investigations and Studies by the Control Officer; 3.12 Appeals from Board Orders; 3.13 Status of Orders on Appeal; 3.15 Interfering with or Obstructing Agency Personnel; 3.21 Service of Notice; 6.05 Information Required for Notice of Construction and Application for Approval; 6.11 Conditional Approval; 6.12 Time Limits; 8.05 Emission Standard Exemptions; and 9.02 Outdoor Fires. Provisions for appeals (previously section 3.11 Orders and Hearings) are now found under section 3.17 Appeal of Orders. Section 7.02 Filing Fees previously had been part of the EPA approved Washington SIP because it covered fees for more than just 7.01 Variances, which was not a part of the EPA approved SIP. However, now section 7.02 has been revised and renumbered as a part of the new Variance Article and EPA will be taking no action on both the variance provision and the filing fee provision. Provisions for emission standard exemptions and outdoor fires are now found under Article 8 Outdoor Fires.

*Regulation II—Deletions and Movement of Rules*

Deletion: Section 2.13 Schedule of Control Dates. Provisions for Solvent Metal Cleaners (previously section 2.09) are now found under regulation III, section 3.05.

Deletions: Sections 3.02 High Vapor Pressure Volatile Organic Compound Storage in External Floating Roof Tanks; 3.11 Schedule of Compliance Dates; 4.01 Enforcement; and 4.03 Alternative Control Dates. Provisions for section 3.02 can now be found under section 2.04; provisions for Leaks from Gasoline Transport Tanks and Vapor Recovery Systems (previously section 3.03) can now be found under section 2.08; provisions for Perchloroethylene Dry Cleaning Systems (previously section 3.04) can now be found under Regulation III, section 3.03. Provisions

for enforcement may be found in Regulation I, section 3.15.

Under Washington statutes, rules of any local air pollution control authority must be at least as stringent as the statewide rules of the WDOE. Since EPA has already approved the statewide rules as meeting the requirements of the Act (July 27, 1993 (58 FR 4581)), with the exceptions described below, EPA is approving numerous amendments to the PSAPCA regulations I and II, and regulation III in their entirety.

Finally, EPA is taking no action on the following articles and sections which were included in the September 11, 1992 and October 8, 1993 submittals but have not been included in the Washington SIP in the past. Specifically, under Regulation I, EPA is taking no action on the following:

- Article 4 Variances (all sections);
- Article 9 Emission Standards
  - Section 9.10 Emission of Hydrochloric Acid; and
  - Section 9.12 Odor and Nuisance Control Measures.

### III. Discussion of New Source Review Revisions

Regulation I, Article 6 New Source Review is currently approved by EPA as meeting the requirements of part D of the Act and 40 CFR 51.165 as in effect prior to the Clean Air Act Amendments of 1990. However, the 1990 Amendments established numerous new requirements for part D new source review programs depending upon the seriousness of the nonattainment problem. Furthermore, the Amendments established specific deadlines for submittal of revisions to existing SIP new source review programs for each nonattainment pollutant and area classification.

There are a number of nonattainment areas within PSAPCA's jurisdiction. Specifically, there are three moderate PM<sub>10</sub> nonattainment areas, one marginal ozone nonattainment area, and one moderate carbon monoxide nonattainment area. Revisions to new source review rules were required to be submitted to EPA by June 30, 1992 for PM<sub>10</sub>, November 15, 1992 for ozone, and November 15, 1992 for carbon monoxide. However, because of the classification of the nonattainment areas, only minor revisions to the existing approved rules were required by the Amendments. These needed revisions are described in detail in sections III.A.2., III.B.2.f., III.C.1.d., and III.G. of the "General Preamble for the Implementation of title I of the Clean Air Act Amendments of 1990 (57 FR 13498, April 16, 1992)."

The revisions to the PSAPCA regulations submitted on October 8, 1993: (1) Establish a minimum offset ratio of 1.10 to 1 for all nonattainment pollutants (Section 6.07(d)(3)); (2) require that the offsets come from sources in the same nonattainment area (Section 6.07(d)(3)); (3) require that the amount of emission reduction credit be based on the lower of a source's current actual or allowable emissions to ensure that offsets represent real reductions in actual emissions and that no credit is given for reductions otherwise required by the Act (Section 6.08(b)); (4) ensure that offsets will be federally-enforceable at the time the part D new source review permit is issued (Section 6.08(d)) and that the actual reduction will occur by the time that the new major source or major modification would begin operation (Section 6.07(d)(3)); and (5) expanded the coverage of the alternatives analysis to all nonattainment pollutants (6.07(d)(4)). These changes represent the revisions to the currently approved PSAPCA regulations required by the Clean Air Act Amendments as set forth in the "General Preamble" for moderate PM<sub>10</sub>, marginal ozone, and moderate carbon monoxide nonattainment areas.

Section 189(e) of the Act, however, requires that the control requirements for PM<sub>10</sub> also apply to sources of PM<sub>10</sub> precursors unless the Administrator determines that such sources do not significantly contribute to PM<sub>10</sub> levels that exceed the PM<sub>10</sub> standards. EPA has made such determinations for the Kent and Seattle PM<sub>10</sub> nonattainment areas (58 FR 40059-40060 and 59 FR 32370-32376). Based on information contained in the SIP for the Tacoma PM<sub>10</sub> nonattainment area submitted by WDOE on November 15, 1991, EPA is determining, by this action, that such sources in the Tacoma PM<sub>10</sub> nonattainment area do not significantly contribute to PM<sub>10</sub> levels that exceed the PM<sub>10</sub> standards. The basis for this determination is discussed in more detail in the technical support document that is part of the public docket for this rulemaking. EPA is, therefore, granting approval of the PSAPCA part D NSR rules as they apply to PSAPCA's jurisdiction and is approving the rules for the ozone and carbon monoxide nonattainment areas.

### IV. Summary of EPA Action

In this action, EPA approves numerous amendments to the PSAPCA rules as revisions to the Washington SIP. Specifically, EPA approves:

- A. Revisions to Regulation I: Article 1; Article 3; Article 6; Article 8; and Article 9; and the rescission under

Article 3 of sections 3.03 (Investigations and Studies by the Control Officer), 3.12, 3.13 (Status of Orders on Appeal), 3.15, and 3.21; under Article 6 the rescission of sections 6.05, 6.11, and 6.12; under Article 8 the rescission of section 8.05; and, under Article 9 the rescission of section 9.02;

B. Revisions to Regulation II: Article 1, Article 2, Article 3 and Article 4; and the rescission under Article 2 of section 2.13; under Article 3 the rescission of sections 3.02, and 3.11 (Schedule of Compliance Dates); and under Article 4 the rescission of sections 4.01 and 4.03;

C. Additions to Regulation I: Article 5, Article 6, sections 6.10 and 6.12; Article 9, sections 9.08, 9.11, 9.13, 9.15, 9.16, 9.17, and 9.20; Article 11; Article 12; and Article 13;

D. Additions to Regulation II: Article 3, sections 3.03 (Can and Paper Coating Operations), 3.04 (Motor Vehicle and Mobile Equipment Coating Operations), 3.08, and 3.11 (Coatings and Ink Manufacturing); and

E. Adoption of Regulation III, all Articles.

### V. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S.E.P.A.*, 427 U.S. 246, 258-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register

publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective October 28, 1994, unless, by September 28, 1994, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective October 28, 1994.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 28, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2)).

#### List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation

by reference, Ozone, Volatile organic compounds.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: July 13, 1994.

Gerald A. Emison,

Acting Regional Administrator.

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

#### PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

#### Subpart WW—Washington

2. Section 52.2470 is amended by adding paragraph (c) (43) to read as follows:

#### § 52.2470 Identification of plan.

(c) \* \* \*

(43) On September 11, 1992 and October 8, 1993 the Director of the WDOE submitted revisions to PSAPCA's rules for the control of air pollution in Pierce, King, Snohomish, and Kitsap Counties, Washington as revisions to the Washington SIP. These revisions superseded and replaced previously submitted rules by PSAPCA.

(i) Incorporation by reference.

(A) September 11, 1992 letter from the Director of WDOE to EPA Region 10 submitting revisions to PSAPCA's rules for the control of air pollution in King, Pierce, Snohomish, and Kitsap Counties, Washington, for inclusion into the Washington SIP.

(B) Regulations I, II, and III as adopted by the Board of Directors, PSAPCA, and submitted through the WDOE to EPA Region 10, as a revision to the SIP, with a WDOE adopted date of September 16, 1992.

(C) October 8, 1993 letter from the Director of WDOE to EPA Region 10 submitting revisions to PSAPCA's rules for the control of air pollution in King, Pierce, Snohomish, and Kitsap Counties, Washington, for inclusion into the Washington SIP.

(D) Regulations I, II, and III as adopted by the Board of Directors, PSAPCA, and submitted through WDOE to EPA Region 10, as a revision to the SIP, with a WDOE adopted date of October 18, 1993.

3. Section 52.2479 is amended by revising the entry and the entry heading for "Puget Sound Air Pollution Control Authority—Regulation I" and the entry and entry heading for "Puget Sound Air

Pollution Control Authority—Regulation II"; and by adding a new entry "Puget Sound Air Pollution Control Agency—Regulation III" to read as follows:

§ 52.2479 Contents of the federally approved, state submitted implementation plan.

\* \* \* \* \*

#### Puget Sound Air Pollution Control Agency—Regulation I

##### Article 1 Policy, Short Titles and Definitions

- 1.01 Policy (10-10-73)
- 1.03 Name of Agency (3-13-68)
- 1.05 Short Title (3-13-68)
- 1.07 General Definitions (11-19-92)

##### Article 3 General Provisions

- 3.01 Duties and Powers of the Control Officer (8-8-91)
- 3.03 Display of Notices: Removal or Mutilation Prohibited (8-8-91)
- 3.05 Investigations by the Control Officer (8-8-91)
- 3.07 False and Misleading Oral Statements: Unlawful Reproduction or Alteration of Documents (8-8-91)
- 3.09 Violations—Notice (8-8-91)
- 3.11 Civil Penalties (9-10-92)
- 3.13 Criminal Penalties (8-8-91)
- 3.15 Additional Enforcement (8-8-91)
- 3.17 Appeal of Orders (8-8-91)
- 3.19 Confidential Information (8-8-91)
- 3.21 Separability (8-8-91)

##### Article 5 Registration

- 5.02 Definition and Components of Registration Program (12-9-82)
- 5.03 Registration Required (8-9-90)
- 5.05 General Requirements for Registration (8-9-90)
- 5.07 Fees—Registration Program (12-12-91)
- 5.08 Shut Down Sources (11-12-87)
- 5.09 Noncompliance is Unlawful (12-9-82)
- 5.10 Surcharge for Mandatory Training Programs (11-14-91)
- 5.11 Surcharge for Blenders of Oxygenated Gasoline (11-19-92)

##### Article 6 New Source Review

- 6.03 Notice of Construction (11-19-92)
- 6.04 Filing Fees (11-19-92)
- 6.06 Requirements for Public Notice (3-13-80)
- 6.07 Order of Approval—Order to Prevent Construction (11-19-92)
- 6.08 Emission Reduction Credit Banking (11-19-92)
- 6.09 Notice of Completion (11-19-92)
- 6.10 Work Done Without an Approval (11-12-87)

##### Article 8 Outdoor Fires

- 8.01 Policy (4-9-92)
- 8.02 Outdoor Fires—Prohibited Types (5-13-93)
- 8.03 Outdoor Fires—Prohibited Areas (5-13-93)
- 8.04 General Conditions (4-9-92)

##### Article 9 Emission Standards

- 9.03 Emission of Air Contaminant: Visual Standard (5-11-89)
- 9.04 Deposition of Particulate Matter (6-9-83)
- 9.05 Incinerator Burning (6-9-88)

- 9.06 Refuse Burning Equipment: Time Restriction (6-9-88)
- 9.07 Emission of Sulfur Oxides (6-9-88)
- 9.08 Combustion and Marketing of Waste-Derived Fuels (2-13-86)
- 9.09 Emission of Particulate Matter: Concentration Standards (5-11-89)
- 9.11 Emission of Air Contaminant: Detriment to Person or Property (6-9-83)
- 9.13 Emission of Air Contaminant: Concealment and Masking Restricted (6-9-88)
- 9.15 Fugitive Dust: Emission Standard (8-10-89)
- 9.16 Spray Coating Operations (6-13-91)
- 9.17 Report of Startup, Shutdown, Breakdown, or Upset Condition (5-10-84)
- 9.20 Maintenance of Equipment (6-9-88)
- Article 11 Ambient Air Quality Standards and Control Measure Required
  - 11.01 Air Quality Control Measures (8-14-80)
  - 11.03 Ambient Air Quality Standards: Suspended Particulate (8-14-80)
  - 11.04 Ambient Air Quality Standards: PM<sub>10</sub> (6-9-88)
  - 11.05 Ambient Air Quality Standards: Lead (8-14-80)
  - 11.06 Ambient Air Quality Standards: Carbon Monoxide (8-14-80)
  - 11.07 Ambient Air Quality Standards: Ozone (8-14-80)
  - 11.08 Ambient Air Quality Standards: Nitrogen Dioxide (8-14-80)
  - 11.09 Ambient Air Quality Standards: Sulfur Dioxide (8-14-80)
- Article 12 Standards of Performance for Continuous Emission Monitoring Systems
  - 12.01 Introduction (8-10-89)
  - 12.02 Continuous Emission Monitoring Requirement (8-10-89)
  - 12.03 Quality Assurance Requirements (8-10-89)
  - 12.04 Record Keeping and Reporting Requirements (8-10-89)
- Article 13 Solid Fuel Burning Device Standards
  - 13.01 Policy and Purpose (9-26-91)
  - 13.03 Opacity Standards (10-11-90)
  - 13.04 Prohibited Fuel Types (9-26-91)
  - 13.05 Curtailment (9-26-91)

*Puget Sound Air Pollution Control Agency—Regulation II*

- Article 1 Purpose, Policy, Short Title and Definitions
  - 1.01 Purpose (3-13-80)
  - 1.02 Policy (6-13-91)
  - 1.03 Short Title (12-11-80)
  - 1.04 General Definitions (12-11-80)
  - 1.05 Special Definitions (6-13-91)
- Article 2 Gasoline Marketing Emission Standards
  - 2.03 Petroleum Refineries (6-13-91)
  - 2.04 Volatile Organic Compound Storage Tanks (6-13-91)
  - 2.05 Gasoline Loading Terminals (1-9-92)
  - 2.06 Bulk Gasoline Plants (6-13-91)
  - 2.07 Gasoline Stations (1-9-92)
  - 2.08 Leaks from Gasoline Transport Tanks and Vapor Recovery Systems (6-13-91)
- Article 3 Miscellaneous Volatile Organic Compound Emission Standards

- 3.01 Cutback Asphalt Paving (6-13-91)
- 3.03 Can and Paper Coating Operations (6-13-91)
- 3.04 Motor Vehicle and Mobile Equipment Coating Operations (6-13-91)
- 3.05 Graphic Arts Systems (12-11-80)
- 3.07 Petroleum Solvent Dry Cleaning Systems (2-11-82)
- 3.08 Polyester, Vinylester, Gelcoat, and Resin Operations (6-13-91)
- 3.09 Aerospace Component Coating Operations (6-13-91)
- 3.11 Coatings and Ink Manufacturing (7-15-91)
- Article 4 General Provisions
  - 4.02 Testing and Monitoring (6-13-91)
  - 4.04 Exceptions to VOC Emission Standards and Requirements (12-11-80)
  - 4.05 Separability (12-11-80)

*Puget Sound Air Pollution Control Agency—Regulation III*

- Article 1 General Requirements
  - 1.01 Policy (2-11-93)
  - 1.02 Short Title (1-9-92)
  - 1.03 Area Sources of Toxic Air Contaminants (8-9-90)
  - 1.05 Purpose and Approach (8-9-90)
  - 1.07 General Definitions (1-9-92)
  - 1.08 Special Definitions (2-11-93)
  - 1.09 Emission Monitoring Requirements (8-9-90)
  - 1.11 Reporting Requirements (8-9-90)
- Article 2 Review of Toxic Air Contaminant Sources
  - 2.01 Applicability (1-9-92)
  - 2.03 New or Altered Toxic Air Contaminant Sources (8-9-90)
  - 2.05 Registered Sources of Toxic Air Contaminants (8-9-90)
- Article 3 Source-Specific Emission Standards
  - 3.01 Chromic Acid Plating and Anodizing (1-9-92)
  - 3.03 Perchloroethylene Dry Cleaners (1/9/92)
  - 3.05 Solvent Metal Cleaners (8-9-90)
  - 3.07 Ethylene Oxide Sterilizers and Aerators (1-9-92)
- Article 4 Asbestos Control Standard
  - 4.01 Application Requirements and Fees (2-11-93)
  - 4.02 Procedures for Asbestos Emission Control (2-11-93)
  - 4.03 Disposal of Asbestos-Containing Waste Material (2-11-93)

\* \* \* \* \*

[FR Doc. 94-21173 Filed 8-26-94; 8:45 am]

BILLING CODE 6560-50-P

**40 CFR Part 52**

[CA 95-1-6591a; FRL-5055-7]

**Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on revisions to the California

State Implementation Plan. The revisions concern Rule 8-8, "Wastewater (Oil-Water) Separators" from the Bay Area Air Quality Management District (BAAQMD). This approval action will incorporate this rule into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In addition, the final action on this rule serves as a final determination that the deficiency in this rule has been corrected and that on the effective date of this action, any sanction or Federal Implementation Plan (FIP) clock is stopped. The revised rule controls VOC emissions from separation of oil-water mixtures. Thus, EPA is finalizing the approval of this revision into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

**DATES:** This final rule is effective on October 28, 1994 unless adverse or critical comments are received by September 28, 1994. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

**ADDRESSES:** Copies of the rule revision and EPA's evaluation report for the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revision are available for inspection at the following locations:

Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Environmental Protection Agency, Air Docket 6102, 401 "M" Street, SW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 92123-1095.

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

**FOR FURTHER INFORMATION CONTACT:** Erik H. Beck, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1190. Internet: beck.erik@epamail.epa.gov.

## SUPPLEMENTARY INFORMATION:

## Applicability

The rule being approved into the California SIP is BAAQMD Rule 8-8, "Wastewater (Oil-Water) Separators". This rule was submitted by the California Air Resources Board to EPA on July 13, 1994.

## Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the San Francisco Bay area. 43 FR 8964, 40 CFR 81.305. Because this area was unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987 (40 CFR 52.222). On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the BAAQMD's portion of the California SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.<sup>1</sup> EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The San Francisco Bay Area is classified as moderate;<sup>2</sup> therefore, this

area was subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on July 13, 1994, including the rule being acted on in this notice. This notice addresses EPA's direct-final action for BAAQMD Rule 8-8, "Wastewater (Oil-Water) Separators". BAAQMD adopted Rule 8-8 on June 15, 1994. This submitted rule was found to be complete on July 22, 1994 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V<sup>3</sup> and is being finalized for approval into the SIP.

This rule controls VOC emissions from equipment which separates oil from aqueous effluent streams. VOCs contribute to the production of ground level ozone and smog. This rule was originally adopted as part of BAAQMD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and final action for this rule.

## EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTG applicable to this

181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

<sup>3</sup> EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

rule is entitled "Petroleum Refineries—Control of Refinery Vacuum Producing Systems, Wastewater Separators and Process Unit Turnarounds" (EPA-450/2-77-022). Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

BAAQMD's submitted Rule 8-8, "Wastewater (Oil-Water) Separators" includes the following significant changes from the current SIP:

- Adding a test method to detect leaks.
- Modifying the emissions determination section to allow Federal enforceability.

EPA has evaluated the submitted rule and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, BAAQMD Rule 8-8, "Wastewater (Oil-Water) Separators" is being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D. The final action on this rule serves as a final determination that the deficiency in this rule has been corrected. Therefore, if this direct final action is not withdrawn, on October 28, 1994, any sanction or FIP clock is stopped.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this document without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective October 28, 1994, unless, by September 28, 1994, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action published in today's **Federal Register**. The EPA will not institute a second comment period on this action. Any parties interested in

<sup>1</sup> Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT. 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

<sup>2</sup> The San Francisco Bay Area retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and

commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective October 28, 1994.

#### Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over population of less than 50,000.

SIP approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds.

*Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**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, 1982.

Dated: August 15, 1994.

**Felicia Marcus,**

*Regional Administrator.*

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

#### PART 52—[AMENDED]

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

**Authority:** 42 U.S.C. 7401-7671q.

#### Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(198) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*  
(198) New and amended regulations for the following APCDs were submitted on July 13, 1994, by the Governor's designee.

(i) Incorporation by reference.  
(A) Bay Area Air Quality Management District.

(1) Revised Rule 8-8, adopted on June 15, 1994.

[FR Doc. 94-21169 Filed 8-26-94; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 180

[OPP-300344A; FRL-4899-2]

RIN 2070-AB78

#### Vinyl Pyrrolidone-Dimethylaminoethylmethacrylate Copolymer; Tolerance Exemption

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

**ACTION:** Final rule.

**SUMMARY:** This document establishes an exemption from the requirement of a tolerance for residues of vinyl pyrrolidone-dimethylaminoethylmethacrylate copolymer (CAS Reg. No. 30581-59-0) when used as an inert ingredient (leaching inhibitor, binder for water-dispersible aggregates, sticker and suspension stabilizer) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest, and to animals. This regulation was requested by International Specialty Products.

**EFFECTIVE DATE:** This regulation becomes effective August 29, 1994.

**ADDRESSES:** Written objections, identified by the document control number, [OPP-300344A], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing request

to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

**FOR FURTHER INFORMATION CONTACT:** By mail: Tina Levine, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, Arlington, VA 22202, (703)-308-8393

**SUPPLEMENTARY INFORMATION:** In the Federal Register of June 8, 1994 (59 FR 29576), EPA issued a proposed rule that gave notice that International Specialty Products, 1361 Alps Rd., Wayne, NJ 07470, had submitted pesticide petition (PP) 4E04319 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(e) by establishing an exemption from the requirement of a tolerance for residues of vinyl pyrrolidone-dimethylaminoethylmethacrylate copolymer (CAS Reg. No. 30581-59-0) when used as an inert ingredient (leaching inhibitor, binder for water-dispersible aggregates, sticker and suspension stabilizer) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest, and to animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The requester noted that, although the preamble included an exemption from tolerance when applied to animals, as was requested, this amendment was not actually listed in the proposal. The omission was a clerical error and has been corrected in this final rule.

The data submitted relevant to the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemption will protect the public health. Therefore, the tolerance exemption is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account

uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-

354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 1, 1994.

**Daniel M. Barolo,**  
*Director, Office of Pesticide Programs*

Therefore, 40 CFR part 180 is amended as follows:

**PART 180—[AMENDED]**

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 346a and 371

2. Section 180.1001 is amended in paragraphs (c) and (e) in the tables therein by adding and alphabetically inserting the inert ingredient, to read as follows:

**§ 180.1001 Exemptions from the requirement of a tolerance.**

\* \* \* \* \*  
(c) \* \* \*

Inert ingredients	Limits	Uses
Vinyl pyrrolidone-dimethylaminoethylmethacrylate copolymer (CAS Reg. No. 30581-590), minimum number average molecular weight 20,000.	.....	Leaching inhibitor, binder for water-dispersible aggregates, sticker and suspension stabilizer.

(e) \* \* \*

Inert ingredients	Limits	Uses
Vinyl pyrrolidone-dimethylaminoethylmethacrylate copolymer (CAS Reg. No. 30581-590), minimum number average molecular weight 20,000.	.....	Leaching inhibitor, binder for water-dispersible aggregates, sticker and suspension stabilizer.

[FR Doc. 94-21251 Filed 8-24-94; 2:39 pm]  
BILLING CODE 6560-50-F

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### 43 CFR Public Land Order 7078

[AK-932-4210-06; A-056784]

#### Partial Revocation of Executive Order No. 8979, as Amended; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

**SUMMARY:** This order revokes an Executive order, as amended, insofar as it affects the surface interests of approximately 16,297 acres of lands conveyed to the Salamatof Native Association, Incorporated, and the subsurface interests of 4,509 acres of lands conveyed to the Cook Inlet Region, Incorporated. This action also removes from the Kenai National Wildlife Refuge the surface interests of those lands conveyed to the Salamatof Native Association, Incorporated, and the subsurface interests of those lands conveyed to the Cook Inlet Region, Incorporated. This action is for record-clearing purposes only.

**EFFECTIVE DATE:** August 29, 1994.

**FOR FURTHER INFORMATION CONTACT:** Sue A. Wolf, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

In accordance with the Salamatof Agreement of August 17, 1979, as directed by Sections 1432(b) and (c) of the Alaska National Interest Lands Conservation Act of 1980, 43 U.S.C. 1611 (1988); and by virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Executive Order No. 8979, dated December 16, 1941, as amended by Public Land Order No. 3400, which withdrew and reserved certain lands for use of the Department of the Interior as a refuge and breeding ground for moose, is hereby revoked as to the following described land:

#### Seward Meridian

- (a) T. 7 N., R. 11 W.,  
Sec. 23;  
Sec. 25, W $\frac{1}{2}$ ;  
Sec. 26 and 35;  
Sec. 36, W $\frac{1}{2}$ .

The area described contains approximately 2,560 acres.

- (b) T. 6 N., R. 10 W.,

Secs. 13, 14, and 15;  
Secs. 22 to 28, inclusive, and secs. 32 to 36, inclusive.

The area described contains approximately 9,600 acres.

- (c) T. 6 N., R. 11 W.,  
Sec. 1, W $\frac{1}{2}$ ;  
Sec. 2.

The area described contains approximately 960 acres.

- (d) T. 4 N., R. 9 W.,  
Sec. 5, westerly of Funny River Road;  
Sec. 6, westerly of Funny River Road, excluding the Kenai River and any islands therein, and any submerged lands covered by that river as defined by 43 U.S.C. 1301(a) (1988);  
Sec. 7, northerly of Funny River Road.

The area described contains approximately 989 acres.

- (e) T. 4 N., R. 10 W.,  
Sec. 1, excluding the Kenai River and any islands therein, and any submerged lands covered by that river as defined in 43 U.S.C. 1301(a) (1988);  
Sec. 2, northerly of Funny River Road, excluding the Kenai River and any islands therein, and any submerged lands covered by that river as defined in 43 U.S.C. 1301(a) (1988);  
Sec. 3, easterly of Funny River Road, excluding the Kenai River and any islands therein, and any submerged lands covered by that river as defined by 43 U.S.C. 1301(a) (1988);  
Sec. 6, westerly of the Sterling Highway;  
Sec. 7, northwesterly of the Sterling Highway;  
Sec. 10, northeasterly of Funny River Road;  
Sec. 11, northerly of Funny River Road;  
Sec. 12, northerly of Funny River Road, excluding the Kenai River and any islands therein, and any submerged lands covered by that river as defined by 43 U.S.C. 1301(a) (1988).

The areas described aggregate approximately 2,188 acres.

The areas described aggregate a total of approximately 16,297 acres.

2. Those lands described in paragraphs 1(a), (c), and (d) above, in which the surface interests were conveyed to the Salamatof Native Association, Incorporated, and the subsurface interests were conveyed to the Cook Inlet Region, Incorporated, are hereby removed from the Kenai National Wildlife Refuge.

3. The surface interests in the land described in paragraph 1(b) above, which were conveyed to the Salamatof Native Association, Incorporated, are hereby removed from the Kenai National Wildlife Refuge. The subsurface interests in this land were removed from the Refuge by a prior order.

4. The surface interests in the lands described in paragraph 1(e) above, which were conveyed to the Salamatof Native Association, Incorporated, are hereby removed from the Kenai

National Wildlife Refuge. The subsurface interests in these lands continue to be subject to the terms and conditions of the Kenai National Wildlife Refuge, as established by Section 303 of the Alaska National Interest Lands Conservation Act, Pub. L. 96-487, 94 Stat. 2391, and any other withdrawal of record, and are not otherwise affected by this order.

Dated: August 18, 1994.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 94-21270 Filed 8-26-94; 8:45 am]

BILLING CODE 4310-JA-P

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 64

[Docket No. FEMA-7599]

#### List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

**SUMMARY:** This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

**EFFECTIVE DATES:** The dates listed in the third column of the table.

**ADDRESSES:** Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638-6620.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646-3619.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.