

5. Section 51.323 is revised to read as follows:

§ 51.323 Reportable emissions data and information.

The requirements for reportable emissions data and information under the plan are in subpart A of this part 51.

[FR Doc. 02-14037 Filed 6-7-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 207-0336a; FRL-7224-1]

Revisions to the California State Implementation Plan, Great Basin Unified Air Pollution Control District and South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Great Basin Unified Air Pollution Control District (GBUAPCD) portion and the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern the emission of particulate matter (PM-10) from GBAPCD open burning/open

detonation (OB/OD) of propellants, explosives, and pyrotechnics (PEP); from SCAQMD storage, handling, and transport of coke, coal and sulfur; and from SCAQMD paved and unpaved roads and livestock operations. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on August 9, 2002, without further notice, unless EPA receives adverse comments by July 10, 2002. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect copies of the submitted rule revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted rule revisions and TSD at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington DC 20460.
California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Great Basin Unified Air Pollution Control District, 157 Short Street, Bishop, CA 93514.

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX; (415) 947-4118.

SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What Rules Did the State Submit?

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

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
GBUAPCD	432	Open Burn/Open Detonation Operations on Military Bases.	05/08/96	03/10/98
SCAQMD	1158	Storage, Handling, and Transport of Coke, Coal and Sulfur.	06/11/99	10/29/99
SCAQMD	1186	PM ₁₀ Emissions from Paved and Unpaved Roads and Livestock Operations.	09/10/99	01/21/00

On May 21, 1998, December 16, 1999, and March 1, 2000, these submittals were found to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

GBUAPCD Rule 432 is a new rule. We approved into the SIP on January 15, 1987 (52 FR 1627) a version of SCAQMD Rule 1158, adopted on December 2, 1983. We approved into the SIP on February 17, 2000 (65 FR 8057) a version of SCAQMD Rule 1186, adopted on December 11, 1998.

C. What Are the Changes in the Submitted Rules?

GBUAPCD Rule 432 is a new rule for open burning/open detonation of propellants, explosives, and pyrotechnics (PEP) at military bases that includes the following provisions:

- Burn plans are required that specify detonation or combustion methods and limit the category and amount of PEP destroyed in burn operations.
- OB/OD operations are not allowed when smoke can contribute to an exceedance of the NAAQS or cause a public nuisance. Burning is prohibited on "No-Burn Days" determined by the California Air Resources Board.

- PEP destroyed in OB/OD operations cannot contain other hazardous waste.

- PEP destroyed in OB/OD operations must be in a condition to minimize smoke emission.

- OB/OD must be limited to PEP generated from operations at the military base where destroyed.

- Records of OB/OD must be retained for five years.

SCAQMD Rule 1158 changes are as follows:

- An existing exemption to requiring the enclosure of open coke storage piles is deleted.

- The rule is expanded to include coverage of coal and sulfur in addition to coke.

- A 10% opacity ($\frac{1}{2}$ Ringelmann) visible emissions standard is added.
 - A requirement to pave and maintain surfaces, roads, and vehicle movement areas within the facility where material accumulation occurs is added.
 - Street sweeping frequencies or silt loading limits for paved roads and vehicle movement areas inside and outside the facility for a distance of one quarter mile are added.
 - A spillage cleanup requirement is added.
 - A cleanliness standard for trucks leaving the facility is added.
 - A requirement that trucks/trailers used to transport materials be covered and leak resistant is added.
 - A requirement that truck unloading be conducted in an enclosed structure and controlled by wetting or venting to permitted air pollution control equipment is added.
 - Requirements for controlling or covering material accumulations within the facility are added.
 - Requirements for new or replacement conveyors to be enclosed and for existing unenclosed conveyors to only transfer material moistened to a specific moisture content are added.
 - Requirements for material transfer points are added.
 - Requirements for loading material onto ships and truck are added.
 - Requirements for open storage of existing coal and prilled sulfur piles are added.
 - A requirement that new storage piles must be enclosed is added.
 - Recordkeeping requirements are extended from one to two years.
 - A requirement that facilities not electing to conduct street sweeping conduct periodic silt loading tests and quarterly truck cleanliness tests is added.
- SCAQMD Rule 1186 changes are as follows:
- A District test protocol and standards for certifying street sweepers are added.
 - The requirements that government agencies acquire certified street sweepers for paved roads after January 1, 2000 and operate them according to the manufacturer's specifications are added.
 - The requirement that manufacturers use the District test protocol to obtain the Executive Officer's certification of their street sweepers is added.
 - The exemption for sources with an approved Rule 1158 plan is deleted.

- Definitions related to street sweepers are added.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). Section 189(a) of the CAA requires moderate PM-10 nonattainment areas with significant PM-10 sources to adopt reasonably available control measures (RACM), including reasonably available control technology (RACT). Section 189(b) of the CAA requires serious PM-10 nonattainment areas with significant PM-10 sources to adopt best available control measures (BACM), including best available control technology (BACT). RACM/RACT and BACM/BACT are not required for source categories that are not significant (*de minimis*). See *Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, 59 FR 41998 (August 16, 1994).

The GBUAPCD portion (Inyo County) of the Searles Valley Planning Area is a moderate PM-10 nonattainment area. The emission activities subject to GBUAPCD Rule 432 at China Lake, California contribute a small (1.4%) but not insignificant amount of the total PM-10 emissions in Inyo County according to the *PM-10 State Implementation Plan for the Searles Valley Planning Area* (November 1991). Therefore, GBUAPCD Rule 432 must fulfill the requirements of RACM/RACT. The SCAQMD is a serious PM-10 nonattainment area. The PM-10 source categories regulated by SCAQMD Rules 1158 and 1186 are significant according to the *SCAQMD Base and Future Year Emission Inventories* (November 1996). Therefore, SCAQMD Rules 1158 and 1186 must fulfill the requirements of BACM/BACT.

The following guidance documents were used for reference:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans*, U.S. EPA, 40 CFR part 51.
- *PM-10 Guideline Document*, EPA-452/R-93-008 (April 1993).
- *Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, 59 FR 41998 (August 16, 1994)
- *Fugitive Dust Background Document and Technical Information*

Document for Best Available Control Measures, U.S. EPA (September 1992).

B. Do the Rules Meet the Evaluation Criteria?

We believe the rules are consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and fulfilling RACM/RACT and BACM/BACT. The TSDs have more information on our evaluation.

C. EPA Recommendations To Further Improve the Rules

The SCAQMD Rule 1158 TSD describes additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rule.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by July 10, 2002, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on August 9, 2002. This will incorporate these rules into the federally-enforceable SIP.

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

III. Background Information

A. Why Were These Rules Submitted?

PM-10 harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control PM-10 emissions. Table 2 lists some of the national milestones leading to the submittal of local agency PM-10 rules.

TABLE 2.—PM-10 NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the Clean Air Act, as amended in 1977. 43 FR 8964; 40 CFR 81.305.
July 1, 1987	EPA replaced the TSP standards with new PM standards applying only up to 10 microns in diameter (PM-10). 52 FR 24672.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted, Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q.
November 15, 1990	PM-10 areas meeting the qualifications of section 107(d)(4)(B) of the CAA were designated nonattainment by operation of law and classified as moderate pursuant to section 188(a). States are required by section 110(a) to submit rules regulating PM-10 emissions in order to achieve the attainment dates specified in section 188(c).

IV. Administrative Requirements

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

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the

CAA. This rule also is not subject to Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

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

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 9, 2002. Filing a petition for reconsideration by the

Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 9, 2002.

Alexis Strauss,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(254)(i)(L), (270)(i)(C)(3), and (278)(i)(A)(2) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

(254) * * *

(i) * * *

(L) Great Basin Unified Air Pollution Control District.

(1) Rule 432, adopted on May 8, 1996.

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(270) * * *

(i) * * *

(C) * * *

(3) Rule 1158, adopted on June 11, 1999.

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(278) * * *

(i) * * *

(A) * * *

(2) Rule 1186, adopted on September 10, 1999.

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[FR Doc. 02-14207 Filed 6-7-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[SIP NO. SD-001-0012a; FRL-7216-1]

Approval of an Air Quality Implementation Plan Revision; South Dakota; Rapid City Street Sanding Regulations To Protect the National Ambient Air Quality Standards for PM-10**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is taking direct final action approving a revision of the Administrative Rules South Dakota (ARSD) Chapter 74 Section 36:17 affecting South Dakota's Air Pollution Control Program for Rapid City, South Dakota. In particular, the revisions are regarding requirements for street sanding and deicing. These regulations were submitted to EPA on January 26, 1996. South Dakota submitted this revision to make the street sanding rules federally enforceable. EPA is approving the revision to Chapter 74 Section 36:17 of the ARSD as part of South Dakota's State Implementation Plan (SIP) under section 110 of the Clean Air Act (CAA).

DATES: This rule is effective on August 9, 2002, without further notice, unless EPA receives adverse comment by July 10, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the *Federal Register* informing the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202 and copies of the Incorporation by Reference material are available at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Copies of the State documents relevant to this action are available for public inspection at the South Dakota Department of Environmental and Natural Resources, Air Quality Program, Joe Foss Building, 523 East Capitol, Pierre, South Dakota 57501.

FOR FURTHER INFORMATION CONTACT: Mark Komp, EPA, Region VIII, (303) 312-6022 or Laurel Dygowski, EPA, Region VIII, (303) 312-6144.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" are used, means Environmental Protection Agency.

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I. Background Information**A. Events Leading to This Action**

Air quality monitoring for particulates in the Rapid City, South Dakota area in 1992 collected two samples that exceeded the 24-hour National Ambient Air Quality Standard (NAAQS) for particulates less than or equal to 10 microns in size (PM-10). The exceedances occurred on October 13 and 25, 1992 and were later documented to be the result of high winds blowing dust through the Rapid City, South Dakota area. An exceedance is a particulate concentration that is higher than 150 µg/m³ calculated from a filter sample exposed to ambient air during a 24-hour period. An average of three exceedances over a 3-year period is considered a violation. Exceedances can include those that are expected, based on statistical analysis but not actually measured by the State. The two exceedances from filter samples taken in Rapid City, South Dakota were calculated to be a violation, based on statistical analysis involving the total number of filters exposed.

In a March 25, 1994 letter, South Dakota requested that we grant exceptional event status to these two exceedances rather than declare the area nonattainment for the PM-10 NAAQS. The State asserted that the exceedances were from uncontrollable natural sources, that the Rapid City area had been in the midst of a long-term drought, and winds during the days of the exceedance were high enough to

qualify as an "exceptional event". EPA's exceptional event guidance, 40 CFR part 50, appendix K, describes such events leading to exceedances as rare occurrences not likely to recur. EPA Region VIII concluded that the data could not be excluded from calculating exceedances of the PM-10 NAAQS, and after applying 40 CFR part 50, appendix K, to the data, determined that Rapid City violated the 24-hour PM-10 standard in 1992.

South Dakota's Department of Environment and Natural Resources (DENR) described in the March 25, 1994 letter certain corrective actions that had been taken by Pennington County, businesses, and industry to reduce particulate matter levels in Rapid City. DENR pointed out that these measures had been effective, as no further exceedances of the PM-10 standard had occurred in two and one-half years since the exceedances in 1992.

In recognition of DENR's position, EPA requested, in a letter from William Yellowtail, Regional Administrator, dated July 19, 1995, that the State outline a course of action that would serve as justification for EPA to suspend any further consideration of a nonattainment designation for the area. The course of action was to provide assurance that the State would maintain an adequate air monitoring network in Rapid City and would fulfill a commitment to incorporate into the SIP enforceable regulations that would embody the control strategies currently being implemented in Rapid City for both point and fugitive dust sources.

The State responded by adopting street sanding and deicing regulations for Rapid City and adding fugitive dust control requirements to industrial air quality permits. These permits were later incorporated into operating permits issued by the State under the CAA Title V permit program. South Dakota also expressed its continuing commitment to operate the Rapid City particulate matter monitoring network.

In 1996, a change in our policy related to exceptional events broadened EPA's interpretation of high PM-10 concentrations that are not considered exceedances. The new policy, called the Natural Events Policy, was expressed in a May 30, 1996 memorandum from EPA's former Assistant Administrator for Air and Radiation, Mary Nichols. The Natural Events Policy identified high wind events as one of three categories that affect the PM-10 NAAQS. The policy provides that EPA will exercise its discretion under section 107 (d)(3) of the CAA not to redesignate areas as nonattainment if the State develops and implements a plan to