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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2006-0869, FRL-8721-7]

**Revisions to the California State Implementation Plan, San Diego Air Pollution Control District, San Joaquin Valley Air Pollution Control District, and Ventura County Air Pollution Control District**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the San Diego Air Pollution Control District (SDAPCD), San Joaquin Valley Air Pollution Control District (SJVAPCD), and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). The revisions concern the permitting of air pollution sources. We are approving local rules under authority of the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on December 23, 2008 without further notice, unless EPA receives adverse comments by November 24, 2008. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2006-0869, by one of the following methods:

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

*Instructions:* All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While

all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below.

**FOR FURTHER INFORMATION CONTACT:** Laura Yannayon, Permits Office (AIR-3), U.S. Environmental Protection Agency, Region IX, (415) 972-3534, [yannayon.laura@epa.gov](mailto:yannayon.laura@epa.gov).

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

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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 dates that they were amended by the local air agencies and submitted by the California Air Resources Board.

TABLE 1—SUBMITTED RULES

| Local agency  | Rule No. | Rule title                          | Adopted or revised      | Submitted |
|---------------|----------|-------------------------------------|-------------------------|-----------|
| SDCAPCD ..... | 24       | Temporary Permit to Operate .....   | 03/20/96, Adopted ..... | 10/18/96  |
| SJVAPCD ..... | 2050     | Cancellation of Application .....   | 12/16/93, Adopted ..... | 05/24/94  |
| VCAPCD .....  | 11       | Definitions for Regulation II ..... | 03/14/06, Revised ..... | 06/16/06  |
| VCAPCD .....  | 29       | Conditions on Permits .....         | 03/14/06, Revised ..... | 06/16/06  |

On July 14, 1994, the submittal of SJVAPCD Rule 2050 was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. On July 21, 2006, the submittals of VCAPCD Rules 11 and 29 were found to meet the completeness criteria.

*B. Are There Other Versions of These Rules?*

We approved versions of VCAPCD Rules 11 and 29 into the SIP on December 7, 2000 (65 FR 76567). There

is no version of SJVAPCD Rule 2050 in the SIP.

*C. What Are the Purposes of the Submitted Rules and Rule Revisions?*

Section 110(a) of the CAA requires states to submit regulations that control volatile organic compounds, nitrogen oxides, particulate matter, and other air pollutants which harm human health and the environment. Permitting rules were developed as part of the local air district’s programs to control these pollutants.

The purposes of new SDCAPCD Rule 24 are as follows:

- The rule establishes the Authority to Construct (ATC) as the temporary Permit to Operate (PTO) during the interim period after completion of construction until a new or modified emission unit can be inspected by the Air Pollution Control Officer and a new PTO be issued.
- The rule establishes an application for change of ownership or application for ATC and PTO as a temporary PTO during the interim period until a new or

modified emission unit can be inspected by the APCO and a new ATC be issued.

The purposes of new SJVAPCD Rule 2050 are as follows:

- The rule requires that an Authority to Construct (ATC) expire in two years unless construction is commenced, as defined in 40 CFR 51.165(a)(1)(xvi).
- The rule allows one two-year extension of an ATC in case all preconstruction permits and approvals have not been obtained, or there is an economic downturn, or the construction is part of a larger project on which construction has commenced.

• The rule requires that a Permit to Operate expire in two years unless it is renewed.

The purpose of the revision of VCAPCD Rule 11 relative to the SIP is as follows:

- The rule removes the references to the Community Bank for the definitions of “small source” and “medium source,” because the Community Bank no longer applies to sources with permitted emissions less than 5 tons per year.

The purposes of revisions of VCAPCD Rule 29 relative to the SIP are as follows:

- The rule changes the calculation method for permitted emissions of reactive organic compounds (ROC) for gasoline dispensing facilities and dry cleaning facilities to include accounting for the control equipment and the amount of throughput requested by the permittee in addition to accounting for the number, size, and type of storage tanks at the source.

- The rule requires that the permittee submit an application and provide offsets to increase emissions of ROC to equal or more than 5 tons per year. For smaller emissions of ROC, the allowed emissions shall be changed as part of the annual permit renewal process.

The TSD has more information about these rules.

## II. EPA's Evaluation and Action

### A. How Is EPA Evaluating the Rules?

Generally, administrative SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). There are no specific reasonably available control measure/reasonably available control technology (RACM/RACT) requirements for administrative rules.

The following guidance and policy documents that we used to define specific enforceability requirements include the following:

- *Review of New Sources and Modifications*, U.S. EPA, 40 CFR part 51, subpart I.
- *Guidance Document for Correcting Common VOC & Other Rule*

*Deficiencies*, EPA Region 9, (August 21, 2001). (The Little Bluebook)

### B. Do the Rules Meet the Evaluation Criteria?

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

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

The TSD describes an additional revision to SJVAPCD Rule 2050 that does not affect EPA's current action but is recommended for the next time the local agency modifies the rule.

### D. Proposed Action and Public Comment

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 approval, so we are finalizing it 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 November 24, 2008, 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 December 23, 2008. 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 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. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those

imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

The Congressional Review Act, 5 U.S.C. 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 action 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. 804(2).

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 December 23, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Reporting and recordkeeping requirements.

Dated: September 2, 2008.

**Jane Diamond,**

*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)(197)(i)(C)(6), (241)(i)(A)(6), and (345)(i)(C) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

- (c) \* \* \*
- (197) \* \* \*
- (i) \* \* \*
- (C) \* \* \*

(6) Rule 2050, "Cancellation of Application," adopted on May 21, 1992 and amended on December 16, 1993.

\* \* \* \* \*

- (241) \* \* \*
- (i) \* \* \*
- (A) \* \* \*

(6) Rule 24, "Temporary Permit to Operate," adopted on March 20, 1996.

\* \* \* \* \*

- (345) \* \* \*

(i) \* \* \*

(C) Ventura County Air Pollution Control District.

(1) Rule 11, "Definitions for Regulation II," and Rule 29, "Conditions on Permits," adopted on June 13, 1995 and May 23, 1972, respectively, and revised on March 14, 2006.

\* \* \* \* \*

[FR Doc. E8-25310 Filed 10-23-08; 8:45 am]

**BILLING CODE 6560-50-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 08-2257; MB Docket No. 07-226; RM-11406]

**Radio Broadcasting Service; Tecopa, CA**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This *Report and Order* grants a petition for rulemaking filed by Shamrock Communications, Inc. ("Petitioner") to allot Channel 288A at Tecopa, California. Petitioner proposed the foregoing channel allotment to maintain a first local service allotment at Tecopa and to accommodate its construction permit application to substitute Channel 290C1 for Channel 291A at Tecopa, and change the community of license from Tecopa, California, to Amargosa Valley, Nevada. Channel 288A can be allotted at Tecopa, California, in compliance with the Commission's technical engineering requirements, at geographical coordinates of 35-50-48 North Latitude and 116-13-24 West Longitude with a site restriction of 0.3 kilometers (0.2 miles) southeast of Tecopa.

**DATES:** Effective November 24, 2008.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** R. Barthen Gorman, Media Bureau, (202) 418-2187.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 07-226, adopted October 8, 2008, and released October 10, 2008. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY-A257, Washington, DC 20554. The complete

text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

**PART 73—RADIO BROADCAST SERVICES**

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

**§ 73.202 [Amended]**

■ 2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Tecopa, Channel 288A.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 08-2272; MB Docket No. 07-210; RM-11399]

**Radio Broadcasting Services; Butte Falls and Netarts, OR**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Audio Division grants a Petition for Rule Making issued at the request of Oregon Radio Partners, proposing the allotments of Channel 290A at Butte Falls, Oregon and Channel 232C3 at Netarts, Oregon, as first local services. Channel 290A at Butte Falls can be allotted, consistent with the minimum distance separation requirements of the Commission's Rules, at reference coordinates 42-36-19 NL and 122-24-38 WL with a site restriction of 14.7 kilometers (9.1 miles) northeast of Butte Falls. Moreover, Channel 232C3 can be allotted to Netarts, consistent with the minimum