

demonstrating attainment of the 8-hour ozone NAAQS by the “serious” area deadline. The RFP plan includes an air quality analysis that demonstrates RFP toward attaining the 8-hour ozone NAAQS without the attribution of VOC emission reductions from pesticides. Based on the air quality analysis contained in the RFP plan, Ventura meets the RFP milestone year reductions and the three percent contingency requirements for “serious” areas in 2008, 2011, and 2012 with a combination of VOC and NO<sub>x</sub> reductions. The State adjusted the milestone year emissions for local and state control measures already adopted through December 31, 2006. These adjustments do not include any adjustment for VOC emission reductions from pesticides.<sup>6</sup>

EPA approved Ventura’s 15 percent rate-of-progress plan for the 1-hour ozone NAAQS on January 8, 1997 (see 62 FR 1169). EPA’s final 8-hour ozone RFP rule does not require serious and above 8-hour ozone nonattainment areas with approved 15 percent rate-of-progress VOC plans for the 1-hour ozone standard to do another 15 percent VOC-only reduction for the 8-hour ozone standard. See 70 FR 71612 (November 29, 2005) and 73 FR 15418–9 (March 24, 2008). Rather, those areas must reduce VOC and/or NO<sub>x</sub> emissions by an average of three percent per year for the first six-year period following the baseline year plus all remaining three-year periods out to their attainment dates. Therefore the RFP plan includes a combination of VOC and NO<sub>x</sub> reductions. The RFP plan also includes transport contributions from the Los Angeles-South Coast Air Basin within 100 kilometers of Ventura. The State followed guidance in EPA’s fine particulate matter Implementation Rule for crediting VOC and NO<sub>x</sub> reductions from outside the nonattainment area for RFP purposes.<sup>7</sup> See 72 FR 20586 (April 25, 2007) and 73 FR 15418–9 (March 24, 2008).

This SIP revision only concerns VOC emissions. Emissions of VOCs contribute to the formation of ozone. Therefore, given that Ventura is unclassifiable/attainment for all NAAQS

other than ozone,<sup>8</sup> we conclude non-interference of the SIP revision with continued attainment of NAAQS other than ozone<sup>9</sup> in Ventura.

Accordingly, we conclude that this SIP revision would not interfere with any applicable requirements for attainment and reasonable further progress or any other applicable requirement of the CAA and is thus approvable under CAA section 110(l).

#### IV. Public Comment and Final Action

Under section 110(k) of the Clean Air Act, we are proposing to approve the Revised Pesticide Element for Ventura, submitted to EPA on November 30, 2007 by CARB. We intend to defer final action on this proposed approval until we receive a SIP revision submittal from California containing the final 8-hour ozone Ventura RFP Plan. We will consider the final plan and any related public comments on the plan, as well as comments on this proposal, before we take final action on the Pesticide Element SIP Revision.

#### V. 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 proposed 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.

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

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

Dated: April 15, 2008.

**Wayne Nastri,**

*Regional Administrator, Region IX.*

[FR Doc. E8–8812 Filed 4–22–08; 8:45 am]

**BILLING CODE 6560–50–P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 63

[EPA–HQ–OAR–2003–0138, FRL–8557–2]

RIN 2060–AO99

#### National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to amend the National Emission Standards for Hazardous Air Pollutants: Organic

<sup>6</sup> For all milestone years, the RFP plan assumes 4.82 tons per day from pesticides. In contrast, if the RFP plan had relied on emission reductions commitments in the Pesticide Element of the 1994 Ozone SIP or the Revised Pesticide Element proposed for approval herein, the VOC emissions from this source category would have ranged from 2.5 tons per year to 4.3 tons per day depending upon specific commitment and year. See Table 3 of this document.

<sup>7</sup> See Harnett-Zaw-Mon RFP memo, October 11, 2007.

<sup>8</sup> EPA has promulgated NAAQS for the following pollutants: carbon monoxide, lead, nitrogen oxides, particulate matter, ozone and sulfur oxides (sulfur dioxide), see 40 CFR 50.

<sup>9</sup> The applicable ozone NAAQS is the 8-hour standard. The 1-hour ozone NAAQS was revoked effective June 25, 2005, see 70 FR 44470.

Liquids Distribution (non-gasoline) under section 112 of the Clean Air Act to clarify combustion control device compliance requirements, certain storage tank control compliance dates, and vapor balance system monitoring requirements. In addition, EPA is correcting typographical errors found in the July 28, 2006, final rule amendments notice.

**DATES:** *Comments.* Written comments must be received on or before June 9, 2008.

*Public Hearing.* If anyone contacts EPA requesting to speak at a public hearing by May 5, 2008, a public hearing will be held on May 8, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2003-0138, by mail to Air and Radiation Docket (2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

We request that you also send a separate copy of each comment to the contact persons listed below (see **FOR FURTHER INFORMATION CONTACT**).

**FOR FURTHER INFORMATION CONTACT:**

*General and Technical Information:* Mr. Stephen Shedd, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Coatings and Chemicals Group (E143-01), EPA, Research Triangle Park, NC 27711, telephone: (919) 541-5397, facsimile number: (919) 685-3195, e-mail address: [shedd.steve@epa.gov](mailto:shedd.steve@epa.gov).

*Compliance Information:* Ms. Marcia Mia, Office of Compliance, Air Compliance Branch (2223A), EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone: (202) 564-7042, facsimile number: (202) 564-0050, e-mail address: [mia.marcia@epa.gov](mailto:mia.marcia@epa.gov).

**SUPPLEMENTARY INFORMATION:** *Why is EPA issuing this proposed rule?* This document proposes to take action on the National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (non-gasoline) (OLD NESHP). We are proposing to amend the OLD NESHP to clarify the applicable compliance dates for certain work practice standards for storage tanks and correct typographical errors found in the July 28, 2006, final rule amendments notice. We have published a parallel direct final rule in the Regulations and Rules section of this **Federal Register** because we view this as a noncontroversial action and

anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment and no request for a public hearing on the parallel direct final rule, we will not take further action on this proposed rule. If we receive adverse comment on a distinct portion of the direct final rule, we will withdraw that portion of the rule and it will not take effect. In this instance, we would address all public comments in any subsequent final rule based on this proposed rule.

If we receive adverse comment on a distinct provision of the direct final rule, we will publish a timely withdrawal in the **Federal Register** indicating which provisions we are withdrawing. The provisions that are not withdrawn will become effective on the date set out in the direct final rule, notwithstanding adverse comment on any other provision.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

*Regulated Entities.* Categories and entities potentially regulated by this action include:

Category	NAICS* code	Examples of potentially regulated entities
Industry .....	325211, 325192, 325188, 32411, 49311, 49319, 48611, 42269, 42271.	Operations at major sources that transfer organic liquids into or out of the plant site, including: Liquid storage terminals, crude oil pipeline stations, petroleum refineries, chemical manufacturing facilities, and other manufacturing facilities with collocated OLD operations.
Federal Government .....	.....	Federal agency facilities that operate any of the types of entities listed under the "industry" category in this table.

\* North American Industry Classification System. Considered to be the primary industrial codes for the plant sites with OLD operations.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR part 63, subpart EEEE. If you have any questions regarding the applicability of this action to a particular entity, consult either the air permit authority for the entity or your EPA regional representative as listed in 40 CFR 63.13.

*Public Hearing.* Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Janet Eck, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Coatings and Chemicals Group (E143-01), Research Triangle Park, NC

27711; telephone number: (919) 541-7946, e-mail address: [eck.janet@epa.gov](mailto:eck.janet@epa.gov), at least 2 days in advance of the potential date of the public hearing. If a public hearing is held, it will be held at 10 a.m. at EPA's Campus located at 109 T.W. Alexander Drive in Research Triangle Park, NC, or an alternate site nearby. If no one contacts EPA requesting to speak at a public hearing concerning this rule by May 5, 2008, this hearing will be cancelled without further notice.

*Worldwide Web (WWW).* In addition to being available in the docket, an electronic copy of today's proposal will also be available through the WWW. Following the Administrator's signature, a copy of this action will be posted on EPA's Technology Transfer Network (TTN) policy and guidance page for

newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg/>. The TTN at EPA's Web site provides information and technology exchange in various areas of air pollution control.

#### Statutory and Executive Order Reviews

For a complete discussion of all of the administrative requirements applicable to this action, see the direct final rule in the Rules and Regulations section of this **Federal Register**.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the Agency certifies

that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule amendments on small entities, a small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

The proposed rule amendments will not impose any new requirements on small entities, and, therefore, will have no significant adverse economic impact on subject small entities. The Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities.

We continue to be interested in the potential impacts of the proposed rule amendments on small entities and welcome comments on issues related to such impacts.

#### List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 16, 2008.

**Stephen L. Johnson,**  
Administrator.

[FR Doc. E8-8811 Filed 4-22-08; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 216

RIN 0750-AF90

### Defense Federal Acquisition Regulation Supplement; Limitations on DoD Non-Commercial Time-and-Materials Contracts (DFARS Case 2007-D021)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to address review and documentation requirements with regard to the use of time-and-materials contracts for the acquisition of non-commercial services. The proposed rule provides for the same level of review for both commercial and non-commercial DoD time-and-materials contracts.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before June 23, 2008, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2007-D021, using any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>.

Follow the instructions for submitting comments.

*E-mail:* [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2007-D021 in the subject line of the message.

*Fax:* 703-602-7887.

*Mail:* Defense Acquisition Regulations System, Attn: Ms. Sandra Morris, OUSD (AT&L) DPAP (CPF), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062.

*Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sandra Morris, 703-602-0296.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Section 16.601(d) of the Federal Acquisition Regulation (FAR) requires that, before using a time-and-materials contract, the contracting officer must prepare a determination and findings that no other contract type is suitable. For time-and-materials contracts for commercial services, FAR 12.207(b)(2) specifies the minimum content for the determination and findings, and FAR 12.207(c) contains additional requirements with regard to the use of indefinite-delivery contracts priced on a time-and-materials basis.

To provide for the same level of oversight in the award of all DoD time-and-materials contracts, this proposed rule amends DFARS 216.601 to establish determination and findings requirements for DoD non-commercial

time-and-materials contracts, similar to those presently required by FAR 12.207 for commercial services contracts.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

##### B. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the proposed rule relates to internal DoD review and documentation requirements with regard to the selection of contract type. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2007-D021.

##### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

#### List of Subjects in 48 CFR Part 216

Government procurement.

**Michele P. Peterson,**

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR part 216 as follows:

#### PART 216—TYPES OF CONTRACTS

1. The authority citation for 48 CFR part 216 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR Chapter 1.

2. Section 216.601 is amended by adding paragraph (d) to read as follows:

##### 216.601 Time-and-materials contracts.

(d) *Limitations.*

(i) The determination and findings shall contain sufficient facts and rationale to justify that no other contract type is suitable. At a minimum, the determination and findings shall—

(A) Include a description of the market research conducted;

(B) Establish that it is not possible at the time of placing the contract or order to accurately estimate the extent or duration of the work or to anticipate costs with any reasonable degree of certainty;