

river, commercial vessels can plan their transits up the river around the time the regulated area is in effect as they will have advance notice of the event, it is an annual event with local support, the new course is 800 yards smaller than the current course, the event's course has only been moved 1600 yards north of the current regulated area, vessel traffic will still be able to transit the regulated area in accordance with 33 CFR § 100.104(c), and advance notifications will be made to the local maritime community by the Local Notice to Mariners and marine information broadcasts.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For the reasons stated in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. § 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see ADDRESSES) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

#### Collection of Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501 *et seq.*).

#### Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

#### Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal

governments, in the aggregate of \$100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected. No state, local, or tribal government entities will be effected by this rule, so this rule will not result in annual or aggregate costs of \$100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

#### Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that under figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

#### List of Subjects in 33 CFR Part 100

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

#### Proposed Regulation

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 100 as follows:

#### PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Revise § 100.104 (a) and (b) to read as follows:

#### § 100.104 Empire State Regatta, Albany, New York

(a) *Regulated area.* All waters of the Hudson River between the Albany Rensselaer Swing Bridge, river mile 146.2, and Light 224, (LLNR 39015), river mile 147.5, located approximately 750 yards north of the I-90/Patruon Island Bridge.

(b) *Effective period.* This section is effective annually from 12 p.m. Friday through 7 p.m. Sunday, on the first weekend of June.

\* \* \* \* \*

Dated: December 18, 1998.

**R.M. Larrabee,**

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

[FR Doc. 98-34764 Filed 12-31-98; 8:45 am]

BILLING CODE 4910-15-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 210-0115; FRL-6214-3]

### Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Antelope Valley Air Pollution Control District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing approval of revisions to the California State Implementation Plan (SIP) which concern the rescission of administrative rules for the Antelope Valley Air Pollution Control District (AVAPCD). These rules concern conduct and procedure governing hearings by the governing board on permit appeals. The intended effect of this action is to bring the AVAPCD SIP up to date in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act).

**DATES:** Written comments must be received by February 3, 1999.

**ADDRESSES:** Comments should be addressed to: Andrew Steckel, Chief, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions and EPA's evaluation report are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Antelope Valley Air Pollution Control District, 43301 Division Street, Suite 206, Lancaster, CA 93539-4409.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Rose, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1184.

#### SUPPLEMENTARY INFORMATION:

#### I. Applicability

The rules being proposed for rescission from the Antelope Valley Air Pollution Control District (AVAPCD) portion of the California SIP include: AVAPCD Regulation XII, Rules of Practice and Procedures, consisting of: Rule 1201, Discretion to Hold Hearing; Rule 1202,

Notice; Rule 1203, Petitions; Rule 1204, Answers to Petitions; Rule 1205, Function of the Board; Rule 1206, Appearances; Rule 1207, Service and Filing; Rule 1208, Rejection of Documents; Rule 1209, Form and Size; Rule 1210, Copies; Rule 1211, Subpoenas; Rule 1212, Continuances; Rule 1213, Request for Continuances or Time Extensions; Rule 1214, Transcript and Record; Rule 1215, Conduct of Hearing; Rule 1216, Presiding Officer; Rule 1217, Disqualification of Hearing Officer or Board Member; Rule 1218, Ex Parte Communications; Rule 1219, Evidence; Rule 1220, Prepared Testimony; Rule 1221, Official Notice; Rule 1222, Order of Proceedings; Rule 1223, Prehearing Conference; Rule 1224, Opening Statements; Rule 1225, Conduct of Cross-Examination; Rule 1226, Oral Argument; Rule 1227, Briefs; Rule 1228, Motions; Rule 1229, Decisions; and Rule 1230, Proposed Decision and Exceptions. These rule rescissions were adopted by the AVAPCD on October 21, 1997 and submitted by the California Air Resources Board to EPA on May 18, 1998.

## II. Background

The Antelope Valley Air Pollution Control District (AVAPCD) was created pursuant to California Health and Safety Code (CHSC) section 40106 and assumed all air pollution control responsibilities of the South Coast Air Quality Management District (SCAQMD) in the Antelope Valley region of Los Angeles County,<sup>1</sup> effective July 1, 1997. AVAPCD is the successor agency to SCAQMD in the Antelope Valley portion of the Southeast Desert Modified Air Quality Maintenance Area. The SCAQMD rules and regulations remain in effect after July 1, 1997, until the AVAPCD rescinds them or adopts new rules and regulations to supersede them.

The rules being proposed for rescission for AVAPCD were adopted by the SCAQMD for the purpose of establishing conduct and procedure governing hearings by its Governing Board on permit appeals. The rules were necessary to implement section 40509 of the CHSC which states, "Any person may petition the South Coast district board to hold a public hearing on any application to issue or renew a permit." No other air district Governing Board has specific authority to hear appeals on permits. For all other districts, the

authority for such appeals is vested with the hearing board of the district.

The newly formed AVAPCD is a "county district" pursuant to CHSC section 40106(d) and may not exercise powers granted exclusively to the SCAQMD Governing Board by CHSC section 40509. Regulation XII applies only to the SCAQMD Governing Board and not to any other air district board. Therefore, AVAPCD has rescinded Regulation XII, Rules of Practice and Procedure from the AVAPCD rulebook and the AVAPCD SIP.

Regulation XII (Rules 1201 to 1231) was approved into the SCAQMD SIP on September 9, 1980 (45 FR 30626) and September 28, 1981 (46 FR 47451). It became part of the AVAPCD SIP when the AVAPCD was formed on July 1, 1997.

The State of California submitted many revised rules for incorporation into its SIP on May 18, 1998, including the rule rescissions being acted on in this document. This document addresses EPA's proposed action for approving the rescission of AVAPCD's Regulation XII, which includes Rules 1201 to 1230. The revision was adopted on October 21, 1997 by the Governing Board of the AVAPCD. These revisions were found to be complete on July 17, 1998 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V<sup>2</sup> and are being proposed for rescission from the SIP.

## III. EPA Evaluation and Action

EPA has evaluated the submitted rule rescissions and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, the rescission of AVAPCD Regulation XII, Rules 1201 to 1230 is being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

## IV. Administrative Requirements

### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

### B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides

the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

### C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

### D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of

<sup>1</sup> The Antelope Valley region of Los Angeles County is contained within the Federal area known as the Southeast Desert Modified Air Quality Management Area and the region identified by the State of California as the Mojave Desert Air Basin.

<sup>2</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).

the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

#### *E. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

#### *F. Unfunded Mandates*

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that

may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

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

Environmental protection, Air pollution control, Intergovernmental relations.

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

Dated: December 17, 1998.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 98-34820 Filed 12-31-98; 8:45 am]

BILLING CODE 6560-50-P

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Health Care Financing Administration**

#### **42 CFR Chapter IV**

[HCFA-3250-N2]

RIN 0938-A192

#### **Medicare Program; Negotiated Rulemaking; Coverage and Administrative Policies for Clinical Diagnostic Laboratory Tests; Announcement of Additional Public Meetings**

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Notice of meetings.

**SUMMARY:** This notice announces additional public meetings of the Negotiated Rulemaking Committee on Coverage and Administrative Policies for Clinical Laboratory Tests. The Committee was mandated by section 4554(b) of the Balanced Budget Act of

1997, and established under the Federal Advisory Committee Act.

**DATES:** The meetings are scheduled as follows:

1. January 25, 1999, 9:00 a.m. to 5:00 p.m.
2. January 26, 1999, 9:00 a.m. to 2:00 p.m.
3. January 27, 1999, 8:00 a.m. to 4:00 p.m.

#### **FOR FURTHER INFORMATION CONTACT:**

Jackie Sheridan, (410) 786-4635.

**SUPPLEMENTARY INFORMATION:** We published a notice in the **Federal Register** on June 3, 1998 (63 FR 30166) announcing the intent to form a negotiated rulemaking committee to provide advice and make recommendations to the Secretary on the content of a proposed rule that will establish national coverage and administrative policies for clinical laboratory tests payable under Part B of the Medicare program. The notice also announced the dates of the Committee meetings that began on July 13, 1998. The meetings were originally scheduled to end December 10, 1998.

The Committee will have an additional 3-day public meeting from 9:00 a.m. to 5:00 p.m. on January 25th, from 9:00 a.m. to 2:00 p.m. on January 26th, and from 8:00 a.m. to 4:00 p.m. on January 27, 1999. The opportunity for public comment will be at 9:00 a.m. on January 26th. The meetings will be held at the Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW, Washington, DC 20201.

The meetings are open to the public without advance registration. Public attendance at the meetings may be limited to space availability. During these meetings, the Committee will continue to address the issues within the scope of the negotiations as described in this document. More detailed information for each meeting will be available on the HCFA Internet Home Page (<http://www.hcfa.gov/quality/q1ty-8a>) preceding each meeting date.

**Authority:** Federal Advisory Committee Act (5 U.S.C. App. 2) (Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 21, 1998.

**Nancy-Ann Min DeParle,**

*Administrator, Health Care Financing Administration.*

[FR Doc. 98-34740 Filed 12-31-98; 8:45 am]

BILLING CODE 4120-01-M