

Paragraph 5000 Class D airspace areas extending upward from the surface of the earth.

\* \* \* \* \*

**AEA WV D Huntington, WV [Revised]**

Tri State/Milton J Ferguson Field Airport,  
Huntington, WV  
(Lat. 38°22'00" N., long. 82°33'29" W.)

That airspace extending upward from the surface to and including 3,400 feet MSL within a 4-mile radius of Tri State/Milton J Ferguson Field Airport.

\* \* \* \* \*

Issued in Jamaica, New York on May 23, 2002.

**F.D. Hatfield,**

Manager, Air Traffic Division, Eastern Region.  
[FR Doc. 02-15800 Filed 6-21-02; 8:45 am]

**BILLING CODE 4910-13-M**

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 66**

**[USCG-2000-7466]**

**RIN 2115-AF98**

**Allowing Alternatives to Incandescent Lights, and Establishing Standards for New Lights, in Private Aids to Navigation**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to remove the requirement to use only tungsten-incandescent-light sources for private aids to navigation (PATONs) and to establish more-specific performance standards for all lights in PATONs. These measures would enable private industry and owners of PATONs to take advantage of recent changes in lighting technology—specifically allow owners of PATONs to use lanterns based on the technology of light-emitting diodes (LEDs). They might reduce the consumption of power, simplify the maintenance of PATONs, and make the rules for PATONs equivalent to those for Federal aids to navigation.

**DATES:** Comments and related material must reach the Docket Management Facility on or before August 23, 2002.

**ADDRESSES:** To make sure that your comments and related material do not enter the docket [USCG-2000-7466] more than once, please submit them by only one of the following means:

(1) By mail to the Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001. Caution: Because of recent delays in the delivery

of mail, your comments may reach the Facility more quickly if you choose one of the other means described below.

(2) By delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

The Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Dan Andrusiak, Office of Aids to Navigation, at Coast Guard Headquarters, telephone 202-267-0327. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [USCG-2000-7466], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Regulatory Information**

*Background*

The Marine Safety Council (MSC) of the Coast Guard recommended this rulemaking to provide owners of PATONs with more options for selecting equipment. This rule might reduce lifecycle cost, reduce the consumption of power, and simplify the maintenance of PATONs by allowing the use of lighting technologies other than those based on tungsten-incandescent light sources.

*History of Rulemaking*

On October 4, 2000, the Coast Guard published a direct final rule (DFR) [65 FR 59124] under the same docket number as the one borne by this NPRM: USCG-2000-7466. We published that rule as a DFR because we expected that the public would readily embrace it; however, we received an adverse comment. Because of this, we withdrew the DFR [66 FR 8 (January 2, 2001)] so our engineers could analyze and respond to the comment. They did so. Not only did they follow the commenter's advice to make performance standards for LEDs more specific; they also recommended to the MSC the standardizing of all rules related to lights used as PATONs.

*Response to Adverse Comment*

Our engineers have analyzed the adverse comment. We are publishing their responses to the several concerns in the order in which the commenter raised them.

Concern (1) "Absent the provision of standards for LED performance, the reliability of [PATONs] will decrease."

Our response: First, we agree that we should publish standards for the performance of LEDs. Second, we should make more explicit our performance standards for all lights used as PATONs: We propose to establish, in addition to the existing ones, specifications for range, effective intensity, uniformity in the horizontal plane (omnidirectionality), and divergence (beam spread). Third, we propose to require that each light feature

a label attached to the PATON that meets the requirements of new 33 CFR § 66.01–13 and indicates a recommended interval for replacement. And, fourth, we propose to require that any lantern using renewable energy must have autonomy of (the ability to maintain a charge for) at least 10 days.

Concern (2) “The color of many white LEDs and some green LEDs [does] not conform to current color standards” for lights in aids to navigation.

*Our response:* We agree that many white and some green LEDs may not conform to current color standards for lights in aids to navigation and may be inadequate for use in PATONs.

Therefore, we are proposing to require that any source of light, of any color, used in a PATON conform to specific standards of color approved by the International Association of Lighthouse Authorities (IALA).

Concern (3) “There is no provision for a backup source, such as provided by a lampchanger.”

*Our response:* While we agree this is an important issue to consider, we believe that because LEDs are so reliable—their mean time between failure (MTBF) often exceeds 100,000 hours—it is not necessary to require a backup source. However, as discussed in our response to concern #1, we are proposing to require that intervals for replacement of all lights be made explicit.

Concern (4) “Degradation of output over time must be addressed.”

*Our response:* We have considered degradation of output over time and we feel confident that LEDs are safe, even safer than other lights on the market, for two primary reasons. First, as we stated in our response to concern (3), the lifespan of an LED is so long (100,000 hours or more) that burnout risk is minimal. Second, most manufacturers indicate that the average LED does not degrade before 50,000 hours of life. One year contains about 8,000 hours, so an LED at continuous burn would not degrade until 6.25 years later—and the predicted reduction would not be discernible to the eye when comparing the LED to a new source of light of any kind.

### Discussion of Proposed Rule

This proposed rule would remove the requirement to use only tungsten-incandescent-light sources for PATONs. As a result, it would enable industry and owners of PATONs to take advantage of recent changes in lighting technology—specifically, to use lanterns based on LEDs. This might reduce life cycle costs, reduce the consumption of power, simplify the maintenance of

PATONs, and align the performance standards requirements for the light sources of PATONs with those for Federal aids to navigation.

This rule would not preclude owners of PATONs from continuing to use any equipment that they are currently using until they modify or replace it. After a PATON was modified or replaced, however, it would have to meet the new performance standards.

### What Specific Changes are we Proposing?

We propose to revise § 66.01–5, to add the terms “range,” and “effective intensity” to help managers of Short Range Aids to Navigation determine whether equipment will meet the design requirements prescribed in Part 62.

We propose to revise § 66.01–10, to expand users’ choices by allowing the use of LEDs and other lights that meet the requirements of part 66. Users would still be able to use tungsten-incandescent-light sources that meet the requirements of this rule.

We propose to add § 66.01.11, to establish the requirements for lights used as PATONs. These requirements would ensure that the equipment provides a useful and reliable signal to the mariner.

We propose to add § 66.01–12, which would explain that, if you modify, replace, or install any light that requires a new application as described in § 66.01–5, you must comply with the rules in part 62. However, if you do not modify, replace, or install your existing light, or do anything else to necessitate a new application, you can continue to use that light. This “grandfather” effect would allow the use of currently authorized equipment so that owners of existing PATONs might not incur financial burdens.

We propose to add § 66.01–13, to explain when manufacturers of PATONs must comply with this rule. They must do so by the effective date of this rule.

We propose to add § 66.01–14, to require labels on all PATONs so that the buyer or anyone who inspects the PATONs can certify that they meet all requirements of this part. “Nominal range” means the distance at which a light is visible with ten nautical miles of visibility.

### Regulatory Evaluation

This proposed rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not

reviewed it 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)].

We expect 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.

### Cost of Rule

This rule would not impose any costs on current owners of PATONs unless they change their PATONs. While it would permit, it would not require, the use of LEDs. It would simply allow owners to use LEDs and set the standards for all PATON equipment to comply with the rules on aids to navigation. Therefore, owners of current or new PATONs would incur no added costs.

Under this rule, manufacturers of equipment used in PATONs would have to develop and affix labels on all PATONs they manufacture. Each label must contain the information listed in § 66.01–14(a). This would impose an added cost for creating, printing and attaching the labels.

The Coast Guard estimates that, in the first year following promulgation of this rule, manufacturers would spend 48 hours developing six labels, one label (each representing eight hours) for each of six newly designed PATONs; the cost would come to about \$1940. We estimate that, in following years, each manufacturer would design one new PATON every two years; the cost would come to about \$320. Costs incurred from attaching a label to each of the 500 PATONs made would come to about \$262 a manufacturer a year, assuming that each company makes exactly half of all PATONs produced and that a label costs \$1 to print.

### Benefits of Rule

This rule would let owners of PATONs choose from not only tungsten-incandescent-light sources, which are currently permitted, but also a new technology-LEDs. These consume less power and have a longer lifespan than the sources currently permitted. Besides, because the replacement date would be printed on each light, maintenance would be simpler for owners (as inspection would be for the Coast Guard).

Current rules do not allow manufacturers to sell LEDs for use in PATONs. This rule, however, would—and this could increase their sales.

### *Small Entities*

Under the Regulatory Flexibility Act [5 U.S.C. 601–612], we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises 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.

The Coast Guard conducted a survey of industry, and discovered that there are now two domestic manufacturers of tungsten-incandescent-lighting sources used for aids to navigation. Only one of them qualifies as small according to the standards of the Small Business Administration. This rule, however, will allow the small company to continue selling tungsten-incandescent PATONs. Barring unforeseen changes in the market for PATONs, we do not expect that the legalization of PATONs with LEDs will have any significant impact on the sale of cheaper, and more widely available tungsten-incandescent products.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

### *Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Public Law 104–121], we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Dan Andrusiak, at the number given for him under **FOR FURTHER INFORMATION CONTACT**.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business

Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

### **Collection of Information**

This proposed rule provides for a collection of information under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501–3520]. As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the collection, a description of the respondents, and an estimate of the total annual burden follow. Each estimated burden in this analysis pertains only to the requirements proposed by this rule; we do not incorporate the estimates or burdens noted in previous rulemakings.

#### *Summary of the Collection of Information*

This rule would require manufacturers that supply equipment for use in PATONs to develop and attach a label to each of these. The label would have to state the matter called for by this rule. And it would have to last the life of the equipment.

#### *Need for Information*

This rule would contain burdens for manufacturers of equipment used as PATONs. Manufacturers would have to develop and attach a label to each of their PATONs to inform the owners and inspectors that the equipment meets our standards. (And all such equipment used in PATONs would have to meet the standards in this rule.)

#### *Respondents*

The Coast Guard estimates that two manufacturers manufacture LEDs and tungsten-incandescent-light sources for use in PATONs.

#### *Frequency of Response*

The rule would call for no regular reporting. But it would require labels on all equipment provided for sale in PATONs.

#### *Estimate of Total Annual Burden*

The Coast Guard estimates that, in the first year following promulgation of this rule, manufacturers would spend 48 hours developing six labels, one label (each representing eight hours) for each of six newly designed PATONs; the cost would come to about \$1940. We estimate that, in following years, each manufacturer would design one new

PATON every two years; the cost would come to about \$320. Costs incurred from attaching a label to each of the 500 PATONs made would come to about \$262 a manufacturer a year, assuming that each company makes exactly half of all PATONs produced and that a label costs \$1 to print.

### *Federalism*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order, and have determined that it does not have implications for federalism.

### *Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 [2 U.S.C. 1531–1538] requires Federal agencies to assess the effects of their discretionary regulatory acts. In particular, the Act addresses those that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. This proposed rule would not result in such an expenditure.

### *Taking of Private Property*

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### *Reform of Civil Justice*

This proposed rule meets applicable standards in subsection 3(a) and paragraph 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### *Protection of Children*

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not economically significant and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

### *Indian Tribal Governments*

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or

more tribes of Indians (including Alaskan natives), on the relationship between the Federal Government and these tribes, or on the distribution of power and responsibilities between the Federal Government and these tribes.

To help ourselves establish regular and meaningful consultation and collaboration with tribes of Indians, we published a notice in the **Federal Register** [66 FR 36361 (July 11, 2001)] requesting comments on how to best carry out the Order. We invite your comments on how this rule might affect tribal governments, even if any effect might not constitute a "tribal implication" under the Order.

*Energy Effects*

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under the more recent Order.

*Environment*

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

**List of Subjects in 33 CFR Part 66**

Navigation (water).

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 66 as follows:

**PART 66—PRIVATE AIDS TO NAVIGATION**

1. Revise the citation of authority for part 66 to read as follows:

**Authority:** 14 U.S.C. 83, 84, 85; 43 U.S.C. 1333; 49 CFR 1.46.

2. Revise § 66.01-5(f) to read as follows:

**§ 66.01-5 Application Procedure.**

\* \* \* \* \*

(f) For lights: The color, characteristic, range, effective intensity, height above water, and description of illuminating apparatus.

\* \* \* \* \*

3. Revise § 66.01-10 to read as follows:

**§ 66.01-10 Characteristics.**

The characteristics of a private aid to navigation must conform to those prescribed by the United States Aids to Navigation System set forth in subpart B of part 62 of this subchapter.

4. Add § 66.01-11 to read as follows:

**§ 66.01-11 Lights.**

(a) Each light approved as a private aid to navigation must:

(1) Have at least the effective intensity required by this subpart omnidirectionally in the horizontal plane, except at the seams of its lens-mold.

(2) Have at least 50% of the effective intensity required by this subpart within ±2° of the horizontal plane.

(3) Have an effective intensity of at least 1 candela for a nominal range of 1 nautical mile, 3 candelas for one of 2 nautical miles, and 10 candelas for one of 3 nautical miles. For a flashing light this intensity is determined by the formula:

$I_e = G / (0.2 + t_2 - t_1)$

Where:

$I_e$  = Effective intensity

$G$  = The integral of the instantaneous intensity of the flashed light with respect to time

$t_1$  = Time in seconds at the beginning of the flash

$t_2$  = Time in seconds at the end of the flash

$t_2 - t_1$  is greater than or equal to 0.2 seconds.

(4) Unless the light is a prefocused lantern, have a means of verifying that the source of the light is at the focal point of the lens.

(5) Emit a color within the angle of 50% effective intensity with color coordinates lying within the boundaries defined by the corner coordinates of the General Region in Table 66.01-11(5) established by the International Association of Lighthouse Authorities when plotted on the Standard Observer Diagram of the International Commission on Illumination (CIE).

TABLE 66.01-11(5).—COORDINATES OF CHROMATICITY

Color	Coordinates of Chromaticity	
	x axis	y axis
White .....	0.500	0.382

TABLE 66.01-11(5).—COORDINATES OF CHROMATICITY—Continued

Color	Coordinates of Chromaticity	
	x axis	y axis
Green .....	0.440	0.382
	0.285	0.264
	0.285	0.332
	0.453	0.440
	0.500	0.440
Red .....	0.305	0.689
	0.321	0.494
	0.228	0.351
Yellow .....	0.028	0.385
	0.735	0.265
	0.721	0.259
	0.645	0.335
	0.665	0.335
	0.600	0.400
	0.596	0.396
	0.555	0.435
	0.560	0.440

(6) Have a recommended interval for replacement of the source of light such as ensures that the lantern meets the minimal required intensity stated in paragraph (a)(3) of this section in case of degradation of either the source of light or the lens.

(7) Have autonomy of at least 10 days if the light has a self-contained power system. The literature concerning the light must clearly state the operating limits.

(b) The manufacturer of each light approved as a private aid to navigation must certify compliance by means of an indelible plate or label affixed to the aid that meets the requirements of § 66.01-13.

5. Add § 66.01-12 to read as follows:

**§ 66.01-12 May I continue to use the Private Aids to Navigation (PATON) I am currently using?**

If, after [effective date of the final rule], you modify, replace, or install any light that requires a new application as described in § 66.01-5, you must comply with the rules in this part.

6. Add § 66.01-13 to read as follows:

**§ 66.01-13 When must my newly manufactured equipment comply with these rules?**

After [effective date of the final rule] equipment manufactured for use as a private aid to navigation must comply with the rules in this part.

7. Add § 66.01-14 to read as follows:

**§ 66.01-14 Label affixed by manufacturer.**

(a) Each light, intended or used as a private aid to navigation authorized by this part, must bear a legible, indelible label affixed by the manufacturer and indicating the—

(1) Name of the manufacturer;

- (2) Number of the model;
- (3) Nominal range;
- (4) Date placed in service;
- (5) Recommended service life based on the degradation of either the source of light or the lens;
- (6) Size of lamp (incandescent only);
- (7) Interval, in days or years, for replacement of dry-cell battery; and
- (8) Words to this effect: "This equipment complies with requirements of the U.S. Coast Guard in 33 CFR part 66."

(b) This label must last the service life of the equipment.

Dated: June 4, 2002.

**Kenneth T. Venuto,**

*Rear Admiral, U.S. Coast Guard, Acting Assistant Commandant for Operations.*

[FR Doc. 02-15794 Filed 6-21-02; 8:45 am]

BILLING CODE 4910-15-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CA 266-0358b; FRL-7235-8]

**Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Ventura County Air Pollution Control District's (District) portion of the California State Implementation Plan (SIP). These revisions concern permitting and new source review (NSR) rules. We are taking comments on these proposed rules and plan to follow with a final action. Elsewhere in today's **Federal Register**, EPA has made an interim final determination that by submitting these revisions the District has corrected deficiencies noted in a December 7, 2000, limited approval and limited disapproval rulemaking (65 FR 76567), thereby deferring the imposition of sanctions.

**DATES:** Comments must be received by July 24, 2002.

**ADDRESSES:** Written comments must be submitted to Nahid Zoueshtiagh (Air-3), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

You can inspect copies of the submitted SIP 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 SIP revisions at the following locations:

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, California 93003.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95812.

An electronic copy of the TSD is available from EPA Region IX upon request. The District rules are also available on the Internet at: <http://arbis.arb.ca.gov/drdb/ven/cur.htm>

**FOR FURTHER INFORMATION CONTACT:** Nahid Zoueshtiagh, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, telephone (415) 972-3978, email address: [zoueshtiagh.nahid@epa.gov](mailto:zoueshtiagh.nahid@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

**Table of Contents**

- I. Background
- II. The State's Submittal
  - A. What rules did the State submit?
  - B. Are there other versions of these rules?
  - C. What are the purposes of the submitted revisions and new rule?
- III. EPA's Evaluation and Action
  - A. How is EPA evaluating the rules?
  - B. Do the rules meet the evaluation criteria?
  - C. Public comment and final action.
- IV. Administrative Requirements

**I. Background**

On December 7, 2000, EPA finalized the limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP) (65 FR 76567). This limited approval and limited disapproval incorporated Ventura Air Pollution Control District Rules 10 through 15, 15.1, 16, 23, 24, 26, 26.1 through 26.10, 29 and 30 into the federally approved SIP. This action became effective on January 8, 2001. Our final action was a limited approval and limited disapproval because the rules contained deficiencies and were not fully consistent with the Clean Air Act (CAA) requirements. In our limited disapproval, we required the District to correct specific rule deficiencies within 18 months from the effective date of our action to avoid imposition of mandatory sanctions. In response, the District revised Rule 10 and Rule 26 and developed a new rule, Rule 26.11.

The District is designated a severe ozone nonattainment area, and an attainment area for all other criteria pollutants. The CAA air quality planning requirements for

nonattainment NSR are set out in part D of Title I of the Act, with implementing regulations at 40 CFR 51.160 through 51.165. The revisions to Rules 10 and 26 and submission of Rule 26.11 are the subject of today's proposal, and EPA has determined that the District's submittal satisfies the federal NSR implementing regulations.

**II. The State's Submittal**

*A. What Rules Did the State Submit?*

Table 1 lists the rules discussed in this proposed rulemaking. The rules were adopted by the District on May 14, 2002, and submitted to us by the California Air Resources Board (CARB) on May 20, 2002.

TABLE 1.—SUBMITTED RULES

Rule No.	Rule title
10	Permits Required
26.1	New Source Review—Definitions.
26.2	New Source Review—Requirements.
26.3	New Source Review—Exemptions.
26.4	New Source Review—Emission Banking.
26.6	New Source Review—Calculations.
26.11	New Source Review—ERC Evaluation At Time of Use.

On May 30, 2002, EPA determined that the rules met 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?*

There are previous versions for all the above rules, except for Rule 26.11 because it is an entirely new rule. The TSD for this proposed rulemaking contains detailed information on the new rule and on the District's revisions to its previous rules.

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

The District has revised Rules 10 and 26 to correct the following deficiencies described in our December 7, 2000 final limited approval and limited disapproval.

Issue number 1. Permitting—Rule 10: there was no requirement to obtain an authority to construct (ATC) permit for emission units located at major NSR sources when relocated within five miles in the District.

Issue number 2. NSR—Rule 26: there was no requirement that emission reduction credits (ERCs) used as emission offsets for major NSR source