

Dated: July 9, 1998.

**William B. Schultz,**

*Deputy Commissioner for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR PART 165

[CGD09-97-002]

RIN 2115-AE84

#### **Regulated Navigation Area—Air Clearance Restrictions at the Entrance to Lakeside Yacht Club and the Northeast Approach to Burke Lakefront Airport in Cleveland Harbor, OH**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a regulated navigation area at the entrance to the Lakeside Yacht Club in Cleveland Harbor, Ohio, underneath the northeast approach to the Burke Lakefront Airport, in order to avoid conflict with the safety parameters for an instrument-guided aircraft approach slope. The regulation would create a set of restricted areas, some of which would prohibit docking of vessels of certain heights, others which would require vessels of certain heights to obtain clearance from the Airport before entering or leaving the entrance to the yacht club during times when the instrument system is in use. Vessels with masts less than 41 feet above the waterline would not be affected at all, and vessels less than 45 feet in height would not be required to make any

change in their normal areas of navigation or docking. Vessels with masts between 45 and 95 feet would be subject to a requirement to obtain a routine clearance by radio or telephone before navigating through the area, and vessels between 53 and 95 feet would be limited to certain specified areas for docking. Vessels 95 feet and above, none of which are currently using the area, would be prohibited from any entry into the area.

**DATES:** Comments must be received on or before November 5, 1998.

**ADDRESSES:** Comments and supporting materials may be mailed or delivered to Lieutenant Lynn Goldhammer, Assistant Chief, Marine Safety Analysis and Policy Branch, Ninth Coast Guard District, Room 2069, 1240 E. Ninth Street, Cleveland, Ohio, 44199-2060. Comments may also be telefaxed to (216) 902-6059. Please reference the name of the proposal and the docket number [CGD09-97-002] in any communication. If you wish receipt of your mailed comment to be acknowledged, please include a stamped self-addressed envelope or postcard for that purpose. Comments and materials received will be available for public inspection at the above location from 9 a.m. to 3 p.m. Monday through Friday except federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Lynn Goldhammer, Assistant Chief, Marine Safety Analysis and Policy Branch, Ninth Coast Guard District, Room 2069, 1240 E. Ninth Street, Cleveland, Ohio, 44199-2060, (216) 902-6050.

*Request for Comments:* The Coast Guard encourages interested persons to participate in this rulemaking by submitting comments which may consist of data, views, arguments, or

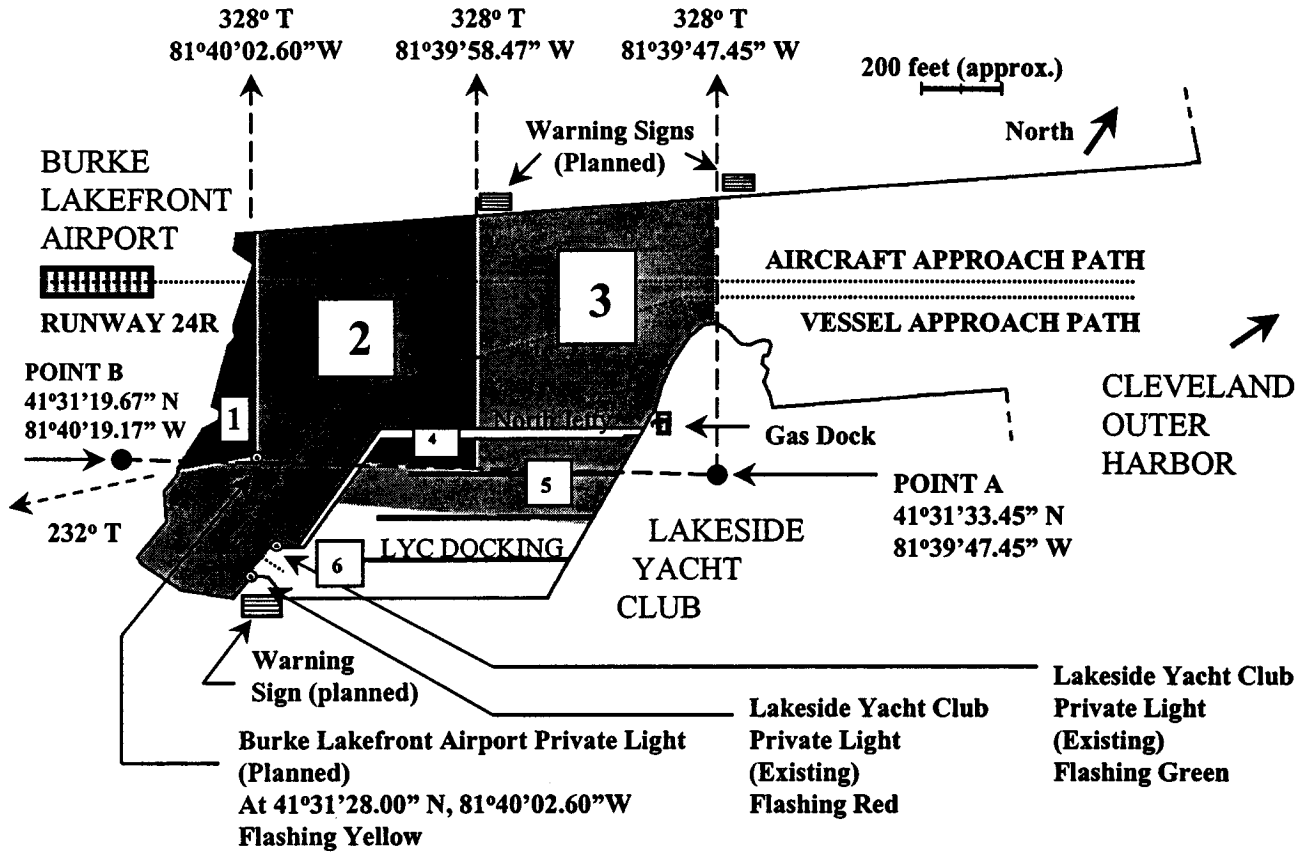
proposals for amendments to the proposed regulations. The Coast Guard does not currently plan to have a public hearing. However, consideration will be given to holding a public hearing if it is requested. Such a request should indicate how a public hearing would contribute substantial information or views which cannot be received in written form. If it appears that a public hearing would substantially contribute to this rulemaking and there is sufficient time to publish a notice, the Coast Guard will announce such a hearing by a later notice in the **Federal Register**. The Coast Guard will consider all comments received before the closing date indicated above, and may amend or revoke this proposal in response to such comments.

#### **Background and Purpose**

Burke Lakefront Airport, located next to Cleveland Harbor in Cleveland, Ohio, proposes to install an instrument-guided approach system for the northeast approach to the Airport which is important to maintaining safe and commercially viable airport operations. Under Federal Aviation Administration flight standards, this instrument-guided approach, during times when available for use, will require a more extensive zone of air clearance than the existing visual approach. The Lakeside Yacht Club is located in Cleveland Outer harbor near the northeast end of the runway, and the entrance channel leading into the yacht club docks is immediately adjacent to the end of the runway (Runway 24R). The configuration of the area between the airport and the yacht club is depicted in Figure 1.

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**Figure 1. Approach to Lakeside Yacht Club and Minimum Air Clearances for Burke Lakefront Airport Instrument Approach**



**Restricted Areas, Based on an Extreme High Water Level of 577' Mean Sea Level (MSL)**

Area	MSL Air Clearance	Applicable Mast Heights	Restrictions
1	618	41 feet	No entry
2	622	45 feet	No entry unless cleared, during designated times
3	640	63 feet	No entry unless cleared, during designated times
4	630	53 feet	No entry (no dockage)
5	640	63 feet	No entry (no dockage)
6	672	95 feet	No entry (no use of Yacht Club areas)

The shaded areas in Figure 1 are those areas over water where the safety parameters of the instrument approach system create relevant restrictions on the height of vessel structures, in feet, with clearance levels indicated in both mean sea level (MSL) and height over high water (applicable mast heights) based on an extreme high water level of 577 feet MSL. The actual boundaries of the area are defined by exact geographic coordinates specified in the proposed regulation, based on calculations from the Federal Aviation Administration. Illustration 1 is an approximate guide to how those coordinates and areas will fall over the area when those coordinates are mapped on to a nautical chart by the National Oceanic and Atmospheric Administration.

The Airport proposal raises two questions: (1) What restriction on vessel heights would be required to avoid conflict with the approach slope safety parameters? (2) How can those parameters be protected without undue restriction on vessel navigation and the operation of the yacht club?

#### **Clearance Requirements**

Under the current plan for an instrument-guided approach being considered by Burke Lakefront Airport and the Federal Aviation Administration, the center line of the approach path comes down along the northwest side of the Lakeside yacht Club entrance channel. This creates the need for an air clearance area which becomes lower as the approach nears the southwest end of the channel. In addition to the main clearance area directly under the main approach path, there is a slanted clearance area to the side of the main approach path which accounts for the skewing of the air clearance areas over the south end of the channel. This air clearance area extends down to as low as 618 feet above mean sea level (MSL) at the south end of the entrance channel. The main part of the channel used by vessels to transit in and out of the Lakeside Yacht Club docks (which normally bear to the east side of the entrance along the south extension of the jetty, where there is the best water depth) is covered by an air clearance area ranging from 622 to 640 feet above MSL. Although there are no measurable tides on the Great Lakes, water levels vary according to yearly climate, season, and weather. Water levels tend to run highest during the summer. In addition, they are subject to short-term increases due to wind, storm surge, and seiches. Therefore, safety parameters should be based on the highest recorded levels. The long-term monthly average level (1860 through 1990) for Cleveland is

572.2 feet MSL, but levels have reached a monthly average high of 573.9 feet MSL (July 1996) and an all-time hourly high of 576.3 feet MSL (in February 1987). Rounding up this all-time hourly high, which reflects the variations which can be created by storm conditions, suggests 577 MSL as the safe figure for high water to be subtracted from the mean sea level air clearance. This is the basis for the "applicable mast heights" assigned to the various restricted areas marked on Figure 1. One of these restricted areas, area no. 1, which applies to vessels with heights as low as 41 feet, in fact covers an area of shallow and obstructed water outside of the normal route in and out of the club, and therefore does not actually affect the normal navigation of any sailboats as long as they avoid accidentally wandering into that area. The relevant limit, at which some boats become affected, is therefore the limit of 45 feet within restricted area no. 2.

#### **Yacht Club Operations**

The yacht club currently accommodates a number of sailboats with mast heights ranging from 45 to 65 feet above the water line, including sailboats belonging to members of the Club and others visiting the Club, which would be affected by these restrictions. There is sufficient available room for docking vessels with masts as high as 95 feet in Club facilities located further away from the end of the runway than the entrance channel, without intruding into the glide slope safety parameters. The primary problem, therefore, is to avoid a conflict during the time that sailboats with masts of 45 feet or more are entering or leaving the entrance channel. In discussions held between representatives of the yacht club and the Airport, it was agreed that the interests of both parties could be accommodated by a system for clearing vessels with high masts for transit with the traffic control tower. Vessel operators would be advised of the requirements to obtain clearance by a regulatory notice on the nautical charts, various warning signs to be provided by the Airport, and notice to the members of the yacht club. In addition, the airport agreed to build a permanent fixed marker with a light alongside the entrance channel, marking the outer corner of restricted area no. 1 in order to facilitate the safe passage through the preferred half of the channel. Clearance for transit through areas no. 2 and 3 would be obtained by telephone or radio call to the Burke Lakefront Air Traffic Control Tower, with radio calls being made on marine band channel 14. This is an area wholly within the protection of Cleveland

Harbor, with additional protection from wave action provided by the airport landfill to the north. It therefore should not be unsafe for vessels to temporarily hold up outside the entrance to the yacht club on the rare occasions when clearance is required and cannot be granted. There is also a fueling dock on the outside of the entrance, within area no. 3, providing a location where most vessels requiring clearance can temporarily tie up if necessary. Vessels 63 feet in height and over would have to obtain clearance further in advance before entering area no. 3 and the fueling dock location. It is anticipated that times when a vessel would actually be required to hold up would be rare, because it is not necessary when aircraft make normal visual approaches, and the expected time that a vessel would have to hold up is a maximum of fifteen minutes. In addition, the regulation would provide for advance group clearances to be provided for the convenience of the yacht club to accommodate planned events such as regattas on weekends.

Given the agreement between the two relevant parties, the airport's commitment to provide the warning sign, lighted channel marker, and clearance procedures, and the limited number of larger sailboats which may be affected by the clearance requirement, the Coast Guard views this proposal as a reasonable and safe solution as long as both parties maintain their existing commitment to cooperate in making the clearance system work. In order to be able to assure the Federal Aviation Administration that conflict will be avoided, and to insure the safety of both vessels and aircraft, the Coast Guard proposes to promulgate this vessel clearance requirement as a regulated navigation area. In order to be assured that this solution is both safe and fair, the Coast Guard specifically requests comments on the safety and practicality of the proposed regulation, from the point of view of both vessel and airport operations.

#### *Drafting Information*

The drafter of this regulation is Commander Eric Reeves, Chief, Marine Safety Analysis and Policy Branch, Ninth Coast Guard District.

#### *Environment*

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2-1, paragraph (34)(g) of Coast Guard Commandant Instruction M16475.1C, it is categorically excluded from further environmental documentation, and has so certified in the docket file.

### Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### Regulatory Evaluation

This regulation is considered to be nonsignificant under Executive Order 12866 on Regulatory Planning and Review and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034 of February 26, 1979).

### Small Entities

The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

### Collection of Information

This regulation will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

### List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security measures, Vessels, Waterways.

**Regulations:** In consideration of the foregoing, the Coast Guard proposes to amend Subpart C of Part 165 of title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-6, and 160.5; and 49 CFR 1.46.

2. A new section is added to read as follows:

#### **§ 165.906 Lakeside Yacht Club in Cleveland Harbor, Cleveland, Ohio—regulated navigation areas.**

(a) **Restricted Areas.** The following are areas inside Cleveland Harbor which are subject to navigational restrictions based on the height of masts or other structures specified in paragraph (b) of this section. All of these areas are inside the "Lakeside Yacht Club entrance channel," defined as the water area between the Lakeside Yacht Club jetties and the Burke Lakefront Airport landfill, or inside the "Lakeside Yacht Club docks," defined as the docking area inside the Lakeside Yacht Club jetties and immediately adjacent to Lakeside Yacht Club.

(1) **Restricted area no. 1.** Restricted area no. 1 is the water area on the southwest end of the Lakeside Yacht Club entrance channel which is southwest of a line running 328° T and northwest of a line running 232° T from a point 41°31'28.00" N, 81°40'02.60" W, which point is marked by a fixed flashing yellow light.

(2) **Restricted area no. 2.** Restricted area no. 2 is the water area of the Lakeside Yacht Club entrance channel which is outside restricted area no. 1 and the entrance to the Yacht Club docking area, and southwest of a line running 328° T from the intersection of 81°39'58.47" W and a reference line running between point A at 41°31'33.45" N, 81°39'47.45" W and point B at 41°31'19.67" N, 81°40'19.17" W.

(3) **Restricted area no. 3.** Restricted area no. 3 is the water area of the Lakeside Yacht Club entrance channel which is outside restricted area no. 1, and southwest of a line running 328° T from point A at 41°31'33.45" N, 81°39'47.45" W.

(4) **Restricted area no. 4.** Restricted area no. 4 is the area inside the Lakeside Yacht Club docks which is southwest of a line running 328° T from the intersection of 81°39'58.47" W and a reference line running between point A at 41°31'33.45" N, 81°39'47.45" W, and point B at 41°31'19.67" N, 81°40'19.17" W, and northwest of the same reference line.

(5) **Restricted area no. 5.** Restricted area no. 5 is the area inside the Lakeside Yacht Club docks which is outside restricted area 4 and northwest of a line 183 feet southeast and parallel to a reference line running between point A at 41°31'33.45" N, 81°39'47.45" W and point B at 41°31'19.67" N, 81°40'19.17" W.

(6) **Restricted area no. 6.** Restricted area no. 6 is the area inside the Lakeside Yacht Club docks which is outside restricted areas 4 and 5.

(b) **Restrictions applicable to vessels of certain heights.** Vessels of certain heights are subject to the following restrictions with reference to the restricted areas detailed in paragraph (a) of this section. The height of a vessel is the height above the waterline of masts, antennas, navigational equipment, or any other structure.

(1) **Less than 41 feet.** Vessels less than 41 feet in height are not subject to any restrictions under this section.

(2) **41 to 45 feet.** Vessels 41 feet and less than 45 feet in height may not enter restricted area 1.

(3) **45 to 53 feet.** Vessels 45 feet and less than 53 feet in height may not enter restricted area 1 and must comply with

the clearance procedures prescribed in paragraph (c) of this section when navigating through restricted area 2.

(4) **53 to 63 feet.** Vessels 53 feet and less than 63 feet in height may not enter restricted area 1, must comply with the clearance procedures prescribed in paragraph (c) of this section when navigating through restricted area 2, and may not dock in or enter restricted area 4 at any time.

(5) **63 to 95 feet.** Vessels 63 feet and less than 95 feet in height may not enter restricted area 1, must comply with the clearance procedures prescribed in paragraph (c) of this section when navigating through restricted areas 2 or 3, and may not dock in or enter restricted areas 4 or 5 at any time.

(6) **95 feet or more.** Vessel 95 feet or more in height may not enter any of the restricted areas, areas 1 through 6, at any time.

(c) **Clearance procedures.** Except during the times specified in paragraph (d), of this section vessels subject to these procedures must obtain clearance from the Burke Lakefront Air Traffic Control Tower before navigating through the restricted area(s), navigate promptly through the area(s) at a safe and practical speed, and promptly inform the Burke Lakefront Air Traffic Control Tower after clearing the restricted area(s), or of any difficulty preventing prompt clearance. The Burke Lakefront Air Traffic Control Tower may be contacted on marine radio channel 14, or by telephone at (216) 781-6411. Navigation at safe and practical speed includes brief stops at the fueling dock inside restricted area 3 by vessels between 63 and 95 feet in height. Clearance may also be obtained for longer periods, and for groups of vessels, for times arranged in advance with Burke Lakefront Airport by any appropriate means of communication, including prior written agreement with the Airport.

(d) **Suspension of clearance requirements.** The clearance procedures specified in paragraph (c), of this section do not apply during the following times, during which vessels which would otherwise be required to obtain clearance may proceed without doing so:

(1) 11:00 p.m. on Friday to 7:00 a.m. on Saturday.

(2) 11:00 p.m. on Saturday to 8:00 a.m. on Sunday.

(3) 12:00 midnight Sunday night to 7:00 a.m. on Monday.

(e) **Suspension of Applicability.** This section does not apply during any period in which the Federal Aviation Administration withdraws approval for operation of an instrument-only

approach to runway 24 on the northeast end of Burke Lakefront Airport.

Dated: July 14, 1998.

**G.S. Cope,**

*Captain, U.S. Coast Guard Acting  
Commander, Ninth Coast Guard District.*

[FR Doc. 98-21186 Filed 8-6-98; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 207-0086; FRL-6138-7]

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

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a limited approval and limited disapproval of a revision to the San Joaquin Valley Unified Air Pollution Control District's portion of the California State Implementation Plan (SIP) that concerns the control of volatile organic compound (VOC) emissions from a variety of sources.

The intended effect of proposing limited approval and limited disapproval of this rule is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rule will incorporate this rule into the federally approved SIP. EPA has evaluated the rule and is proposing a simultaneous limited approval and limited disapproval under provisions of the CAA regarding EPA action on SIP submittals and general rulemaking authority because this revision, while maintaining the SIP, does not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas.

**DATES:** Comments must be received on or before September 8, 1998.

**ADDRESSES:** Comments may be mailed to: Andrew Steckel, 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 and EPA's evaluation report of the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

California Air Resources Board,  
Stationary Source Division, Rule  
Evaluation Section, 2020 "L" Street,  
Sacramento, CA 95814.  
San Joaquin Valley Unified Air  
Pollution Control District, 1999  
Tuolumne Street, Suite #200, Fresno,  
CA 93721.

**FOR FURTHER INFORMATION CONTACT:**  
Yvonne Fong, Rulemaking Office, [AIR-4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1199.

#### SUPPLEMENTARY INFORMATION:

##### I. Applicability

San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 4661, Organic Solvents is being proposed for approval into the California SIP. This rule was submitted by the California Air Resources Board (CARB) to EPA on March 10, 1998. Eighteen rules from the San Joaquin Valley Air Basin's eight counties will be rescinded from their respective SIPs upon final action by EPA on the version of SJVUAPCD Rule 4661 submitted March 10, 1998. A detailed list of the rules to be rescinded from the county SIPs can be found in the Technical Support Document (TSD) for Rule 4661 (July 1, 1998), which is available from the U.S. EPA, Region IX office.

##### II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the 1977 Clean Air Act (1977 CAA or pre-amended Act), that included the San Joaquin Valley Air Basin which encompassed the air pollution control districts of the following eight counties: Fresno, Kern,<sup>1</sup> Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare. 43 FR 8964; 40 CFR 81.305. Because some of these areas were unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987.<sup>2</sup> On May 26, 1988, EPA notified the Governor of California,

<sup>1</sup> At the time, Kern County included portions of two air basins: the San Joaquin Valley Air Basin and the Southeast Desert Air Basin. The San Joaquin Valley Air Basin portion of Kern County was designated as nonattainment, and the Southeast Desert Air Basin portion of Kern County was designated as unclassified. The Southeast Desert portion of Kern County was subsequently redesignated as nonattainment and classified as serious on November 6, 1991. See 56 FR 56694.

<sup>2</sup> This extension was not requested for the following counties: Kern, Kings, Madera, Merced, and Tulare. Thus, the attainment date for these counties remained December 31, 1982.

pursuant to section 110(a)(2)(H) of the pre-amended Act, that the above district's portion of the SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, amendments to the 1977 CAA were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671g.

On March 20, 1991, the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) was formed. The SJVUAPCD has authority over the San Joaquin Valley Air Basin, which includes all of the above eight counties except for the Southeast Desert Air Basin portion of Kern County. Thus Kern County Air Pollution Control District (Kern) still exists, but only has authority over the Southeast Desert Air Basin portion of Kern County. The San Joaquin Valley Area is classified as serious.

The State of California submitted many rules to EPA for incorporation into its SIP on March 10, 1998, including the rule being acted on in this document. This document addresses EPA's proposed action for SJVUAPCD Rule 4661, Organic Solvents. The SJVUAPCD adopted Rule 4661 on December 17, 1992. This submitted rule was found to be complete on May 21, 1998 pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51, Appendix V<sup>3</sup> and is being proposed for limited approval and limited disapproval.

Rule 4661 controls the emission of volatile organic compounds (VOCs) from organic solvent use. VOCs contribute to the production of ground level ozone and smog. The eighteen county rules listed in the TSD for this rule were originally adopted as part of the district's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone. SJVUAPCD Rule 4661 is a new rule which was adopted to meet EPA's SIP-Call and the section 110(a)(2)(A) CAA requirement and which will supercede those eighteen county rules. The following is EPA's evaluation and proposed action for SJVUAPCD Rule 4661.

##### III. EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found

<sup>3</sup> EPA adopted 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).