

pursuant to paragraph (l)(5)(ii) of this section, a nationwide weighted average charge is calculated for each combined HCPCS code group, using as weights the population (census) frequencies for each geographic area as presented in the Milliman USA, Inc., Health Cost Guidelines (see paragraph (a)(3) of this section for Data Sources).

*(m) Charges for prescription drugs not administered during treatment.*

Notwithstanding other provisions of this section, when VA provides or furnishes prescription drugs not administered during treatment, within the scope of care referred to in paragraph (a)(1) of this section, charges billed separately for such prescription drugs will be based on VA costs in accordance with the methodology set forth in § 17.102 of this part.

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0606.)

(Authority: 38 U.S.C. 101, 501, 1701, 1705, 1710, 1721, 1722, 1729.)

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[CARB-106-DELa; FRL-7600-5]

### Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of California

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is amending certain regulations to reflect the current delegation status of national emission standards for hazardous air pollutants in California. Several local air pollution control agencies in California have requested delegation of these Federal standards as they apply to non-major sources. The purpose of this action is to approve those delegation requests and update the listing in the Code of Federal Regulations.

**DATES:** This rule is effective on February 17, 2004, without further notice, unless EPA receives relevant adverse comments by January 20, 2004. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Send comments to Andrew Steckel, Rulemaking Office Chief (AIR-

4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, or e-mail to [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov), or submit comments at <http://www.regulations.gov>. Copies of the requests for delegation and other supporting documentation are available for public inspection (docket number A-96-25) at the Region IX office during normal business hours by appointment. Copies are also available at: Air and Radiation Docket and Information Center (6102), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave, NW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Mae Wang, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901, (415) 947-4124, [wang.mae@epa.gov](mailto:wang.mae@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

##### A. Delegation of NESHAPs

Section 112(l) of the Clean Air Act, as amended in 1990 (CAA), authorizes EPA to delegate to State or local air pollution control agencies the authority to implement and enforce the standards set out in title 40 of the Code of Federal Regulations (40 CFR), part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories. On November 26, 1993, EPA promulgated regulations, codified at 40 CFR part 63, subpart E (hereinafter referred to as "subpart E"), establishing procedures for EPA's approval of State rules or programs under section 112(l) (see 58 FR 62262). Subpart E was later amended on September 14, 2000 (see 65 FR 55810).

Any request for approval under CAA section 112(l) must meet the approval criteria in 112(l)(5) and subpart E. To streamline the approval process for future applications, a State or local agency may submit a one-time demonstration that it has adequate authorities and resources to implement and enforce any CAA section 112 standards. If such demonstration is approved, then the State or local agency would no longer need to resubmit a demonstration of these same authorities and resources for every subsequent request for delegation of CAA section 112 standards. However, EPA maintains the authority to withdraw its approval if the State does not adequately implement or enforce an approved rule or program. On July 6, 1995, the California Air Resources Board (CARB) submitted a demonstration that

California has adequate authorities and resources to implement and enforce Clean Air Act section 112 programs and rules. This demonstration was approved on May 21, 1996 (61 FR 25397).

##### B. California Delegations

While each local air pollution control agency in California (district) has an approved program for receiving delegation of any CAA section 112 standards as promulgated, California districts currently have delegation only for standards that apply to major sources. As part of EPA's approval of each district's Title V operating permits program, districts received delegation of unchanged federal section 112 standards for Title V sources. This delegation did not extend to sources not covered by the California Title V program submittals. Therefore, California needed to make a separate voluntary request for delegation of any section 112 standards that apply to sources not covered by district Title V programs (area sources).

##### C. Area Source Delegation Requests

On October 6, 2003, CARB submitted on behalf of nine California districts a request for delegation of all Federal section 112 standards that apply to area sources, with the exception of the dry cleaning and chromium electroplating standards for which State or local rules have already been approved (see 61 FR 25397 and 64 FR 12762). Upon the effective date of this delegation, these districts will have authority to implement and enforce existing area source standards unchanged as promulgated by EPA. Additionally, each of these nine districts will receive delegation of any future area source standards or revisions 90 days after promulgation of these standards or revisions, unless the district chooses to decline delegation of a particular future standard by notifying the EPA Region IX office in writing. If no such notification is received, the delegation will go into effect 90 days after promulgation of the standard or revision, without any additional action from the district or EPA.

CARB's October 6, 2003, request was submitted on behalf of the following nine districts in California: Antelope Valley Air Quality Management District, Butte County Air Quality Management District, Kern County Air Pollution Control District, Mendocino County Air Quality Management District, Mojave Desert Air Quality Management District, Monterey Bay Unified Air Pollution Control District, San Luis Obispo County Air Pollution Control District, Ventura County Air Pollution Control