

on May 13, 1991, by the Governor's designee.

(i) \* \* \*

(D) San Diego County Air Pollution Control District.

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(2) Rule 3.12, adopted on April 25, 1989.

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(186) \* \* \*

(i) \* \* \*

(F) Northern Sierra Air Pollution Control District.

(J) Rules 302 to 312, adopted on November 10, 1988.

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(197) \* \* \*

(i) \* \* \*

(C) \* \* \*

(3) Rules 4302 and 4303, adopted on May 21, 1992 and amended on December 16, 1993.

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(241) \* \* \*

(i) \* \* \*

(D) Kern County Air Pollution Control District.

(J) Rules 416 and 417, adopted on April 18, 1972 and amended on July 11, 1996.

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[FR Doc. 99-21164 Filed 8-18-99; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 126-163a; FRL-6419-9]

#### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; South Coast Air Quality Management District; Ventura County Air Pollution Control District; Mojave Desert Air Quality Management District

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern rules from the South Coast Air Quality Management District (SCAQMD), Ventura County Air Pollution Control District (VCAPCD), and Mojave Desert Air Quality Management District (MDAQMD). This approval action will incorporate two rules into the federally approved SIP and remove two rules from the SIP. The intended effect of approving these rules is to regulate emissions of volatile

organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The two rules control VOC emissions from storage tank cleaning and degassing operations and from components at crude oil and natural gas production and processing facilities. The two rules to be removed control VOC emissions from pumps, compressors, and relief valves. Thus, EPA is finalizing the approval of these revisions of the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

**DATES:** This rule is effective on October 18, 1999 without further notice, unless EPA receives adverse comments by September 20, 1999. If EPA receives such comment, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are available for inspection at the following locations: Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW, Washington, DC 20460

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

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765-4182.

Ventura County Air Pollution Control District, 702 County Square Drive, Ventura, CA 93003.

Mojave Desert Air Quality Management District, 15428 Civic Drive, Suite 200, Victorville, CA 92392-2383.

**FOR FURTHER INFORMATION CONTACT:** Max Fantillo, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1183.

#### SUPPLEMENTARY INFORMATION:

#### I. Applicability

The rules being approved into the California SIP include: SCAQMD's Rule 1149, Storage Tank Cleaning and

Degassing and VCAPCD's Rule 74.10, Components at Crude Oil and Natural Gas Production and Processing Facilities. The rules being removed from the SIP are MDAQMD's Rule 466, Pumps and Compressors and Rule 467, Safety Pressure Relief Valves. These rules were submitted by the California Air Resources Board (CARB) to EPA on October 13, 1995 (Rule 1149), June 23, 1998 (Rule 74.10), and November 30, 1994 (Rules 466 and 467).

#### II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the Los Angeles-South Coast Air Basin, the Ventura County area, and the South Desert Air Basin managed by MDAQMD. 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the above districts' portions of the California SIP were 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, the Clean Air Act Amendments of 1990 were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.<sup>1</sup> EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The Los Angeles-South Coast Air Basin is classified as extreme; the Ventura County area and the Southeast Desert Air Basin managed by MDAQMD

<sup>1</sup> Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** document" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

are classified as severe;<sup>2</sup> therefore, these areas were subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many RACT rules for incorporation into its SIP on November 30, 1994, October 13, 1995, and June 23, 1998, including the rules being acted on in this document. This document addresses EPA's direct-final action for SCAQMD's Rule 1149, Storage Tank Cleaning and Degassing, and VCAPCD's Rule 74.10, Components at Crude Oil and Natural Gas Production and Processing Facilities. SCAQMD adopted Rule 1149 on July 14, 1995 and VCAPCD amended Rule 74.10 on March 10, 1998. These submitted rules were found to be complete on November 28, 1995 and August 25, 1998 respectively pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V<sup>3</sup> and are being finalized for approval into the SIP. This document also addresses the State of California's request that MDAQMD's Rule 466, Pumps and Compressors, and Rule 467, Safety Pressure Relief Valves, be removed from the SIP.

Rule 1149 controls VOC emissions from the cleaning and degassing of stationary tanks, reservoirs, or other containers; Rule 74.10 sets requirements for controls fugitive VOC emissions from crude oil and natural gas production and processing facilities; rescinded Rules 466 and 467 control VOC emissions from pumps, compressors, and pressure relief valves used in oil and gas production and processing facilities. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of SCAQMD's, VCAPCD's, and MDAQMD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and final action for these rules.

### III. EPA Evaluation and 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>2</sup>The Los Angeles-South Coast Air Basin, Ventura County area, and the Southeast Desert Air Basin managed by MDAQMD retained their designations of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

<sup>3</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).

in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). There is no CTG document directly applicable to Rule 1149. However, CTG documents used as guidance in evaluating Rule 1149 are entitled, "Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks," EPA-450/2-77-036 and "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks," EPA-450/2-78-047. The CTG applicable to Rule 74.10 is entitled, "Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants," EPA-450/3-83-007. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SCAQMD Rule 1149 is a new rule which controls VOC emissions from the degassing of petroleum storage tanks, reservoirs, or other containers. Above-ground containers and underground tanks are subject to this rule depending upon their capacity and the vapor pressure of the stored organic liquid. The rule requires degassing emissions to be controlled by at least 90%, using several methods, including, liquid balancing, negative pressure displacement with subsequent incineration, or refrigeration. Monitoring of refrigeration and carbon adsorption is required, along with records of monitoring results, vapor pressures, and degassing operations.

On August 17, 1994, EPA approved into the SIP a version of Rule 74.10,

Components at Crude Oil and Natural Gas Production and Processing Facilities, that had been adopted by VCAPCD on June 16, 1992. Revisions to this rule were subsequently adopted on March 10, 1998 and submitted to EPA. VCAPCD's submitted Rule 74.10, Components at Crude Oil and Natural Gas Production and Processing Facilities include the following significant changes from the current SIP:

- Expanded the applicability by including pipeline transfer stations.
- Added new requirements for inspection, inspection frequency, and monitoring, and more stringent retrofit and/or replacement requirements for critical components.
- Added an option to change from quarterly to annual inspection.
- Tightened deadlines for both the initial and final repair of leaks.
- Added exemptions for certain components meeting certain conditions and recordkeeping requirements for leaks.
- Updated the test methods for measurement of ROC concentrations.
- Added violation requirements for liquid leaks.
- Added new definitions and revised others for clarity.

MDAQMD's Rule 466, Pumps and Compressors and Rule 467, Safety Pressure Relief Valves were submitted to be removed from the SIP. These rules were adopted to control volatile organic compounds emissions from pumps, compressors, and pressure relief valves within the Southeast Desert Air Basin managed by MDAQMD. Rule 1102 was adopted to replace Rules 466 and 467. Rule 1102 was approved into the SIP on September 27, 1995 (60 FR 49772). This rule covers the scope and emission limitations that Rules 466 and 467 currently have in the SIP. Consequently, MDAQMD is rescinding Rules 466 and 467 because they no longer apply and are extraneous. Further, no limits are relaxed or emission increase by this action. The removal of Rules 466 and 467 from the SIP are consistent with EPA's policy requirements and remove extraneous rules that serve no purpose.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, SCAQMD's Rule 1149, Storage Tank Cleaning and Degassing, and VCAPCD's Rule 74.10, Components at Crude Oil and Natural Gas Production and Processing Facilities are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D. Furthermore, EPA is removing MDAQMD's Rules 466 and

467 consistent with the requirements of sections 110(l) and 193.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective October 18, 1999 without further notice unless the Agency receives adverse comments by September 20, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule is effective on October 18, 1999 and no further action will be taken on the proposed rule.

#### 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, Regulatory Planning and Review.

##### B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, 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, or EPA consults with those governments. If EPA consults with those governments, Executive Order 12875 requires EPA to 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 any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 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 Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly 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, or EPA consults with those governments. If EPA consults with those governments, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of 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 officials 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. 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.

*G. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

*H. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 18, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

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

Dated: July 30, 1999.

**David P. Howekamp,**

*Acting Regional Administrator, Region IX.*

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52 [AMENDED]**

1. The authority citation for Part 52 continues to read as follows:

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

**Subpart F—California**

2. Section 52.220 is amended by adding paragraphs (c)(39)(ii)(G), (c)(225)(i)(A)(4) and (c)(256)(i)(F)(1) to read as follows:

**§ 52.220 Identification of plan.**

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- (c) \* \* \*
- (39) \* \* \*
- (ii) \* \* \*
- (G) Previously approved on October 8, 1978 and now deleted without replacement Rules 466 and 467.
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- (225) \* \* \*
- (i) \* \* \*
- (A) \* \* \*
- (4) Rule 1149, adopted on December 4, 1987 and amended on July 14, 1995.
- \* \* \* \* \*
- (256) \* \* \*
- (i) \* \* \*
- (F) Ventura County Air Pollution Control District.
- (1) Rule 74.10, adopted on September 29, 1981 and amended on March 10, 1998.
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CA 172-0157a; FRL-6420-3]

**Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision: Bay Area Air Quality Management District, Kern County Air Pollution Control District, Monterey Bay Unified Air Pollution Control District, South Coast Air Quality Management District**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). The revisions concern rules from the following districts: Bay Area Air Quality Management District—Rule 8-26, Magnet Wire Coating Operations; Kern County Air Pollution Control District—Rule 410.4, Surface Coating of Metal Parts and Products; Monterey Bay Unified Air Pollution Control District—Rule 434, Coating of Metal Parts and Products; and, South Coast Air Quality Management District—Rule 1107, Coating of Metal Parts and Products. This approval action will incorporate

these rules within the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) according to the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from the surface coating of magnet wire and miscellaneous metal parts and products. EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

**DATES:** This rule is effective on October 18, 1999 without further notice, unless EPA receives adverse comments by September 20, 1999. If EPA receives such comment, it will publish a timely withdrawal notice in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

- Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105 Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW, Washington, D.C. 20460
- California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812
- Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109
- Kern County Air Pollution Control District, 2700 M Street, Suite 302, Bakersfield, CA 93301
- Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940
- South Coast Air Quality Management District, 218 East Copley Drive, Diamond Bar, CA 91765

**FOR FURTHER INFORMATION CONTACT:** Jerald S. Wamsley, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1226.

**SUPPLEMENTARY INFORMATION:**