remainder of the 1-year period from the date of mailing of the notification of the determination being appealed, whichever period ends later. The date of mailing of the Statement of the Case will be presumed to be the same as the date of the Statement of the Case and the date of mailing the letter of notification of the determination will be presumed to be the same as the date of that letter for purposes of determining whether an appeal has been timely filed.

(2) *Special rule in certain cases where additional evidence is submitted.* Except in the case of simultaneously contested claims, if (i) a claimant submits additional evidence within 1 year of the date of mailing of the notification of the determination being appealed, and (ii) that evidence requires, in accordance with § 19.31 of this title, that the claimant be furnished a Supplemental Statement of the Case, then the time to submit a Substantive Appeal shall end not sooner than 60 days after such Supplemental Statement of the Case is mailed to the appellant, even if the 60-day period extends beyond the expiration of the 1-year appeal period.

(Authority: 38 U.S.C. 7105 (b)(1), (d)(3).)

* * * * *

3. In § 20.304 is revised to read as follows:

§ 20.304 Rule 304. Filing additional evidence does not extend time limit for appeal.

Except as provided in Rule 302(b) (§ 20.302(b) of this part), the filing of additional evidence after receipt of notice of an adverse determination does not extend the time limit for initiating or completing an appeal from that determination.

(Authority: 38 U.S.C. 7105.)

[FR Doc. 01–24766 Filed 10–2–01; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA242–0291a; FRL–7058–9]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District, Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Imperial County Air Pollution Control District (ICAPCD) and Monterey Bay Unified Air Pollution Control District (MBUAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from automotive refinishing operations, metal parts and products coating, and applications of nonarchitectural coatings. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on December 3, 2001, without further notice, unless EPA receives adverse comments by November 2, 2001. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), 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 documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington D.C. 20460;
California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814;
Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243; and,
Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1226.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
ICAPCD	427	Automotive Refinishing Operations	9/14/99	5/26/00
MBUAPCD	429	Applications of Nonarchitectural Coatings	1/17/01	5/8/01
MBUAPCD	434	Coating of Metal Parts and Products	1/17/01	5/8/01

On the following dates, EPA found these rule submittals met the completeness criteria in 40 CFR part 51, appendix V: October 6, 2000, ICAPCD Rule 427; and, July 20, 2001, MBUAPCD Rules 434 and 429. These criteria must be met before formal EPA review may begin.

B. Are there other versions of these rules?

There is no previous version of ICAPCD 427 in the SIP. We approved versions of MBUAPCD Rules 429 and 434 into the SIP on March 22, 2000 and August 18, 1999, respectively. CARB has not made an intervening submittal of these rules.

C. What is the purpose of the submitted rule revisions?

ICAPCD Rule 427, Automotive Refinishing Operations, is a rule designed to reduce volatile organic compound (VOC) emissions at industrial sites engaged in the auto coating operations. As a new SIP rule,

Rule 427 includes the following provisions:

—a description of rule purpose and applicability;

—definitions under the rule;

—rule standards and limits covering application, transfer efficiency, surface preparation and clean-up;

—exemptions from the rule;

—administrative requirements;

—source monitoring and recordkeeping requirements; and,

—test methods for determining compliance with the standards and limits of the rule.

MBUAPCD Rule 429, Applications of Nonarchitectural Coatings, is a rule designed to regulate industrial sites engaged in spraying nonarchitectural coatings. VOCs are emitted during the spray application process used to apply the coating. Rule 429 requires the use of a spray booth or enclosure while applying the coatings. The recent amendments to Rule 429 include new definitions for high transfer efficiency methods and a new test method for determining the control efficiency of particulate matter control devices.

MBUAPCD Rule 434, Coating of Metal Parts and Products, is a rule designed to reduce volatile organic compound (VOC) emissions at industrial sites engaged in metal coating operations. The recent amendments to Rule 434 include a definition of aerosol container, an exemption for aerosol container use, and added test methods for determining the VOC content of water-based coatings.

The TSD has more information about these rules and their specific changes.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). ICAPCD regulates an ozone nonattainment area (see 40 CFR part 81), so its Rules must fulfill RACT. MBUAPCD regulates an ozone attainment and maintenance area. Consequently, MBUAPCD VOC RACT rules that maintain the ozone standard are subject to the anti-backsliding provisions of the CAA.

Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. ''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 published in the May 25, 1988 **Federal Register**.

3. ''National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings,'' at 40 CFR (Code of Federal Regulations) part 59, subpart B.

These standards apply to the manufacture of auto refinishing coatings and not to their application. Consequently, these Subpart B standards are not binding on body shops and auto painters. So, EPA is using these standards, California statewide guidance and other auto refinishing rules adopted in California to advise our review of ICAPCD Rule 427.

4. ''Control of Volatile Organic Emissions from Existing Stationary Sources Volume VI: Surface Coating of Miscellaneous Metal Parts and Products,'' USEPA, June 1978, EPA–450/2–78–015.

B. Do the rules meet the evaluation criteria?

We believe ICAPCD Rule 427 and MBUAPCD Rules 429 and 434 are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The respective TSD for each rule has more information on our evaluation.

C. EPA recommendations to further improve the rules

The TSD describes additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rules.

D. Public comment and final action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by November 2, 2001, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on December 3, 2001. This will incorporate these rules into the federally enforceable SIP.

III. Background Information

Why were these rules submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978.	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990.	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 32111, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May

22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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 December 3, 2001. 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: August 24, 2001.

Sally Seymour,

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)(279)(i)(A)(*5*) and (284) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(279) * * *

(i) * * *

(A) * * *

(*5*) Rule 427, adopted on September 14, 1999.

* * * * *

(284) New and amended regulations for the following APCDs were submitted on May 8, 2001, by the Governor's designee.

(i) Incorporation by reference.

(A) Monterey Bay Unified Air Pollution Control District.

(*1*) Rules 429 adopted on September 16, 1987 and amended on January 17, 2001 and Rule 434 adopted on June 15, 1994 and amended on January 17, 2001.

[FR Doc. 01–24483 Filed 10–2–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[DE–T5–2001–01a; FRL–7072–7]

Clean Air Act Full Approval of Operating Permit Program; Delaware

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to fully approve the operating permit program of the State of Delaware. Delaware's operating permit program was submitted in response to the Clean Air Act (CAA) Amendments of 1990 that required States to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the States' jurisdiction. The EPA granted final interim approval of Delaware's operating permit program on December 4, 1995. Delaware amended its operating permit program to address deficiencies identified in the interim approval action and this action approves those amendments. Any parties interested in commenting on this action granting full approval of Delaware's title V operating permit program should do so at this time. A more detailed description of Delaware's submittals and EPA's evaluation are included in a Technical Support