

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(114) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(114) On November 30, 1994, the State submitted an amended Synthetic Organic Chemical Manufacturing Industry Air Oxidation Process rule which consisted of extended applicability and tightened control measures to the Ozone Control Plan for the Chicago and Metro-East St. Louis areas.

(i) *Incorporation by reference.* Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources.

(A) Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, Subpart V; Air Oxidation Processes, Sections 218.520 Emission Limitations for Air Oxidation Processes, 218.522 Savings Clause, 218.523 Compliance, 218.524 Determination of Applicability, and 218.525 Emission Limitations for Air Oxidation Processes (Renumbered) at 18 Ill. Reg. 16972, effective November 15, 1994.

(B) Part 219: Organic Material Emissions Standards and Limitations for the Metro-East Area, Subpart V; Air Oxidation Processes, Sections 219.520 Emission Limitations for Air Oxidation Processes, 219.522 Savings Clause, 219.523 Compliance, 219.524 Determination of Applicability, and 219.525 Emission Limitations for Air Oxidation Processes (Renumbered) at 18 Ill. Reg. 17001, effective November 15, 1994.

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BILLING CODE 6560–50–P

40 CFR Part 52

[CA 57–14–7108a; FRL–5280–3]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Mojave Desert Air Quality Management District, San Luis Obispo County Air Pollution Control 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 following districts: Mojave Desert Air Quality Management District (MDAQMD) and San Luis Obispo County Air Pollution Control District (SLOCAPCD). The rules control volatile organic compounds (VOC) emissions from components at pipeline transfer stations and petroleum-related industrial sources; oil-water separators; and petroleum pits, ponds, sumps, and well cellars. This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In addition, the final action on MDAQMD Rules 464 and 1102 serves as a final determination that the findings of nonsubmittal for these rules have been corrected and that on the effective date of this action, any Federal Implementation Plan (FIP) clocks associated with such submittals are stopped. Thus, EPA is finalizing the approval of these rules 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 final rule is effective on November 27, 1995 unless adverse or critical comments are received by October 27, 1995. If the effective date is delayed, a timely notice will be published in the Federal Register.

ADDRESSES: 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 Section (A–5–3), Air and Toxics 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 95814.

Mojave Desert Air Quality Management District, 15428 Civic Drive, Victorville, California 92392.

San Luis Obispo County Air Pollution Control District, 2156 Sierra Way, Suite "B", San Luis Obispo, CA 93401.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1197.

SUPPLEMENTARY INFORMATION:**Applicability**

The rules being approved into the California SIP include: MDAQMD Rule 464, Oil-Water Separators; MDAQMD Rule 1102, Fugitive Emissions of VOCs from Components at Pipeline Transfer Stations; SLOCAPCD Rule 417, Control of Fugitive Emissions of Reactive Organic Compounds; and SLOCAPCD Rule 419, Petroleum Pits, Ponds, Sumps, Well Cellars, and Wastewater Separators. These rules were submitted by the California Air Resources Board to EPA on October 19, 1994, May 13, 1993, November 30, 1994, and September 28, 1994, respectively.

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 Southeast Desert¹ and San Luis Obispo County areas. 43 FR 8964, 40 CFR 81.305. Because 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. (40 CFR 52.222). On May 26, 1988, EPA

¹ The MDAQMD was created by Assembly Bill AB 2522 signed into law by the Governor of California on September 12, 1992. It includes all of the County of San Bernardino which is not included within the boundaries of the South Coast Air Quality Management District, and may include contiguous areas situated in the Southeast Desert Air Basin upon request for inclusion. The Mojave Desert District commenced operations on July 1, 1993, and on that date assumed the authority, duties and employees of the San Bernardino County Air Pollution Control District, which ceased to exist as of that date.

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.² EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The Southeast Desert area is classified as severe and the San Luis Obispo County area is classified as moderate³; therefore, these areas were subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on May 13, 1993, October 19, 1994, September 28, 1994, and November 30, 1994, including the rules being acted on in this notice. This notice addresses EPA's direct-final action for MDAQMD's Rule 464, Oil-Water Separators; MDAQMD's Rule 1102, Fugitive Emissions of VOCs from Components at Pipeline Transfer Stations; SLOCAPCD's Rule 419, Petroleum Pits, Ponds, Sumps, Well Cellars, and Wastewater Separators; and SLOCAPCD's Rule 417, Control of Fugitive Emissions of Reactive Organic Compounds. The MDAQMD adopted

² 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 Notice" (Blue Book) (notice of availability was published in the Federal Register on May 25, 1988); and the existing control technique guidelines (CTGs).

³ The Southeast Desert and San Luis Obispo County areas have retained their designation 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 55 FR 56694 (November 6, 1991).

Rules 464 and 1102 on August 25, 1994 and October 26, 1994, respectively. The SLOCAPCD adopted Rules 417 and 419 on February 9, 1993 and July 12, 1994, respectively. These submitted rules were found to be complete on December 1, 1994, January 3, 1995, July 19, 1993, and November 22, 1994 pursuant to EPA's completeness criteria which are set forth in 40 CFR part 51 Appendix V,⁴ and are being finalized for approval into the SIP.

MDAQMD Rule 464 controls VOC emissions from oil-water separators. MDAQMD Rule 1102 controls fugitive emissions of VOC due to component leaks of facilities involved in the transfer and/or storage of petroleum products, crude oil or natural gas in pipelines. SLOCAPCD Rule 417 controls fugitive emissions of VOC from components at petroleum-related industrial sources. SLOCAPCD Rule 419 controls VOC emissions from oil-water separators and oil production sumps. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of MDAQMD's and SLOCAPCD's efforts 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.

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 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 2. 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 prescriptive norms for what is RACT

⁴ 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).

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). The CTGs applicable to these rules are entitled, "Petroleum Refineries—Control of Refinery Vacuum Producing Systems, Wastewater Separators, Process Turnarounds" EPA-450/2-77-022 and "Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment" EPA-450/3-83-006. This document updates the RACT criteria from the CTG for petroleum refinery equipment. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 2. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

MDAQMD's submitted Rule 464, Oil-Water Separators includes the following significant changes from the current SIP:

- A definition section was added for rule clarification.
- A provision was added stating that the cover material shall be impermeable to VOCs, and free from holes or openings.
- A fugitive vapor leak monitoring provision was added.
- The rule exempts segregated storm water runoff drain systems and non-contact cooling water systems.
- A recordkeeping section was added.
- A test method section was added for compliance verification.

MDAQMD's submitted rule 1102, Fugitive Emissions of VOCs from Components at Pipeline Transfer Stations was developed to correct deficiencies identified in District Rule 466 (Pumps and Compressors) and Rule 467 (Safety Pressure Relief Valves). For a detailed review of the existing rules and new Rule 1102, please refer to the Technical Support Document for Rule 1102 dated July 10, 1995. Rule 1102 includes the following significant changes from the current SIP rules:

- A definition section was added for rule clarification.
- A basic operating standards section was added.
- Inspection schedules and requirements were added.
- Exempt components were identified.
- Inspection and identification log requirements were added.
- A test method section was added for compliance verification.
- A compliance schedule was provided.

SLOCAPCD's submitted rule 417, Control of Fugitive Emissions of

Reactive Organic Compounds, is a new rule which establishes standards for petroleum-related industrial sources and contains the following provisions:

- The implementation of an inspection and repair program.
- A requirement that major and critical components are to be physically identified for inspection, repair, replacement, and recordkeeping purposes.
- A requirement to maintain up-to-date inspection and maintenance activity records.
- Addition of test methods to determine compliance.
- A requirement for all sources to have inspection and maintenance plans no later than 12-months from the date of rule adoption.

SLOCAPCD's submitted new rule 419, Petroleum Pits, Ponds, Sumps, Well Cellars, and Wastewater Separators contains the following provisions:

- Prohibits primary or first stage production sumps.
- Requires that affected second or third stage sumps, pits or ponds have covers that are impermeable to VOC vapors and have no holes, tears or openings which allow the emission of organic compounds into the atmosphere.
- Requires that well cellars be used only during periods of equipment maintenance or well workover and prohibits holding crude oil or petroleum materials in a well cellar for more than five consecutive calendar days.
- Requires that affected wastewater separators have a solid cover, a floating pontoon or double-deck type cover, a vapor recovery system, or other equipment with a vapor loss control efficiency of at least 90% by weight.
- Provides requirements for records to be maintained.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, MDAQMD Rule 464, Oil-Water Separators; MDAQMD Rule 1102, Fugitive Emissions of VOCs from Components at Pipeline Transfer Stations; SLOCAPCD Rule 417, Control of Fugitive Emissions of Reactive Organic Compounds; and SLOCAPCD Rule 419, Petroleum Pits, Ponds, Sumps, Well Cellars, and Wastewater Separators are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D. Therefore, if this direct final action is not withdrawn, on November 27, 1995, any FIP clocks associated with the nonsubmittal of these rules are stopped.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revisions should adverse or critical comments be filed. This action will be effective November 27, 1995, unless by October 27, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective November 27, 1995.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301(a) and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its

actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

The OMB has exempted this action from review under Executive Order 12866.

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind state, local, and tribal governments to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under state law. Therefore, no additional costs to state, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to state, local, or tribal governments in the aggregate or to the private sector.

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.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 8, 1995.
Felicia Marcus,
Regional Administrator.

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. 7401-7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(193)(i)(B), (c)(199)(i)(B), (202)(i)(D) and (207)(i)(D) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

(193) * * *

(i) * * *

(B) San Luis Obispo County Air Pollution Control District.

(I) Rule 417, adopted February 9, 1993.

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(199) * * *

(i) * * *

(B) San Luis Obispo County Air Pollution Control District.

(I) Rule 419, adopted July 12, 1994.

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(202) * * *

(i) * * *

(D) Mojave Desert Air Quality Management District.

(I) Rule 464, adopted August 24, 1994.

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(207) * * *

(i) * * *

(D) Mojave Desert Air Quality Management District.

(I) Rule 1102, adopted October 26, 1994.

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BILLING CODE 6560-50-P

40 CFR Part 52

[KY-087-1-6957a; FRL-5290-5]

Approval and Promulgation of Implementation Plans; Kentucky

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the Kentucky State Implementation Plan (SIP) to incorporate new permitting regulations and to allow the Commonwealth of Kentucky to issue Federally enforceable state operating permits (FESOP). This revision consists of Sections 1 through 7 of the State Rules in 401 KAR 50:035, entitled "Permits." On December 29, 1994, the Commonwealth of Kentucky through the Kentucky Natural Resources and Environmental Protection Cabinet (NREPC), submitted a SIP revision which updates the procedural rules governing the issuance of air permits in Kentucky and fulfills the requirements

necessary for a state FESOP program to become Federally enforceable. In order to extend the Federal enforceability of Kentucky's FESOP program to hazardous air pollutants (HAPs), EPA is also approving Kentucky's FESOP program pursuant to section 112 of the Clean Air Act as amended in 1990 (CAA) so that Kentucky may issue Federally enforceable operating permits for HAPs.

DATES: This final rule is effective November 27, 1995 unless adverse or critical comments are received by October 27, 1995. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to Yolanda Adams, at the EPA Regional Office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Division for Air Quality, Department for Environmental Protection, Natural Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT:

Yolanda Adams, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347-3555 x4149. Reference file KY087-01-6957.

SUPPLEMENTARY INFORMATION:**I. Summary of State Submittal**

On December 29, 1994, the Commonwealth of Kentucky through the NREPC submitted revised air permitting rules for approval as part of the SIP. These rules represent Kentucky's consolidated permitting regulations, which include provisions for operating permits for major sources pursuant to title V of the CAA, construction permits for major new sources and major source modifications pursuant to Parts C and D of title I, and operating and construction permits for minor sources and minor modifications pursuant to State law. Thus, this

submittal complements Kentucky's submittal seeking EPA approval of the same regulations as satisfying title V requirements. Separate rulemaking is being conducted with respect to whether these regulations satisfy title V requirements.

Kentucky's December 29, 1994, submittal does not seek to satisfy any specific mandate under the Clean Air Act. As noted above, a separate submittal seeks to satisfy the requirements of title V. Instead, Kentucky's submittal of December 29, 1994, seeks approval of updated State permitting regulations which have superseded previously approved regulations. Kentucky intended with this submittal: (1) to provide a mechanism for intermediate size sources to obtain Federally enforceable limitations to become "synthetic minor sources," and (2) to update the Federally approved regulations to reflect the updated State permitting regulations. Each of these purposes requires evaluation under different criteria. These purposes and the associated EPA criteria for approval are discussed individually in subsequent sections.

A. Federally Enforceable Limitations on Potential To Emit

The first purpose of Kentucky's submittal was to provide a mechanism for intermediate size sources to obtain Federally enforceable limitations such that the sources' potential to emit would be below the size thresholds at which major source permits are required. This mechanism involves FESOPs incorporating the relevant limitations. Kentucky is requesting this authority with respect to HAPs as well as criteria pollutants. This voluntary SIP revision allows EPA and citizens under the CAA to enforce the terms and conditions of Kentucky's FESOP program. Operating permits that are issued under the Kentucky FESOP program after approval into the State SIP and under section 112(l) will provide Federally enforceable limits on an air pollution source's potential to emit. Limiting of a source's potential to emit through Federally enforceable operating permits can affect the applicability of Federal regulations such as title V operating permits, New Source Review (NSR) preconstruction permits, Prevention of Significant Deterioration (PSD) preconstruction permits for criteria pollutants, and Federal air toxics requirements under section 112 of the CAA.

Criteria for EPA approval of FESOP programs are specified in a Federal Register document entitled,