

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)(199) (i)(D), (202)(i)(C)(3), (214)(i)(D), and (222)(i)(C) to read as follows:

§ 52.220 Identification of plan.

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 (199) * * * * *
 (i) * * * * *
 (D) San Joaquin Valley Unified Air Pollution Control District.
 (J) Rule 4352, adopted on September 14, 1994.

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 (202) * * * * *
 (i) * * * * *
 (C) * * * * *
 (3) Rule 69.2, adopted on September 27, 1994.

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 (214) * * * * *
 (i) * * * * *
 (D) Ventura County Air Pollution Control District.
 (J) Rule 74.15, adopted on November 8, 1994.

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 (222) * * * * *
 (i) * * * * *
 (C) Sacramento Metropolitan Air Quality Management District.
 (J) Rule 411, adopted on February 2, 1995.

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 BILLING CODE 6560-50-P

40 CFR Part 52

[CA 71-9-7222a; FRL-5399-1]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Monterey Bay Unified 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 (SIP). The revisions concern rules from the Monterey Bay Unified Air Pollution Control District (MBUAPCD). This approval action will incorporate two rules into the federally approved SIP and remove one rule from the SIP. The revised rules control VOC emissions

from oil water separators, and the use of architectural coatings. The rule to be removed controls emissions from rubber tire manufacturing.

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). In addition, the final action on this rule serves as a final determination that the finding of nonsubmittal for these two rules has been corrected and that on the effective date of this action, any Federal Implementation Plan (FIP) clock is stopped. Thus, 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 action is effective on April 9, 1996 unless adverse or critical comments are received by March 11, 1996. 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 92123-1095.
- Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

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: MBUAPCD 420, Effluent Oil Water Separators; and MBUAPCD 426, Architectural Coatings. The rule being removed from the SIP is MBUAPCD Rule 428, Manufacture of

Rubber Tires. These rules were submitted by the California Air Resources Board to EPA on November 18, 1993.

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 Monterey Bay Area. 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 district's portion of the California 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, 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(b)(2) of the CAA, Congress statutorily required nonattainment areas to submit reasonably available control technology (RACT) rules for specific VOC sources by November 15, 1992 (the RACT "catchup" requirement).

At the time of enactment of the CAA amendments, the Monterey Bay Area was classified as moderate¹; therefore, this area was subject to the RACT catch-up requirement and the November 15, 1992 deadline.²

The State of California submitted many revised RACT rules for incorporation into its SIP on November 18, 1993, including two of the rules being acted on in this notice. This notice addresses EPA's direct-final action for MBUAPCD Rule 420, Effluent Oil Water Separators; and Rule 426, Architectural Coatings. These submitted rules were found to be complete on December 27, 1993 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 appendix V³ and are being finalized for approval into the SIP. This notice also addresses the State of California's request that Rule 428,

¹ Monterey Bay Area retained its designation of nonattainment and was 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).

² California did not make the required SIP submittal by November 15, 1992. On June 8, 1993, the EPA made a finding of failure to make a submittal pursuant to section 179(a)(1) which started an 18-month sanction clock. Two of the rules being acted on in this direct final rule were submitted in response to the EPA finding of failure to submit.

³ 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).

Manufacture of Rubber Tires, be removed from the SIP.

Rule 420 controls emissions from oil water separators at oil fields and petroleum refineries; Rule 426 limits the emissions of VOCs resulting from the use of architectural coatings; and rescinded Rule 428 controls emissions from the manufacture of rubber tires. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of MBUAPCD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to section 182(b)(a). 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.⁴ 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 "catch-up" their RACT rules. See section 182(b)(2). The CTG applicable to Rule 420 is entitled, "Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds," EPA-450/2-77-025. Rule 426 has no applicable CTG, but was evaluated for consistency with the State of California's "Suggested Control Measure for Architectural

Coatings," July 1989. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 4. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

MBUAPCD's submitted Rule 420, Effluent Oil Water Separators, includes the following significant changes from the current SIP:

- Test methods were added to determine compliance;
- Recordkeeping requirements were added; and
- Air Pollution Control Officer discretion for alternative control measures was deleted from the rule.

MBUAPCD' submitted Rule 426, Architectural Coatings, includes the following significant changes from the current SIP:

- Clearly defines the purpose and applicability of the rule;
- Expresses VOC content limitations in "grams of VOC per liter of coating, excluding any water, exempt organic compounds, and colorant added to tint bases";
- Reduces the VOC content limit for non-flat coatings;
- Removes small business exemption;
- Adds, updates, and clarifies definitions; and
- Specifies test methods to be used for determining compliance.

MBUAPCD's Rule 428, Manufacture of Rubber Tires, was submitted to be removed from the SIP. This was a source-specific rule since no other such facilities existed at the time the rule was adopted. This facility has since shut down. No emission reductions are achieved or claimed from the control of rubber tire manufacturing within MBUAPCD's ozone attainment plan. The removal of Rule 428 meets the requirements of EPA's policy and removes an extraneous rule that serves no purpose.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, MBUAPCD Rule 420, Effluent Oil Water Separators and MBUAPCD Rule 426, Architectural Coatings, 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 applicable Rule 428 consistent with the requirements of sections 110(l) and 193.

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 document 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 revision should adverse or critical comments be filed. This action will be effective April 9, 1996, unless, by March 11, 1996, 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 document 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 April 9, 1996.

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).

⁴ 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).

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 actions and also require the private sector 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 direct 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.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

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: December 10, 1995.

Felicia Marcus,
Regional Administrator.

Subpart F of part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart F—California

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

Authority: 42 U.S.C. 7401-7671q.

2. Section 52.220 is amended by adding paragraphs (c)(194)(i)(F) (3) and (4) to read as follows:

§ 52.220 Identification of plan.

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- (c) * * *
- (194) * * *
- (i) * * *
- (F) * * *

(3) Rule 420 and Rule 426, adopted on August 25, 1993.

(4) Previously submitted to EPA on February 6, 1975 and approved in the Federal Register on July 13, 1987 and now removed without replacement, Rule 428.

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40 CFR Part 52

[CA 79-4-7252a; FRL-5398-8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Monterey Bay Unified Air Pollution Control District, San Diego County Air Pollution Control District, and Santa Barbara 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: Monterey Bay Unified Air Pollution Control District (MBUAPCD), San Diego County Air Pollution Control District (SDCAPCD), and Santa Barbara County Air Pollution Control District (SBCAPCD). This approval action will incorporate these rules into the federally approved 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 revised rules control VOC emissions from gasoline storage and transfer and bakery ovens. Thus, 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 action is effective on April 9, 1996 unless adverse or critical comments are received by March 11, 1996. If the effective date is delayed, a timely notice will be published in the Federal Register.

ADDRESSES: 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 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 92123-1095.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, B-23, Goleta, CA 93117.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, CA 92123.

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: Monterey Bay Unified Air Pollution Control District (MBUAPCD) Rule 1002, Transfer of Gasoline into Vehicle Fuel Tanks; San Diego County Air Pollution Control District (SDCAPCD) Rule 67.24, Bakery Ovens; and Santa Barbara County Air Pollution Control District (SBCAPCD) Rule 316, Storage and Transfer of Gasoline. These rules were submitted by the California Air Resources Board to EPA on December 22, 1994, June 16, 1995 and March 29, 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 Monterey Bay, San Diego County, and