

navigation position. Navigation on the waterway consists of tugs and tows, fishing vessels, sailing vessels, and other recreational craft. The Norfolk Southern Railroad requested a temporary deviation from the normal operation of the drawbridge in order to accommodate the maintenance work, involving removal and replacement of the railroad ties on the bascule span deck.

This deviation allows the draw of the Norfolk Southern Railroad bascule span drawbridge across the Inner Harbor Navigation Canal, mile 4.5, at New Orleans, Orleans Parish, Louisiana to remain closed to navigation from 8 a.m. until noon and from 1 p.m. until 4 p.m., Monday through Friday from October 12, 1999 through November 5, 1999. The draw shall open on signal at any time for a vessel in distress.

Dated: September 24, 1999.

**Paul J. Pluta,**

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 99-25547 Filed 9-30-99; 8:45 am]

BILLING CODE 4910-15-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 033-0171; FRL-6446-2]

#### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, El Dorado County Air Pollution Control District

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing a limited approval and limited disapproval of a revision to the California State Implementation Plan (SIP) proposed in the **Federal Register** on April 4, 1994. This final action will incorporate these rules into the federally approved SIP. The intended effect of finalizing this action 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 the loading, unloading, and storage of petroleum products. EPA is finalizing a simultaneous limited approval and limited disapproval under CAA provisions regarding EPA action on SIP submittals and general rulemaking authority because these revisions, while strengthening the SIP, also do not fully

meet the CAA provisions regarding plan submissions and requirements for nonattainment areas. As a result of this limited disapproval EPA will be required to impose highway funding or emission offset sanctions under the CAA unless the State submits and EPA approves corrections to the identified deficiencies within 18 months of the effective date of this disapproval. Moreover, EPA will be required to promulgate a Federal implementation plan (FIP) unless the deficiencies are corrected within 24 months of the effective date of this disapproval.

**EFFECTIVE DATE:** This action is effective on November 1, 1999.

**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 also 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, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814

El Dorado Air Pollution Control District, 7553 Green Valley Road, Placerville, CA 95667-4197.

**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

EPA is finalizing a limited approval and limited disapproval of a revision to the California SIP submitted by El Dorado County Air Pollution Control District (EDCAPCD) entitled Regulation IX, Air Toxic Control Measures, Section A, Benzene, Rules 900 through 914. This regulation was submitted by the California Air Resources Board (CARB) to EPA on April 5, 1991.

#### II. Background

On April 4, 1994 in 64 FR 15686, EPA proposed granting a limited approval and limited disapproval of EDCAPCD Regulation IX, Air Toxic Control Measure, Section A, Benzene, (Rules 900 through 914) into the California SIP. These 900 series rules were adopted by EDCAPCD on September 18, 1990 and

submitted by the CARB to EPA on April 5, 1991. The rules were submitted in response to EPA's 1988 SIP Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for each of the above rules and nonattainment areas is provided in the proposed rule (PR) cited above.

EPA has evaluated all of the above rules for consistency with the requirements of the CAA and EPA regulations and EPA's interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the PR. EPA is finalizing the limited approval of these rules in order to strengthen the SIP and finalizing the limited disapproval requiring the correction of the remaining deficiencies. In summary, the deficiencies relate to the lack of a specific definition of the facilities to which the rules apply, improper definition of test methods, Control Officer discretion to require unspecified control equipment, and a higher throughput exemption than allowed by section 182(b)(3). These deficiencies must be corrected pursuant to the requirements of sections 182(a)(2)(A) and part D of the CAA. A detailed discussion of the rule provisions and evaluations has been provided in the PR and in technical support document (TSD) available at EPA's Region IX office (TSD dated April 30, 1993, Regulation IX, Rules 900 through 914).

#### III. Response to Public Comments

A 30-day public comment period was provided in 59 FR 15686; EPA did not receive any comments.

#### IV. EPA Action

EPA is finalizing a limited approval and limited disapproval of the above-referenced rules. The limited approval of these rules is being finalized under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited in the sense that the rules strengthen the SIP. However, the rules do not meet the section 182(a)(2)(A) CAA requirement because of the rule deficiencies which were discussed in the PR. Thus, in order to strengthen the SIP, EPA is granting limited approval of these rules under sections 110(k)(3) and 301(a) of the CAA. This action approves the rules into the SIP as federally enforceable rules.

At the same time, EPA is finalizing the limited disapproval of these rules because they contain deficiencies that have not been corrected as required by section 182(a)(2)(A) of the CAA, and, as such, the rules do not fully meet the requirements of Part D of the Act. As stated in the proposed rule, upon the effective date of this final rule, the 18 month clock for sanctions and the 24 month FIP clock will begin. Sections 179(a) and 110(c). If the State does not submit the required corrections and EPA does not approve the submittal within 18 months of the effective date of the final rule, either the highway sanction or the offset sanction will be imposed at the 18 month mark. It should be noted that the rules covered by this FR have been adopted by the EDCAPCD and are currently in effect in the EDCAPCD. EPA's limited disapproval action will not prevent a EDCAPCD or EPA from enforcing these rules.

## V. 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 is 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 November 30, 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 compound.

**Nora L. McGee,**

*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 paragraph (c)(183)(H)(1) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*  
(183) \* \* \*

(i) \* \* \*

(H) El Dorado County Air Pollution Control District.

(1) Regulation IX, Rules 900 through 914, adopted September 18, 1990.

\* \* \* \* \*

[FR Doc. 99-25568 Filed 9-30-99; 8:45 am]

BILLING CODE 6560-50-P

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 61

[FRL-6443-7]

RIN 2060-AF04

#### National Emission Standard for Hazardous Air Pollutants; National Emission Standards for Radon Emissions From Phosphogypsum Stacks

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule; correction.

**SUMMARY:** This document contains a correcting amendment to the final regulations for the National Emission Standard for Radon Emissions from Phosphogypsum Stacks, 40 CFR Part 61, Subpart R, which were originally published Wednesday, February 3, 1999 (64 FR 5574). This final rule promulgated revisions to the National Emission Standard for Hazardous Air Pollutants (NESHAP) that set limits on radon emissions from phosphogypsum stacks; and raised the limit on the quantity of phosphogypsum that may be used in indoor laboratory research and development from 700 to 7,000 pounds per experiment, eliminating current sampling requirements for phosphogypsum used in indoor research and development, and clarifying sampling procedures for phosphogypsum removed from stacks for other purposes.

**EFFECTIVE DATE:** October 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Eleanor Thornton-Jones, Office of Radiation and Indoor Air (6602J), at 202-564-9773.

**SUPPLEMENTARY INFORMATION:**

#### Background

The final regulations that is the subject of this correction affects persons or facilities required to comply with all the limitations set forth in § 61.205(b). In the rule published on February 3, 1999, § 61.205 was amended by revising

the section title and paragraphs (a) and (b).

#### Review Under Executive Order 12866

Under Executive Order 12866, (58 FR 51736, October 4, 1993), this action is not a "significant regulatory action" and is not therefore subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule also does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655, May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule is also not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the February 3, 1999 **Federal Register** notice.

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). This rule will be effective October 1, 1999.