

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 231-0206a; FRL-6540-6]

#### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on a revision to the California State Implementation Plan. The revision concerns a rule from the South Coast Air Quality Management District (SCAQMD). This approval action will incorporate this rule into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of volatile organic compounds (VOCs) and hydrogen sulfide (H<sub>2</sub>S) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rule controls VOC and H<sub>2</sub>S emissions from refinery vacuum-producing devices or systems. Thus, EPA is finalizing the approval of this revision 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.

This direct final action will incorporate this rule into the federally approved SIP and also stop the sanctions and Federal Implementation Plan clocks, which were started on August 14, 1998 when EPA published a final limited disapproval of the State's submittal of a previous version of this Rule.

**DATES:** This rule is effective on May 1, 2000 without further notice, unless EPA receives adverse comments by March 31, 2000. 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 rule revisions and EPA's evaluation report 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), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812  
South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1135.

#### SUPPLEMENTARY INFORMATION:

##### I. Applicability

The rule being approved into the California SIP is SCAQMD Rule 465, Refinery Vacuum-Producing Devices and Systems. This rule was submitted by the California Air Resources Board (CARB) to EPA on October 29, 1999.

##### 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 SCAQMD. 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 SCAQMD'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(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

<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

guidance to indicate the necessary corrections for specific nonattainment areas. SCAQMD is classified as extreme for ozone<sup>2</sup>; therefore, this area was subject to the RACT fix-up requirement and the May 15, 1991 deadline.

This document addresses EPA's direct final action for SCAQMD Rule 465, Refinery Vacuum-Producing Devices and Systems. SCAQMD adopted Rule 465 on August 13, 1999. This rule was submitted by the CARB on October 29, 1999 and was found to be complete on December 16, 1999 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V<sup>3</sup> and is being finalized for approval into the SIP.

Rule 465 controls the emission of VOCs and H<sub>2</sub>S from refinery vacuum-producing devices and systems. VOCs contribute to the production of ground level ozone and smog. This rule was originally adopted as part of SCAQMD'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. Control of H<sub>2</sub>S is not required for purposes of the SIP, because H<sub>2</sub>S is not a criteria air pollutant. The following is EPA's evaluation and final action for this rule.

##### 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 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.

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).

<sup>2</sup> SCAQMD 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 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).

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). The CTG applicable to this rule is entitled, "Control of Refinery Vacuum-Producing Systems, Wastewater Separators, and Process Unit Turnarounds," EPA 450/2-77-025. 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.

On August 14, 1998, EPA granted limited approval and limited disapproval to a version of Rule 465 that had been adopted by SCAQMD on November 1, 1991. SCAQMD Rule 465 as adopted on August 13, 1999 includes the following significant changes from the current SIP:

- SCAQMD deleted the listing of exempt compounds and referenced SCAQMD Rule 102, which correctly does not list carbon tetrachloride as an exempt compound.
- SCAQMD eliminated the requirement to reduce VOC emissions from vacuum-producing devices or systems by at least 90% and the requirement to limit exhaust gases from vacuum-producing devices or systems to not exceed 800 ppm of sulfur compounds expressed as H<sub>2</sub>S.
- SCAQMD replaced the above requirements with a requirement to continuously collect exhaust gases from vacuum-producing devices or systems and add them to a fuel gas system or combustion device that is approved and permitted. Fuel gas systems (with subsequent combustion) and combustion devices will achieve significantly greater than 90% VOC emissions removal from the exhaust gases. The use of other control devices, such as carbon absorbers, is no longer allowed under this rule.
- SCAQMD removed test methods associated with the deleted emission limits. Compliance is now being determined by visual inspection of the valves, flanges, and piping for leaks to the ambient air. Inspection and recordkeeping for valves and flanges is regulated by SCAQMD Rule 466.1, Valves and Flanges.

EPA has evaluated the submitted rule and has determined that it is consistent

with the CAA, EPA regulations, and EPA policy. Therefore, SCAQMD Rule 465, Refinery Vacuum-Producing Devices or Systems, is being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

This approval action will incorporate this rule into the federally approved SIP and also stop the sanctions process and Federal Implementation Plan clock, which were started on August 14, 1998, when a limited disapproval action was published in the **Federal Register**. 63 FR 43627.

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 May 1, 2000 without further notice unless the Agency receives adverse comments by March 31, 2000.

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 May 1, 2000 and no further action will be taken on the proposed rule.

#### 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. 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 (Public Law 104-4).

For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not 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 May 1, 2000. 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.

Dated: February 11, 2000.

**Felicia Marcus**,  
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)(270)(i)(C)(1) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

- (c) \* \* \*
- (270) \* \* \*
- (i) \* \* \*

(C) South Coast Air Quality Management District.

(1) Amended Rule 465, adopted on August 13, 1999.

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[FR Doc. 00-4778 Filed 2-29-00; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-300972; FRL-6490-9]

RIN 2070-AB78

**Dimethyl Silicone Polymer With Silica; Silane, Dichloromethyl-, Reaction Product With Silica; Hexamethyldisilazane, Reaction Product With Silica; Tolerance Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of the polymers dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product with silica when used as inert ingredients in growing crops, when applied to raw agricultural commodities after harvest, or to animals. Cabot Corporation submitted petitions to EPA under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996 requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of dimethyl silicone polymer with silica; silane, dichloromethyl-, reaction product with silica; and hexamethyldisilazane, reaction product with silica.

**DATES:** This regulation is effective March 1, 2000. Objections and requests for hearings, identified by docket control number OPP-300972, must be received by EPA on or before May 1, 2000.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit XI. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-300972 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Vera Soltero, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-9359 and e-mail address: soltero.vera@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Cat-egories	NAICS codes	Examples of poten-tially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufac-turing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**--Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-300972. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record