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 10, 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, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Dated: September 17, 2001.

**Jane Diamond,**

*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)(285) to read as follows:

**§ 52.220 Identification of plan.**

* * * * *

(c) * * *

(285) New and amended regulations for the following APCDs were submitted on December 11, 2000 by Governor's designee.

(i) Incorporation by reference.

(A) Ventura County Air Pollution Control District.

(*1*) Rule 74.15.1, adopted on June 13, 2000.

[FR Doc. 01–25255 Filed 10–9–01; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[CA 242–0297a; FRL–7075–8]**

## Revisions to the California State Implementation Plan, El Dorado County Air Pollution Control District and Imperial County 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 El Dorado County Air Pollution Control District (EDCAPCD) and Imperial County Air Pollution Control District (ICAPCD) portions of the California State Implementation Plan (SIP). These revisions concern Oxides of Nitrogen ($NO_X$) emissions from industrial, institutional, and commercial boilers, steam generators, and process heaters as well as administrative matters. We are approving and rescinding local rules that regulate emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on December 10, 2001 without further notice, unless EPA receives adverse comments by November 9, 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.

You can inspect copies of the submitted rule 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 rule revisions at the following locations: Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460. California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814. El Dorado County Air Pollution Control District, 2850 Fairlane Court, Building C, Placerville, CA 95667. Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 744–1135.

**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 or rescinding 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 No. | Rule title | Adopted or (rescinded) | Submitted |
|---|---|---|---|---|
| EDCAPCD | 101 | General Provisions and Definitions | 02/15/00 | 07/26/00 |
| EDCAPCD | 229 | Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters. | 01/23/01 | 05/23/01 |
| EDCAPCD | 101 | Title | 02/15/00 (Rescinded) | 07/26/00 |

TABLE 1.—SUBMITTED RULES—Continued

| Local agency | Rule No. | Rule title | Adopted or (rescinded) | Submitted |
|---|---|---|---|---|
| EDCAPCD | 102 | Definitions | 02/15/00 (Rescinded) | 07/26/00 |
| ICAPCD | 100 | Rule Citation | 09/14/99 | 05/26/00 |
| ICAPCD | 113 | Circumvention | 09/14/99 | 05/26/00 |

On October 4, 2000, submittals of EDCAPCD Rules 101, 101 (recision), and 102 (recision) were found to meet the completeness criteria in 40 CFR Part 51, appendix V, which must be met before formal EPA review. On July 3, 2001, the submittal of EDCAPCD Rule 229 was found to meet the completeness criteria.

On October 6, 2000, the submittal of ICAPCD Rules 100 and 113 were found to meet the completeness criteria.

*B. Are There Other Versions of These Rules?*

We approved a version of EDCAPCD Rule 101 into the SIP as Rule 101 on June 14, 1978 (43 FR 25674) and as Rule 102 on November 6, 1978 (43 FR 51632), both of which are now submitted for recision. Rules 101 and 102 were originally submitted on April 10, 1975 and November 4, 1977, respectively. We finalized a limited approval and limited disapproval of a version of EDCAPCD Rule 229 into the SIP on July 21, 2000 (65 FR 45297).

We approved a version of ICAPCD Rules 100 and 113 into the SIP on August 11, 1978 (43 FR 35694) and on February 3, 1989 (54 FR 5448), respectively.

*C. What Are the Purposes of the Submitted Rule Revisions?*

The purposes are as follows:

- EDCAPCD Rule 101 combines SIP rules 101 and 102 for simplification and adds, deletes, or revises certain definitions.
- EDCAPCD Rule 229 regulates $NO_X$ and CO emissions from industrial, institutional, and commercial boilers, steam generators, and process heaters. Revisions were made to correct the deficiencies cited in the proposed limited approval and limited disapproval action on May 5, 1999 (64 FR 24121).
- ICAPCD Rule 100 changed the title for clarity.
- ICAPCD Rule 113 was reformatted.

The TSD has more information about these rules.

**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 ozone nonattainment areas (see sections 182(a)(2)(A) and 182(f)), and must not relax existing requirements (see sections 110(l) and 193). The EDCAPCD regulates a severe ozone nonattainment area (see 40 CFR part 81), so EDCAPCD Rule 229 must fulfill the requirements of RACT. The other rules are administrative and must meet only enforceability and relaxation requirements.

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

- ''*Requirements for Preparation, Adoption, and Submittal of Implementation Plans,*'' U.S. EPA, 40 CFR 61.
- ''*State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,*'' (the $NO_X$ Supplement), 57 FR 55620 (November 25, 1992).
- ''*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 published in the May 25, 1988 *Federal Register*.
- ''*Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters,*'' California Air Resources Board (July 18, 1991).
- ''*Cost-Effective Nitrogen Oxides* ($NO_X$) Reasonably Available Control Technology,'' U.S. EPA Office of Air Quality Planning and Standards (March 16, 1994).

*B. Do the Rules Meet the Evaluation Criteria?*

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. All of the deficiencies identified in our previous limited approval and limited disapproval action have been adequately addressed as follows:

- Section 229.3.D: [Multiple deficiencies are listed for this section, which allows for an alternate emission control plan.] This section is not required by the CAA and is deleted completely.
- Section 229.5.B.2: [The Executive Officer's discretion language should be expanded to include sampling methods approved by the CARB and EPA.] This is corrected.
- Section 229.3.A: [This section should be revised to ''greater than or equal to 90,000 therms per year limit for each of the three previous years.''] This is corrected.
- Section 229.3.C: [The specification for flow meters should be revised to require non-resettable mass and volume flow meters.] This is corrected.
- Section 229.4.A: [A date for full compliance of facilities should be added.] This is corrected.

The TSD has more information on our evaluation.

*C. Public Comment and Final Action*

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules and rule recisions because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval 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 9, 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 10, 2001. This will incorporate these rules into or rescind from the federally-enforceable SIP. This will also terminate any sanction or FIP clocks initiated by our January 21, 2000 action under sections 179 and 110(c) of the CAA.

**III. Background Information**

*A. Why Were These Rules Submitted?*

$NO_X$ helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control $NO_X$ emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency $NO_X$ 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 CAA. |
| November 15, 1990 | Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671*q*. |
| 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 (Public Law 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. section 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. section 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 10, 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 12, 2001.

**Mike Shulz,**

*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)(27)(viii)(C), (c)(42)(x)(B), (c)(279)(i)(A)(*6*), (c)(280)(i)(B)(*2*), and (c)(281)(i)(A)(*2*) to read as follows:

**§ 52.220 Identification of plan.**

* * * * *

(c) * * *

(27) * * *

(viii) * * *

(C) Previously approved on June 14, 1978 in paragraph (c)(27)(viii)(A) of this section and now deleted Rule 101.

* * * * *

(42) * * *

(x) * * *

(B) Previously approved on November 6, 1978 in paragraph (c)(42)(x)(A) of this section and now deleted Rule 102.

* * * * *

(279) * * *

(i) * * *

(A) * * *

(*6*) Rules 100 and 113, adopted on September 14, 1999.

* * * * *

(280) * * *

(i) * * *

(B) * * *

(*2*) Rule 101, adopted on February 15, 2000.

* * * * *

(281) * * *

(i) * * *

(A) * * *

(*2*) Rule 229, adopted on January 23, 2001.

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[FR Doc. 01–25252 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

**[VA–T5–2001–01a; FRL–7073–6]**

### Clean Air Act Full Approval of Operating Permit Program; Virginia

**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 Commonwealth of Virginia. Virginia'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 Virginia's operating permit program on June 10, 1997, as corrected on March 19, 1998. Virginia 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 Virginia's title V operating permit program should do so at this time. A more detailed description of Virginia's submittal and EPA's evaluation are included in a Technical Support Document (TSD) in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

**DATES:** This rule is effective on November 26, 2001 without further notice, unless EPA receives adverse written comment by November 9, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments may be mailed to Makeba Morris, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

**FOR FURTHER INFORMATION CONTACT:** David Campbell, Permits and Technical Assessment Branch at (215) 814–2196 or by e-mail at *campbell.dave@.epa.gov.*

**SUPPLEMENTARY INFORMATION:** On November 20, 2000, the Commonwealth of Virginia submitted amendments to its State operating permit program. These amendments are the subject of this document and this section provides additional information on the amendments by addressing the following questions:

*What is the State operating permit program?*
*What are the State operating permit program requirements?*
*What is being addressed in this document?*
*What is not being addressed in this document?*
*What changes to Virginia's operating permit program is EPA approving?*
*How does Virginia's Voluntary Environmental Assessment Privilege Law affect its operating permit program?*
*What action is being taken by EPA?*

#### What Is the State Operating Permit Program?

The Clean Air Act Amendments of 1990 required all States to develop operating permit programs that meet certain federal criteria. When implementing the operating permit programs, the States require certain sources of air pollution to obtain permits that contain all of their applicable requirements under the Clean Air Act (CAA). The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of its applicable CAA requirements into a federally-enforceable document. By consolidating all of the applicable requirements for a given air pollution source into an operating permit, the source, the public, and the State environmental agency can more easily understand what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in the EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of ''major'' sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides, or particulate matter (PM10); those that emit 10 tons per year of any single hazardous air pollutant (HAP) specifically listed under the CAA; or those that emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the national ambient air quality standards (NAAQS) for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in the counties and cities in northern Virginia that are part of the metropolitan Washington, DC serious ozone nonattainment area, major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.