

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). This action 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 CAA. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (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 CAA. 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 CAA. 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. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 25, 2005. 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, Reporting and recordkeeping requirements.

Dated: January 12, 2005.

**Laura Yoshii,**

*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)(254)(i)(E)(3) as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(254) \* \* \*

(i) \* \* \*

(E) \* \* \*

(3) Rules 201, 203, 204, 205, and 217, adopted on January 9, 1976 and amended on August 19, 1997.

\* \* \* \* \*

[FR Doc. 05-3185 Filed 2-18-05; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[CA 307-0460a; FRL-7874-6]

#### Revisions to the California State Implementation Plan, El Dorado County Air Quality Management District (Mountain Counties Portion), Imperial County Air Pollution Control District, and South Coast Air Quality Management 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 Quality Management District (EDCAQMD) (Mountain Counties portion), Imperial County Air Pollution Control District (ICAPCD), and

the South Coast Air Quality Management District (SCAQMD) portions of the California State Implementation Plan (SIP). The revisions concern an obsolete permitting rule and the storage and transfer of gasoline at dispensing facilities. We are removing an obsolete local permitting rule and are approving local rules that regulate volatile organic compound (VOC) emissions under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on April 25, 2005 without further notice, unless EPA receives adverse comments by March 24, 2005. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Send comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, or e-mail to [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov), or submit comments at <http://www.regulations.gov>.

You can inspect a copy 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 a copy of the submitted rule revisions and TSDs 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 Quality Management District, 2850 Fairlane Court, Building C, Placerville, CA 95667

Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765

A copy of the rules may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA Web site and may not contain the same version of the rules that were submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 947-4118, [petersen.alfred@epa.gov](mailto:petersen.alfred@epa.gov).

**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 rule we are removing and the rules being revised or amended by the local air agencies and submitted by the California Air Resources Board (CARB).

**TABLE 1.—REMOVED OR SUBMITTED RULES**

Local agency	Rule #	Rule title	Action	Submitted
EDCAQMD (Mountain Counties portion).	425	Transfer of Authority to Construct .....	Removed by EPA.	
ICAPCD .....	415	Transfer and Storage of Gasoline .....	05/18/04 Revised .....	07/19/04
SCAQMD .....	461	Gasoline Transfer and Dispensing .....	01/09/04 Amended .....	06/03/04

On August 10, 2004, the submittal of ICAPCD Rule 415 was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. On June 30, 2004, the submittal of SCAQMD Rule 461 was found to meet the completeness criteria.

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

We approved a version of EDCAQMD Rule 425 on July 7, 1982 (47 FR 29536). We finalized a limited approval/limited disapproval of a previous version of ICAPCD Rule 415 on October 29, 2002 (67 FR 65873). We approved a previous version of SCAQMD Rule 461 into the SIP on August 20, 2001 (66 FR 43483). There were no sanction implications on our action on Rule 415.

*C. What Is the Purpose of the Submitted Rule Revisions?*

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions.

The purpose of removing EDCAQMD (Mountain Counties portion) Rule 425, Transfer of Authority to Construct, is to remove an obsolete permitting rule from the SIP. This rule is superseded by EDCAQMD SIP Rule 501.3.E, General Permit Requirements, and there is no relaxation of the SIP. Rule 425 should have been rescinded in the final action of February 2, 2000 (65 FR 4887), as proposed on October 5, 1999 (64 FR 53973). Due to an oversight, Rule 425 was not rescinded. Therefore, EPA is removing Rule 425 from the SIP in today's action.

The purpose of revising ICAPCD Rule 415 is to make the following changes, some of which correct deficiencies that we identified in our October 29, 2002 action on a previous version of this rule:

- 415.A.1.a: To delete the exemption from requirements for storage tanks for fueling equipment used primarily for animal husbandry.
- 415.A.1.b: To reduce the scope of exemption for retail service stations in existence since December 1, 1988. The existing SIP rule had exempted such facilities entirely from the rule, but the revised rule exempts such stations only from the requirement to install Phase II controls.
- 415.A.1.f: To add an exemption from requirements for storage tanks with a submerged fill pipe or a pressure tank with a capacity of 1,000 gallons or less, where no more than 3,000 gallons are transferred into vehicle fuel tanks in a calendar month, providing the associated facility is not a retail service station.
- 415.B.5.c: To add a requirement that applicable performance tests be conducted within 30 days of completion of construction for any new or modified vapor recovery system. "Applicable" means as required by the Authority to Construct, Permit to Operate, or CARB Executive Order. [This remedies a deficiency in the rule.]
- 415.B.5.d: To add a requirement at retail dispensing stations with Phase II vapor recovery systems that applicable reverification of performance tests be performed annually. [This remedies a deficiency in the rule.]
- 415.B.5.d: To add a requirement at facilities with Phase I and II vapor recovery systems that applicable reverification of performance tests be performed.
- To add a requirement that all Phase II systems be used only with a Phase I system capable of 95% recovery of emitted vapors.
- 415.C: To substantially revise and update appropriate test procedures for determining compliance. The added test procedures included the Static Pressure Test, Dynamic Back Pressure Test, Air-

to-Liquid Volume Ratio Test, and Liquid Removal Rate Test. [This remedies a deficiency in the rule.] The purpose of revising SCAQMD Rule 461 is to make the following changes:

- 461(e)(3)(C): To allow tests and retests during the weekend under certain specified conditions.
- 461(e)(3)(D): To require the electronic submission within 72 hours of a PASS/FAIL test report on all tests conducted.
- 461(e)(3)(E): To require the submission of the final test report within 14 calendar days when all tests are passed.
- 461(e)(3)(E): To require the person responsible for conducting the tests to have completed the District's orientation class for testing, including any subsequent refresher classes.
- 461 "Attachment A": To delete the text of the definition in the California Code of Regulations for "major defects" that is referred to in paragraph (b)(19) of the rule.

**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 CAA) and must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(b)(2)), and must not relax existing requirements (see sections 110(l) and 193). Gasoline vapor recovery rules must fulfill the special requirements for gasoline vapor recovery in certain ozone nonattainment areas (see section 182(b)(3)(A)).

The following guidance documents were used for reference:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans*, EPA, 40 CFR part 51.
- *Guidance Document for Correcting Common VOC & Other Rule*

*Deficiencies*, EPA Region IX (August 21, 2001). (The Little Bluebook)

- Draft *Model Rule, Gasoline Dispensing Facility-Stage II Vapor Recovery*, EPA (August 17, 1992).

- *Gasoline Vapor Recovery Guidelines*, EPA Region IX (April 24, 2000).

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

We believe that the approval of ICAPCD Rule 415 and SCAQMD Rule 461 and the removal of EDCAQMD Rule 425 are consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, special gasoline requirements, and fulfilling RACT. All of the deficiencies cited in the previous limited approval/limited disapproval action on ICAPCD Rule 415 have been corrected. The removed EDCAQMD Rule 425 is replaced by SIP Rule 501.3.E. The TSDs have more information on our evaluation.

#### *C. Public Comment and Final Action*

As authorized in section 110(k)(3) and 110(k)(6) of the CAA, we are taking actions that we believe fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the rule removal and approvals without proposing them in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same actions. If we receive adverse comments by March 24, 2005, 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 April 25, 2005. This will remove EDCAQMD (Mountain Counties portion) Rule 425 from the federally-enforceable SIP and incorporate ICAPCD Rule 415 and SCAQMD Rule 461 into the SIP. There are no sanction or FIP clock implications with our previous action on ICAPCD Rule 415.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

### **III. Statutory and Executive Order Reviews**

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 13211, “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 (Pub. L. 104–4).

This rule also does not have tribal implications because it will 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). This action also does not have Federalism implications because it does 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). This action 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 “Protection of Children from Environmental Health Risks and Safety Risks” (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. 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 April 25, 2005. 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: December 17, 2004.

**Wayne Nastri,**

*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)(120)(i)(C), (331)(i)(B), and (332)(i)(A)(2) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

- (c) \* \* \*
- (120) \* \* \*
- (i) \* \* \*

(C) Previously approved on July 7, 1982 in paragraph (c)(120)(i)(A) of this section and now deleted without replacement Rule 425.

\* \* \* \* \*

- (331) \* \* \*
- (i) \* \* \*

(B) South Coast Air Quality Management District.

(1) Rule 461, originally adopted on January 9, 1976 and amended on January 9, 2004.

\* \* \* \* \*

- (332) \* \* \*
- (i) \* \* \*
- (A) \* \* \*

(2) Rule 415, originally adopted on November 4, 1977 and revised on May 18, 2004.

\* \* \* \* \*

[FR Doc. 05-3358 Filed 2-18-05; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 60**

[OAR-2002-0049; FRL-7874-9]

RIN 2060-AJ68

**Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and on or Before August 17, 1983; and Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983**

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

**ACTION:** Final rule; amendments.

**SUMMARY:** This action promulgates amendments to the new source performance standards for electric arc furnaces constructed after October 21, 1974, and on or before August 17, 1983, and the new source performance standards for electric arc furnaces constructed after August 17, 1983. The final amendments add alternative requirements for monitoring emissions from furnace exhausts and make minor editorial corrections.

**EFFECTIVE DATE:** February 22, 2005.

**ADDRESSES:** The EPA has established an official public docket for this action including both Docket No. OAR-2002-0049 and Docket No. A-79-33. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket> (or Docket No. A-79-33). Not all docket materials are available electronically. The materials

in Docket No. A-79-33 are in hard copy form and are publicly available through the docket facility as set forth below. Although listed in the index, some information is not publicly available, *i.e.*, confidential business information or other information whose disclosure is restricted by statute. Certain other information, such as copyrighted materials, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy form at the New Source Performance Standards for Electric Arc Furnaces Docket, Docket ID No. OAR-2002-0049 (or A-79-33), EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kevin Cavender, Emission Standards Division, Office of Air Quality Planning and Standards (C439-02), Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541-2364, electronic mail (e-mail) address, [cavender.kevin@epa.gov](mailto:cavender.kevin@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does This Action Apply to Me?*

Categories and entities potentially regulated by this action include:

Category	NAICS code <sup>1</sup>	Examples of regulated entities
Industry .....	331111	Steel manufacturing facilities that operate electric arc furnaces.
Federal government .....	.....	Not affected.
State/local/tribal government .....	.....	Not affected.

<sup>1</sup> North American Industry Classification System.

This description is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR 60.270 (for electric arc furnaces constructed after October 21, 1974, and on or before August 17, 1983) or 40 CFR 60.270a (for electric arc furnaces and argon-oxygen decarburization vessels constructed after August 7, 1983), as applicable. If you have any questions regarding the applicability of this action to a

particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

*B. Where Can I Get a Copy of This Document and Other Related Information?*

In addition to being available in the docket, an electronic copy of today's final rule amendments will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the final rule amendments will be placed on

the TTN's policy and guidance page for proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

*C. What Are the Judicial Review Requirements?*

Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of the final rule amendments is available only by filing a petition for review in the U.S.