

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2011-0580; FRL-9468-2]

Revisions to the California State Implementation Plan, Sacramento Metropolitan Air Quality Management District, Ventura County Air Pollution Control District, and Placer 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 Sacramento Metropolitan Air Quality Management District (SMAQMD), Ventura County Air Pollution Control District (VCAPCD), and Placer County Air Pollution Control District (PCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from organic chemical manufacturing, soil decontamination, and polyester resin operations. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on December 2, 2011 without further notice, unless EPA receives adverse comments by November 2, 2011. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2011-0580, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* steckel.andrew@epa.gov.
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov>

www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: David Grounds, EPA Region IX, (415) 972-3019, grounds.david@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 rules we are approving 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	Submitted
SMAQMD	464	Organic Chemical Manufacturing Operations	09/25/08	09/15/09
VCAPCD	74.29	Soil Decontamination Operations	04/08/08	01/10/10
PCAPCD	243	Polyester Resin Operations	04/10/03	12/07/10

On 01/21/10, EPA determined that the submittal for SMAQMD Rule 464 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review. On 02/04/10, EPA determined that the submittal for VCAPCD Rule 74.29 met the completeness criteria, and on 01/13/11, EPA determined that the submittal for PCAPCD Rule 243 met the completeness criteria.

B. Are there other versions of these rules?

There are no previous versions of PCAPCD Rules 243 in the SIP. We approved an earlier version of SMAQMD Rule 464 into the SIP on 04/19/00 (65 FR 20912). We approved an earlier version of VCAPCD Rule 74.29 into the SIP on 07/16/02 (67 FR 46596). While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals.

C. What is the purpose of the submitted rules?

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. SMAQMD Rule 464 limits VOC emissions from organic chemical plants. VCAPCD Rule 74.29 establishes procedures for the treatment of soil contaminated with gasoline, diesel fuel or jet fuel. PCAPCD Rule 243 reduces the emissions of VOC from polyester resin operations. EPA’s technical

support documents (TSDs) have more information about these rules.

II. EPA's Evaluation and Action

A. How is EPA evaluating these rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see sections 182(a)(2) and (b)(2)), and must not relax existing requirements (see sections 110(l) and 193). SMAQMD regulates an ozone nonattainment area (see 40 CFR part 81). SMAQMD has no major sources for this category but is covered by relevant CTGs. The stringency of requirements in submitted Rule 464 is generally consistent with the relevant guidance that help define RACT. VCAPCD and PCAPCD also regulate ozone nonattainment areas, but have no relevant major sources and no CTGs so RACT is not required for these rules.

Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).
2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
3. "Control of Volatile Organic Emissions from Batch Processes—Alternative Control Techniques Information Document" (EPA-453-93-017, 02/94).
4. "Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products" (EPA-450-2-78-029, 12/78).
5. "Control Techniques Guidelines for Industrial Cleaning Solvents" (EPA-453/R-06-001, 09/06).
6. "Control of VOC Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins" (EPA-450/3-83-008, 11/83).
7. "Control of VOC Fugitive Emissions from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment" (EPA-450/3-83-006, 03/84).
8. "Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials" (EPA-453/R-08-004, 09/08).

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. The TSDs have more information on our evaluation.

C. EPA Recommendations To Further Improve the Rules

The TSDs for VCAPCD and PCAPCD describe additional rule revisions that we recommend for the next time the local agency modifies the rule.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it 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 2, 2011, 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 2, 2011. This will incorporate these rules into the Federally enforceable SIP.

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 the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
 - 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);
 - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
 - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
 - Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, these rules do not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIPs are not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.
- 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 action 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 2, 2011. Filing a petition for reconsideration by the Administrator of these final rules does not affect the finality of these actions 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 rules or actions. Parties with objections to these direct final rules are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of these direct final rules, so that EPA can withdraw these direct final rules and address the comment in the proposed rulemaking. 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, Volatile organic compounds.

Dated: August 16, 2011.

Keith Tekata,

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)(377)(i)(A)(5), (c)(378)(i)(C)(2), and (c)(389)(i)(B) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *
(377) * * *
(i) * * *
(A) * * *

(5) Rule 464, "Organic Chemical Manufacturing Operations," adopted on September 25, 2008.

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(378) * * *
(i) * * *
(C) * * *

(2) Rule 74.29, "Soil Decontamination Operations," adopted on April 8, 2008.

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(389) * * *

(i) * * *

(B) Placer County Air Pollution Control.

(1) Rule 243, "Polyester Resin Operations," adopted on April 10, 2003.

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[FR Doc. 2011-25284 Filed 9-30-11; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0907301205-0289-02]

RIN 0648-XA413

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Sub-ACL (Annual Catch Limit) Harvested for Management Area 1B

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces that, effective 0001 hr, October 1, 2011, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of Atlantic herring (herring) in or from Management Area 1B (Area 1B) per calendar day until January 1, 2012, when the 2012 sub-ACL for Area 1B becomes available, except when transiting as described in this notice. This action is based on the determination that 95 percent of the Atlantic herring sub-ACL allocated to Area 1B for 2011 is projected to be harvested by October 1, 2011.

DATES: Effective 0001 hr local time, October 1, 2011, through December 31, 2011.

FOR FURTHER INFORMATION CONTACT: Lindsey Feldman, Fishery Management Specialist, (978) 675-2179.

SUPPLEMENTARY INFORMATION:

Regulations governing the Atlantic herring fishery are found at 50 CFR part 648. The regulations require annual specification of the overfishing limit, acceptable biological catch, ACL, optimum yield, domestic harvest and processing, U.S. at-sea processing, border transfer and sub-ACLs for each management area. The 2011 Domestic Annual Harvest is 91,200 metric tons (mt); the 2011 sub-ACL allocated to Area 1B is 4,362 mt and 0 mt of the sub-ACL is set aside for research (75 FR 48874, August 12, 2010).

The regulations at § 648.201 require the Administrator, Northeast Region, NMFS (Regional Administrator), to monitor the Atlantic herring fishery in each of the four management areas designated in the Fishery Management Plan (FMP) for the Atlantic herring fishery and, based upon dealer reports, state data, and other available information, to determine when the harvest of Atlantic herring is projected to reach 95 percent of the management area sub-ACL. When such a determination is made, NMFS is required to publish notification in the **Federal Register** and prohibit Atlantic herring vessel permit holders from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 kg) of herring per calendar day in or from the specified management area for the remainder of the closure period. Transiting of Area 1B with more than 2,000 lb (907.2 kg) of herring on board is allowed under the conditions specified below.

The Regional Administrator has determined, based upon dealer reports and other available information that 95 percent of the total Atlantic herring sub-ACL allocated to Area 1B for FY 2011 is projected to be harvested. Therefore, effective 0001 hr local time, October 1, 2011, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of Atlantic herring in or from Area 1B per calendar day through December 31, 2011. Vessels transiting Area 1B with more than 2,000 lb (907.2 kg) of herring on board may land this amount, provided such herring was not caught in Area 1B and provided all fishing gear aboard is stowed and not available for immediate use as required by § 648.23(b). Effective October 1, 2011, federally permitted dealers are also advised that they may not purchase Atlantic herring from federally permitted Atlantic herring vessels that harvest more than 2,000 lb (907.2 kg) of Atlantic herring from Area 1B through 2400 hr local time, December 31, 2011.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. This action closes the Atlantic herring fishery for Management Area 1B until January 1, 2012, under current regulations. The regulations at § 648.201(a) require such action to ensure that Atlantic herring