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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2015-0369; FRL-9933-22-Region 9]

**Revisions to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District, Ventura County Air Pollution Control District**

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Monterey Bay Unified Air Pollution Control District (MBUAPCD) and the Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). Under authority of the Clean Air Act (CAA or the Act), we are approving local rules that address volatile organic compound (VOC) emissions from the transfer of gasoline into vehicle fuel tanks, and from the transfer or dispensing of liquefied petroleum gas (LPG).

**DATES:** These rules are effective on November 24, 2015 without further notice, unless EPA receives adverse comments by October 26, 2015. 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-2015-0369, by one of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.

2. *Email:* [steckel.andrew@epa.gov](mailto: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 [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or email. [www.regulations.gov](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 email directly to EPA, your email 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.

*Docket:* Generally, documents in the docket for this action are available electronically at [www.regulations.gov](http://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 [www.regulations.gov](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:** James Shears, EPA Region IX, (213) 244-1810, [shears.james@epa.gov](mailto:shears.james@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.

TABLE 1—SUBMITTED RULES

| Local agency  | Rule # | Rule title   | Adopted/<br>revised | Submitted |
|---------------|--------|--|---------------------|-----------|
| MBUAPCD ..... | 1002   | Transfer of Gaslone into Vehicle Fuel Tanks .....    | 12/17/14            | 04/07/15  |
| VCAPCD .....  | 74.33  | Liquefied Petroleum Gas Transfer or Dispensing ..... | 01/13/15            | 04/07/15  |

On April 30, 2015, EPA determined that the submittals for MBUAPCD Rule 1002 and VCAPCD Rule 74.33 each met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

*B. Are there other versions of these rules?*

We approved an earlier version of MBUAPCD Rule 1002 into the SIP on January 2, 2008 (73 FR 48). There is no previous version of VCAPCD Rule 74.33 in the SIP.

*C. What is the purpose of the submitted rules?*

Section 110(a) of the CAA requires States to submit regulations that control VOCs, oxides of nitrogen, particulate matter, and other air pollutants which harm human health and the environment. VOC rules were developed as part of the local agencies’ programs to control these pollutants. MBUAPCD Rule 1002 is designed to limit emissions of VOCs from the transfer of gasoline into vehicle fuel tanks. In order to simplify the source testing section of the SIP-approved rule,

the Stage II vapor recovery compliance test procedures are removed from the rule language, and instead the rule requires owners and operators of gasoline dispensing facilities to adhere to the applicable California Air Resources Board (CARB) Executive Order for gasoline testing procedures. The corresponding testing cycles are included in the gasoline facility permits. VCAPCD Rule 74.33 is designed to limit fugitive VOC emissions from the transfer or dispensing of LPG. It describes related equipment and operation requirements, leak detection

and repair program requirements, and recordkeeping and reporting requirements. EPA's technical support documents (TSDs) have more information about the MBUAPCD and VCAPCD rules.

## II. EPA's Evaluation and Action

### A. How is EPA evaluating the rules?

These rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). EPA policy that we use to evaluate enforceability requirements consistently includes the Bluebook ("Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988), the Little Bluebook ("Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001), and "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).

### B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. The TSDs have more information on our evaluation.

### C. EPA Recommendations to Further Improve the Rules

Our TSD for MBUAPCD describes additional rule revisions that we recommend for the next time the local agency modifies the rule. We have no recommendations for VCAPCD Rule 74.33 at this time.

### 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 October 26, 2015, 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 November 24, 2015. 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. Incorporation by Reference

In these rules, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR part 51.5, the EPA is finalizing the incorporation by reference of the MBUAPCD and VCAPCD rules described in the amendments to 40 CFR part 52 set forth below. The EPA made, and will continue to make, these documents available electronically through [www.regulations.gov](http://www.regulations.gov) and in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

## IV. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the rules are not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rules do not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 November 24, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule 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 this direct final rule, so that EPA can withdraw this direct final rule 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 11, 2015.

**Jared Blumenfeld**,

*Regional Administrator, Region IX.*

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 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)(461) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(461) New and amended regulations were submitted on April 7, 2015 by the Governor's designee.

(i) Incorporation by Reference.

(A) Monterey Bay Unified Air Pollution Control District.

(1) Rule 1002, "Transfer of Gasoline into Vehicle Fuel Tanks," revised on December 17, 2014.

(B) Ventura County Air Pollution Control District.

(1) Rule 74.33, "Liquefied Petroleum Gas Transfer or Dispensing," adopted on January 13, 2015.

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[FR Doc. 2015-24106 Filed 9-24-15; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[EPA-R04-OAR-2015-0133; FRL-9934-72-Region 4]

#### Approval and Promulgation of Implementation Plans; Florida; Combs Oil Company Variance

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the State Implementation Plan (SIP) submitted by the State of Florida through the Department of Environmental Protection (DEP) on July 31, 2009. The revision grants a variance to the Combs Oil Company, located in Naples, Florida. This source specific revision relieves the Combs Oil Company of the requirement to comply with the Florida rule governing installation and operation of vapor collection and control systems on loading racks at bulk gasoline plants. EPA is approving Florida's July 31, 2009, source specific SIP revision.

**DATES:** This rule will be effective October 26, 2015.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2015-0133. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. 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 material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Sean Lakeman, Air Regulatory Management Section, Air Planning and

Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Mr. Lakeman can be reached by phone at (404) 562-9043 or via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Florida Rule 62-296.418 requires bulk gasoline plants which began operation on or after August 1, 2007, to install and operate vapor collection and control systems on their loading racks. The rule became effective on May 9, 2007, and was submitted to EPA as a proposed SIP revision on May 31, 2007. EPA approved the SIP revision on June 1, 2009 (74 FR 26103).

On May 30, 2007, Combs Oil Company submitted a petition for variance from the requirements of Rule 62-296.418(2)(b)2, Florida Administrative Code (F.A.C.), for its new bulk gasoline plant. The company operates an existing bulk gasoline plant in Naples, Florida. The new plant would replace the existing plant and be constructed at a different site in the area.

Under Section 120.542 of the Florida Statutes, the DEP may grant a variance when the person subject to a rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means, or when application of a rule would create a substantial hardship or violate principles of fairness. The DEP determined that Combs Oil Company had demonstrated that principles of fairness would be violated because the facility would have begun operations prior to August 1, 2007, but for delays in building and relocating to the new facility related to hurricanes, which were beyond the control of the company. Therefore, the DEP issued an Order Granting Variance to Combs Oil Company on August 20, 2008, relieving the company from the requirements of Rule 62-296.418(2)(b)2., F.A.C., for its proposed new facility.

In a notice of proposed rulemaking (NPR) published on July 20, 2015, EPA proposed to approve Florida's July 31, 2009, SIP revision granting a variance to the Combs Oil Company, located in Naples, Florida. See 80 FR 42763. The details of Florida's submittal and the rationale for EPA's actions are explained in the NPR. Comments on the proposed rulemaking were due on or before August 19, 2015. No adverse comments were received.