

219-4600; fax (202) 219-7346). This is not a toll-free number.

### Agenda

The Committee will continue to discuss the possible elements of a process and potential criteria for a finding by the Secretary of Labor that an agreement is a collective bargaining agreement for purposes of section 3(40) of ERISA (29 U.S.C. 1002(40)). Discussion of these issues is intended to help the Committee members define the scope of a possible proposed rule.

Members of the public may file a written statement pertaining to the subject of this meeting by submitting 15 copies on or before Wednesday, October 6, 1999, to Ellen Goodwin, Office of the Solicitor, Plan Benefits Security Division, U.S. Department of Labor, Room N-4611, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives wishing to address the Committee should forward their request to Ms. Goodwin or telephone (202) 219-4600. During each day of the negotiation session, time permitting, there shall be time for oral public comment. Members of the public are encouraged to keep oral statements brief, but extended written statements may be submitted for the record.

Organizations or individuals may also submit written statements for the record without presenting an oral statement. 15 copies of such statements should be sent to Ms. Goodwin at the address above. Papers will be accepted and included in the record of the meeting if received on or before October 6, 1999.

Signed at Washington, DC, this 15th day of September 1999.

**Richard McGahey,**

*Assistant Secretary, Pension and Welfare Benefits Administration.*

[FR Doc. 99-24659 Filed 9-21-99; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 217-0179; FRL-6442-2]

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

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a revision to the California State Implementation

Plan (SIP) which controls the sulfur content of fuels within the South Coast Air Quality Management District and the Ventura County Air Pollution Control District.

The intended effect of proposing approval of these rules is to regulate emissions of sulfur dioxide (SO<sub>2</sub>) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rule will incorporate these rules into the federally approved SIP. EPA has evaluated each of these rules and is proposing to approve them under provisions of the CAA regarding EPA action on SIP submittals and SIPs for national primary and secondary ambient air quality standards.

**DATES:** Comments must be received on or before October 22, 1999.

**ADDRESSES:** Comments may be mailed to: Andrew Steckel, Rulemaking Office, (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket, 401 "M" Street, SW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

South Coast Air Quality Management District, 21865 E. Copley Dr., Diamond Bar, CA 91765-4182.

Ventura County APCD, 669 County Square Dr., 2nd Fl., Ventura, CA 93003-5417.

#### FOR FURTHER INFORMATION CONTACT:

Stanley Tong, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1191.

#### SUPPLEMENTARY INFORMATION:

##### I. Applicability

The rules proposed for approval into the California SIP include: South Coast Air Quality Management District (SCAQMD) Rule 431.1, Sulfur Content of Gaseous Fuels and Ventura County Air Pollution Control District (VCAPCD) Rule 64, Sulfur Content of Fuels. SCAQMD Rule 431.1 was submitted by the California Air Resources Board (CARB) to EPA on September 29, 1998 and VCAPCD Rule 64 was submitted by CARB to EPA on June 3, 1999.

## II. Background

40 CFR 81.305 provides the attainment status designations for air districts in California. South Coast Air Quality Management District<sup>1</sup> and Ventura County Air Pollution Control District are listed as in attainment of the national ambient air quality standards (NAAQS) for sulfur dioxide (SO<sub>2</sub>). Therefore, for purposes of controlling SO<sub>2</sub>, these rules need only comply with the general provisions of section 110 of the Act.

Sulfur dioxide is formed by the combustion of fuels containing sulfur compounds. SCAQMD adopted Rule 431.1, Sulfur Content of Gaseous Fuels, on June 12, 1998. On September 29, 1998, the State of California submitted many rules for incorporation into its SIP, including SCAQMD Rule 431.1. This rule was found to be complete on January 26, 1999 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V<sup>2</sup> and is being proposed for approval.

VCAPCD adopted Rule 64, Sulfur Content of Fuels, on April 13, 1999. On June 3, 1999, the State of California submitted many rules for incorporation into its SIP, including VCAPCD Rule 64. This rule was found to be complete on June 24, 1999 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V and is being proposed for approval.

The following is EPA's evaluation and proposed action for SCAQMD Rule 431.1 and VCAPCD Rule 64.

## III. EPA Evaluation and Proposed Action

In determining the approvability of an SO<sub>2</sub> rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

While the SCAQMD and VCAPCD are in attainment with the SO<sub>2</sub> NAAQS, many of the general SIP requirements regarding enforceability, for example, are still appropriate for these rules. In determining the approvability of these rules, EPA evaluated them in light of the "SO<sub>2</sub> Guideline Document," EPA-452/R-94-008.

<sup>1</sup> This Federal Register action for the South Coast Air Quality Management District excludes the Los Angeles County portion of the Southeast Desert AQMA, otherwise known as the Antelope Valley Region in Los Angeles County, which is now under the jurisdiction of the Antelope Valley Air Pollution Control District as of July 1, 1997.

<sup>2</sup> EPA adopted completeness criteria on February 16, 1990 (55 FR 5824) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

On October 19, 1984, EPA approved into the SIP a version of Rule 431.1, Sulfur Content of Gaseous Fuels, that had been adopted by SCAQMD on May 6, 1983. Revisions to this rule were subsequently adopted on May 4, 1990, April 5, 1991, September 11, 1992, October 2, 1992, November 17, 1995 and June 12, 1998. All but the September 11, 1992 and October 2, 1992 revisions were submitted to EPA. While EPA can only act on the most recently submitted version, EPA reviewed relevant materials associated with the superseded versions that were submitted. SCAQMD submitted Rule 431.1 includes the following significant changes from the current SIP:

- Added new sections for purpose, monitoring, reporting and recordkeeping, and test methods.
- Clarified that a person shall not burn in equipment requiring a Permit to Operate, purchase, transfer, sell or offer for sale any gaseous fuel containing sulfur compounds in excess of the concentration limits specified in the rule.
- Reduced the sulfur limit from 250 ppm down to 150 ppm, averaged daily, for gaseous fuels from landfills.
- Reduced the sulfur limit from 250 ppm down to 40 ppm, averaged daily, for sewage digesters and allows an alternate limit of 40 ppm averaged monthly with a 500 ppm peak averaged over 15 minutes.
- Reduced the sulfur limit from 80 ppm down to 40 ppm for the selling of other gaseous fuel.
- Reduced the sulfur limit from 800 ppm down to 40 ppm for the burning of other gaseous fuels.
- Specified averaging times for the sulfur limits.
- Added an Optional Facility Compliance Plan.
- Added a requirement for a continuous emission monitoring system (CEMS) or a continuous fuel gas monitoring system (CFGMS) to monitor sulfur content.
- Added an option for landfills and sewage digesters to use an alternative monitoring method provided the alternative method has been approved by the District, CARB and US EPA.
- Lowered the sulfur emissions ceiling from 30 pounds per day down to 5 pounds per day for facilities to be considered exempt.
- Removed exemptions for: Combined unit gases from an air pollution control system for steam drive oil wells, (Rule 1148), provided gases from individual well vents comply with the requirements of the rule; gaseous fuels where gaseous combustion products are used as raw materials for

other processes; and vent gas streams, excluding coker blowdown, which have been connected to fuel gas or vent gas disposal systems.

EPA has evaluated SCAQMD submitted Rule 431.1 for consistency with the CAA, EPA regulations, and EPA policy and has found that the revisions result in a clearer, more enforceable rule. Furthermore, the addition of more stringent limits in submitted Rule 431.1 should lead to greater emission reductions.

EPA recommends the following improvements to the rule.

- The rule specifies an SO<sub>2</sub> averaging time of 4 hours for refineries and other gases. The averaging time should be based on time periods consistent with the national ambient air quality standard for sulfur dioxide.
- The period of record retention specified should be consistent with the federal record retention requirement of 5 years.

On January 15, 1999, EPA approved into the SIP (64 FR 2575) a version of VCAPCD Rule 64, Sulfur Content of Fuels, that had been adopted by VCAPCD on June 14, 1994. EPA's January action granted a limited approval and limited disapproval to Rule 64 stating that while the rule strengthened the SIP, it did not contain recordkeeping requirements and therefore was not fully approvable. VCAPCD subsequently amended Rule 64 to address EPA's comments and to make other rule improvements.

VCAPCD's amended Rule 64 corrects all the deficiencies identified in the previous limited approval (64 FR 2575). As stated in that final action, there is no sanctions clock as VCAPCD is in attainment for SO<sub>2</sub>.

The VCAPCD submitted Rule 64 includes the following significant changes from the current SIP:

- Deleted an obsolete limit for natural gas and deleted the sulfur limit for solid fuels.
- Exempted Public Utilities Commission regulated natural gas, propane, butane, CARB quality reformulated gasoline and CARB certified diesel fuel from the recordkeeping and monitoring requirements of the rule, provided records are maintained to substantiate the use of these fuels.
- Clarified that sewage digester gases are exempt from the rule provided any supplemental fuel used to combust the gas complies with the rule.
- Added sections on Monitoring/Recordkeeping and Violations.
- Requires records to be retained for five years.

- Requires annual monitoring of sulfur. Requires quarterly monitoring if a facility is new; has not provided historical monitoring data to the District; or if sulfur measurements of gaseous fuels at landfills or oil fields exceed 394 ppmv.

- Initial sulfur monitoring must begin within 30 days of the effective date of the rule and new sources must begin monitoring within 30 days of initial operation.

- Requires operators to either test or obtain certification that liquid fuels meet the sulfur requirements of Rule 64 for each liquid fuel delivery.

- Allows the use of colorimetric tubes for the sulfur content of landfill or oil field gases if levels are below 200 ppm.

- Allows the use of colorimetric tubes to measure other gaseous fuels only if written approval is obtained from the VCAPCD and US EPA.

- Allows the use of alternative test methods for analysis of sulfur.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. A detailed discussion of the rules can be found in the Technical Support Document for SCAQMD Rule 431.1 and VCAPCD Rule 64 (8/23/99), which is available from the U.S. EPA, Region IX office. Therefore, SCAPCD, Rule 431.1 and VCAPCD Rule 64 are being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a).

#### IV. Administrative Requirements

##### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, Regulatory Planning and Review.

##### B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to

issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

#### C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

#### D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other

representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

#### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

#### F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that

may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

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

**Dated:** September 9, 1999.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*  
[FR Doc. 99-24690 Filed 9-21-99; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 0, 1, 61 and 69

[CC Docket Nos. 96-262, 94-1, 98-157; CCB/CPD File No. 98-63; FCC 99-206]

**Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Petition of US West Communications, Inc. for Forbearance From Regulation as a Dominant Carrier in the Phoenix, Arizona MSA; Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

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**SUMMARY:** This document proposes to revise the rules that govern the provision of interstate access services by those incumbent local exchange carriers subject to price cap regulation to advance the pro-competitive, de-regulatory national policies embodied in the Telecommunications Act of 1996. The document seeks comment on: Pricing flexibility and geographic deaveraging of rates for services in the common line and traffic-sensitive baskets; the rate structure for the local switching service category of the traffic-sensitive basket and for tandem-switched transport and whether