

Dated: August 15, 2003.

**Kevin J. Eldridge,**

*Rear Admiral, Coast Guard, Commander,  
Eleventh Coast Guard District.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA267-0402a; FRL-7526-6]

### Revisions to the California State Implementation Plan, 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 South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from general spray coating operations, surfactant manufacturing, and storage tanks at petroleum facilities. 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 October 27, 2003, without further notice, unless EPA receives adverse comments by September 25, 2003. 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 94105-3901.

You can inspect copies of the submitted SIP 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 SIP revisions at the following locations:

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B-102, 1301 Constitution Avenue, NW., (Mail Code 6102T), Washington, DC 20460;

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814; and, South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>.

[www.arb.ca.gov/drdb/drdbtxt.htm](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 rule that was submitted to EPA.

#### FOR FURTHER INFORMATION CONTACT:

Jerald S. Wamsley, EPA Region IX, (415) 947-4111.

#### 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 to EPA by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD	481	Spray Coating Operations .....	01/11/02	05/21/02
SCAQMD	1141.2	Surfactant Manufacturing .....	01/11/02	05/21/02
SCAQMD	1178	Further Control of VOC Emissions from Storage Tanks at Petroleum Facilities .....	12/21/01	05/21/02

On August 6, 2002, EPA found these rule submittals met the completeness criteria in 40 CFR part 51, appendix V. These criteria must be met before formal EPA review can begin.

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

We approved versions of SCAQMD rules 481 and 1141.2 into the SIP on February 12, 2002 (*see* 67 FR 6410). Between these SIP incorporations and today, CARB has made no intervening submittals of these SCAQMD rules. SCAQMD rule 1178 has not been approved into the SIP.

#### C. What Is the Purpose of the Submitted Rules?

SCAQMD rule 481 is a rule specifying the conditions for using spray painting or spray coating equipment as well as exemptions from these conditions.

These exemptions can be divided between volumetric cut-offs and specified coating operations that are too difficult or unwieldy to be performed within a spray booth enclosure. SCAQMD's January 11, 2002, amendments to rule 481 included these significant changes to the version within the SIP.

- New sections were added for applicability, definitions, and test methods.
- Thirteen new definitions were added.
- High volume, low pressure (HVLP) coating was added as an acceptable coating application method.
- The test method section was updated to include standardized language concerning alternative methods to determine transfer efficiency, violations under multiple test methods in the rule, and revised test methods.

—Rule 109—Recordkeeping is referenced so as to require a source to keep records supporting the use of two exemptions.

—Finally, an exemption was added for extreme high gloss topcoats used in the marine pleasure craft industry.

SCAQMD rule 1141.2 prohibits manufacturing of surface-active agents such as detergents, wetting agents and emulsifiers unless certain emission requirements and work practices are met. SCAQMD's January 11, 2002, amendments to rule 1141.2 included these significant changes to the November 17, 2000, version within the SIP.

- New sections were added for applicability, definitions, and test methods.
- Several new definitions were added.

- The test method section was updated to include methods for determining capture, control, and overall emission control equipment efficiency, an allowance for equivalent test methods with SCAQMD, CARB, and EPA approval, and a statement that a violation may exist under any one of the rule's test methods.
- Finally, rule 109—Recordkeeping is referenced as part of requiring a source to have records supporting a source size exemption.

SCAQMD rule 1178 applies additional controls to reduce VOC emissions at petroleum facilities. VOCs are emitted during the filling, storage, and emptying of large tanks at these petroleum facilities. Rule 1178 applies to facilities emitting more than 20 tons/year of VOCs that have storage tanks larger than 19,815 gallons storing organic liquids with a true vapor pressure greater than or equal to 0.1 psi. The rule establishes vapor pressure containment and control requirements for organic liquid storage tanks. Tanks and systems of tanks must have a vapor recovery system that recovers at least 95% of VOC vapors by weight or combusts excess vapors. Also, rule 1178 sets specific requirements for vapor loss control devices, external floating roofs, and internal floating roofs. Rule 1178 includes the following provisions:

- Purpose and applicability;
- Definitions of terms used within the rule;
- Emission reduction requirements;
- Identification, monitoring, and maintenance requirements;
- Test methods for determining compliance with the rule; and,
- Exemptions from the rule.

Rule 1178 augments SCAQMD Rule 463—Organic Liquid Storage. While some of rule 1178's requirements are duplicative, many requirements are additive and more stringent. For example, rule 1178 requires emission control systems for fixed roof tanks storing liquid with a TVP of 0.1 psia, domes for external floating roof tanks storing a liquid with a TVP greater than or equal to 3 psia, and increased gasketing and rim-seal requirements for external floating roof tanks storing a liquid with a TVP less than 3 psia. Also, monitoring requirements are more stringent for external floating roof and fixed roof tanks.

The TSD for the subject rule 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 nonattainment areas (*see* section 182(a)(2)(A)), and must not relax existing requirements (*see* sections 110(l) and 193). The SCAQMD regulates an ozone nonattainment area (*see* 40 CFR part 81), so these rules must fulfill RACT.

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

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks," EPA-450/2-78-047, USEPA, December 1978; and,
5. "Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks," EPA-450/2-77-036, USEPA, December 1977.

### 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. Rule 481's requirements remain unchanged compared to the SIP version of the rule. The amendments to the rule strengthen and update test method and record keeping portions of the rule. The exemption for high gloss topcoats will result in an insignificant amount of particulate matter being released while remaining consistent with the VOC limits in SCAQMD rule 1106.1—Pleasure Craft Coating Operations. Rule 1141.2's emission limits and work practices remain unchanged compared to the SIP version

of the rule. The test method and recordkeeping sections of the rule have been strengthened and made more specific. Finally, Rule 1178's requirements are enforceable and the rule contains adequate monitoring and maintenance provisions for monitoring compliance of regulated facilities.

The subject TSD for each rule has more information on our evaluation.

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

We have no recommendations for the next time the local agency modifies the rules.

### 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 September 25, 2003, 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 October 27, 2003. This action 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. Background Information

### Why Were These Rules Submitted?

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. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC 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 Act.
November 15, 1990 .....	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q.
May 15, 1991 .....	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

#### IV. 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 (Public Law 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 October 27, 2003. 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.

Dated: June 12, 2003.

**Alexis Strauss,**

*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)(310)(i)(B)(1) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(310) \* \* \*

(i) \* \* \*

(B) South Coast Air Quality Management District.

(1) Rule 1178 adopted on December 21, 2001; Rule 481 adopted on October 7, 1977 and amended on January 11, 2002; and, Rule 1141.2 adopted on July

6, 1984 and amended on January 11, 2002.

\* \* \* \* \*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 279-0401a; FRL-7526-4]

### Revisions to the California State Implementation Plan; Sacramento Metropolitan 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 Sacramento Metropolitan Air Quality Management District's portion of the California State Implementation Plan. These revisions concern a local fee rule that applies to major sources of volatile organic compound and nitrogen oxide emissions within the Sacramento Metropolitan ozone nonattainment area. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990.

**DATES:** This rule is effective on October 27, 2003 without further notice, unless EPA receives adverse comments by September 25, 2003. 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 Andrew 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 State Implementation Plan revisions and EPA's technical support document at our Region IX office during normal business hours. You may also see copies of the submitted revisions at the following locations:

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B-102, 1301 Constitution Avenue NW., (Mail Code 6102T), Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Sacramento Metropolitan Air Quality Management District, 777 12th Street, Third Floor, Sacramento, CA 95814.

A copy of the rule 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 rule that was submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Mae Wang, EPA Region IX, (415) 947-4124.

#### SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us" and "our" refer to EPA.

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#### I. The State's Submittal

##### A. What Rule Did the State Submit?

The Sacramento Metropolitan Air Quality Management District (SMAQMD) adopted Rule 307, Clean Air Act Fees, on September 26, 2002. This rule was submitted by the California Air Resources Board (CARB) on December 12, 2002, for incorporation into the California State Implementation Plan (SIP). On February 7, 2003, this rule submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. There are no previous versions of Rule 307 in the SIP, and no previous versions of this rule have been submitted.

##### B. What Is the Purpose of the Submitted Rule?

SMAQMD Rule 307 requires major stationary sources of volatile organic compounds (VOCs) and nitrogen oxides (NO<sub>x</sub>) in the Sacramento Metropolitan ozone nonattainment area to pay a fee to the SMAQMD if the area fails to attain the one-hour national ambient air quality standard for ozone by its federally established attainment year. The fee must be paid beginning in the second year after the attainment year, and in each calendar year thereafter, until the area is redesignated to attainment of the 1-hour ozone standard. EPA's technical support document (TSD) has more information about this rule.

##### C. Why Was This Rule Submitted?

Under sections 182(d)(3), (e), and 185 of the Clean Air Act as amended in 1990 (CAA or the Act), States are required to adopt an excess emissions fee regulation for ozone nonattainment areas classified as severe or extreme. In California, the Sacramento Metropolitan nonattainment area is classified as severe. The fee regulation specified by the Act requires major stationary sources of VOCs in the

nonattainment area to pay a fee to the State if the area fails to attain the standard by the attainment date set forth in the Act. Emissions of VOCs play a role in producing ground-level ozone and smog, which harm human health and the environment. Section 182(f) of the Act requires States to apply the same requirements to major stationary sources of NO<sub>x</sub> as are applied to major stationary sources of VOCs. SMAQMD Rule 307 applies to major sources of both NO<sub>x</sub> and VOCs.

#### II. What Action Is EPA Taking?

As authorized in section 110(k)(3) of the Act, EPA is fully approving SMAQMD Rule 307 because we believe it fulfills all relevant requirements. We believe the submitted rule is consistent with the requirements of the Act and relevant policy and guidance regarding SIP revisions. The TSD has more information on our evaluation.

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 rule. If we receive adverse comments by September 25, 2003, 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 October 27, 2003. This will incorporate SMAQMD Rule 307 into the federally enforceable SIP.

#### 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