

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. 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 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 September 6, 2002. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 24, 2002.

Keith Takata,

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)(297)(i)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(297) * * *
(i) * * *

(B) Imperial County Air Pollution Control District.

(1) Rule 101, adopted on July 28, 1981 and amended on December 11, 2001.

* * * * *

[FR Doc. 02-16864 Filed 7-5-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA247-0330a; FRL-7220-8]

Revisions to the California State Implementation Plan, Santa Barbara County Air Pollution Control District, El Dorado 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 Santa Barbara County Air Pollution Control District (SBCAPCD) and El Dorado

County Air Pollution Control District (EDCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from crude oil separation and storage operations, liquid reactive organic compound storage, and organic liquid loading and transport. 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 September 6, 2002 without further notice, unless EPA receives adverse comments by August 7, 2002. 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:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington D.C. 20460;

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

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, Suite B-23, Goleta, CA 93117; and

El Dorado County Air Pollution Control District, 2850 Fairlane Court, Building C, Placerville, CA 95667.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, 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 by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SBCAPCD	325	Crude Oil Production and Separation Rule	07/19/01	11/7/01
SBCAPCD	326	Storage of Reactive Organic Compound Liquids	01/18/01	05/08/01
EDCAPCD	244	Organic Liquid Loading and Transport Vessels	09/25/01	11/9/01

EPA found these rule submittals met the completeness criteria in 40 CFR part 51, appendix V on the following dates: on February 22, 2002 for SBCAPCD Rule 325; July 20, 2001 for SBCAPCD Rule 326; and, on January 18, 2002 for EDCAPCD Rule 244. These completeness criteria must be met before formal EPA review may begin.

B. Are There Other Versions of These Rules?

EPA approved versions of SBCAPCD Rules 325 and 326 into the SIP on May 6, 1996. We approved a version of EDCAPCD Rule 244 into the SIP on August 27, 2001. Between these dates and today's action, CARB submitted a prior version of only Rule 325. This version of Rule 325 was adopted on January 18, 2001 and submitted by CARB on May 8, 2001. While we can act on only the most recently submitted version, these past rule revisions will be reviewed along with the latest revisions to Rule 325.

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

SBCAPCD Rule 325—Crude Oil Production and Separation is a rule designed to reduce volatile organic compound (VOC) emissions at industrial sites engaged in producing, gathering storing, processing, and separating crude oil and natural gas prior to transfer from these facilities to transport facilities and networks. VOCs are emitted from containing vessels such as tanks and transfer lines due to the high vapor pressure of the processed crude oil and organic compounds. Rule 325 limits these vapor emissions by recapture, disposal, or combustion.

SBCAPCD Rule 326—Storage of Reactive Organic Compound Liquids is a rule designed to reduce VOC emissions at industrial sites engaged in storing any organic liquids with a vapor pressure greater than 0.5 pounds per square inch atmospheric. Rule 326 establishes vapor pressure containment and control requirements for organic liquid storage tanks. Rule 326 also sets specific requirements for vapor loss

control devices, closure devices, external floating roofs, and internal floating roofs.

SBCAPCD's July 19, 2001 amendments to Rule 325 included these significant changes to the 1996 SIP approved version.

—Test methods were revised to include EPA Methods 5030B, 5035, and 8015B to determine the reactive organic compound content of liquids in milligrams per liter.

SBCAPCD's January 18, 2001 amendments to Rule 325 and Rule 326 included these significant changes to the respective versions within the SIP.

—Definitions for Heavy Oil, Light Oil, and HOST Test Method were added.

—The HOST Test Method ("Test Method for Vapor Pressure of Reactive Organic Compounds in Heavy Crude Oil Using Gas Chromatography") was added.

—A Heavy Oil Compliance Schedule was added to Rule 325.

—A compliance schedule for true vapor pressure sampling was added to Rule 326.

EDCAPCD Rule 244—Organic Liquid Loading and Transport Vessels is a rule designed to reduce VOC emissions at industrial sites engaged in loading and unloading organic liquids with a vapor pressure greater than 1.5 pounds per square inch atmospheric into and from tank trucks, trailers, or railroad tank cars. Rule 244 establishes vapor pressure containment and control requirements for organic liquid storage tanks such as gasoline loading facilities, transport vessels, and non-gasoline loading facilities.

EDCAPCD's September 25, 2001 amendments to Rule 244 included these significant changes to the 2001 SIP approved version.

—A definition for Bulk Terminal was added.

—Required vapor recovery rates at gasoline loading facilities were increased from 95% to 99%.

The respective TSD for each rule has more information about these rule revisions.

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 SBCAPCD and EDCAPCD regulate an ozone nonattainment area (see 40 CFR part 81), so Rules 325, 326 and 244 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; Clarification to Appendix D of November 24, 1987 **Federal Register Notice**," (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

3. "Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants," EPA-450/2-83-007, USEPA, December 1983.

4. "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks," EPA-450/2-78-047, USEPA, December 1978.

5. "Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks," EPA-450/2-77-036, USEPA, December 1977.

6. "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems," EPA-450/2-78-051, USEPA, December 1978.

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 emission limits, requirements, and work practices of SBCAPCD Rules 325 and 326 conform with the EPA's CTG and remain unchanged compared to the SIP version of the rule. Also, Rules 325 and 326 contain adequate record keeping and test methods provisions for monitoring the compliance of regulated facilities. SBCAPCD's changes incorporate new test methods into the rule. These changes clarify the rules and allow for more precise determinations of compliance. As such, both submitted Rule 325 and 326 do not interfere with reasonable further progress or attainment.

EDCAPCD Rule 244's limits, requirements, and work practices conform with the EPA's CTG and remain unchanged compared to the SIP version of the rule. Also, Rule 244 contains adequate record keeping and test methods provisions for monitoring the compliance of regulated facilities. EDCAPCD's changes clarify and strengthen the rule. As such, the submitted Rule 244 does not interfere with reasonable further progress or attainment.

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

C. EPA Recommendations To Further Improve the Rules

Section B.2 of Rule 325 provides for exemption from the requirements of section D.1 of the rule during maintenance operations on vapor recovery systems or tank batteries. EPA policy on exemptions which apply to excess emissions that occur during malfunctions, start-up and shutdown is contained in a memorandum dated September 20, 1999, entitled "State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Start-up, and Shutdown" (the Excess Emissions Policy).

The Excess Emissions Policy states that EPA may approve SIP revisions

providing source-category specific exemptions for excess emissions that occur during start-up and shutdown periods only if the source's control strategy is such that compliance with otherwise applicable emission limits or technology requirements is technologically infeasible during these periods. The policy also requires that the frequency and duration of the excess emissions be minimized to the maximum extent practicable. These requirements are based on sections 110(l) and 172(c)(1) of the Clean Air Act and are meant to ensure that the excess emissions provisions do not interfere with attainment, maintenance, or other applicable requirements. EPA has determined that maintenance activities might sometimes necessitate exemption from emissions limitations or technology requirements analogous to those available for start-up and shutdown under the Excess Emissions Policy. However, such exemptions must be narrowly tailored so that exemption is allowed only when compliance is rendered technologically infeasible by the maintenance activities.

The exemption in section B.2 of Rule 325 appears to be overly broad as it applies during any maintenance of a tank battery irrespective of whether such maintenance activity necessarily interferes with an operator's ability to meet the requirements of section D.1. Further, the Excess Emissions Policy requires that the duration of the exemption be minimized and that emissions be reduced as much as possible during the exemption. Section B.2 does not implement these requirements. However, section B.2 does limit the exemption to a maximum of 24 hours and requires prior notification of the Air Pollution Control District. Because this exemption is limited, EPA has determined that the rule's failure to fully conform to the requirements of the Excess Emissions Policy is not of sufficient concern to affect the approvability of the rule.

However, EPA recommends that this exemption be redrafted to fully implement the provisions of the Excess Emissions Policy during the next revision of this 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 August 7, 2002, 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 September 6, 2002. 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. 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. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed action is also not subject to Executive Order 32111, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed 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 proposed 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 proposes to approve 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 proposes to approve 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 proposed 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 proposed 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.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 2, 2002.

Keith Takata,

Associate 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)(284)(i)(C), (c)(292)(i)(B), and (c)(296) to read as follows:

§ 52.220 Identification of plan.

(c) * * *
(284) * * *
(i) * * *
(C) Santa Barbara County Air Pollution Control District.

(1) Rule 326 adopted on December 14, 1993, and amended on January 18, 2001

(292) * * *
(i) * * *
(B) Santa Barbara County Air Pollution Control District.

(1) Rule 325 adopted on January 25, 1994, and amended on July 19, 2001.

(296) New and amended regulations for the following APCD were submitted on November 9, 2001, by the Governor's designee.

(i) Incorporation by reference.

(A) El Dorado County Air Pollution Control District.

(1) Rule 244 adopted on March 27, 2001, and amended on September 25, 2001.

* * * * *

[FR Doc. 02-16857 Filed 7-5-02; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304-1304-01; I.D. 070102A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific cod by Vessels Using Trawl Gear in Bycatch Limitation Zone 1 of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for Pacific cod by vessels using trawl gear in Bycatch Limitation Zone 1 (Zone 1) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2002 bycatch allowance of red king crab specified for the trawl Pacific cod fishery category in Zone 1.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 1, 2002, until 2400 hrs, A.l.t., December 31, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2002 red king crab bycatch allowance specified for Zone 1 of the BSAI trawl Pacific cod fishery category, which is defined at § 679.21(e)(3)(iv)(E), is 11,664 animals (67 FR 956, January 8, 2002 and 67 FR 34860, May 16, 2002).

In accordance with § 679.21(e)(7)(ii), the Administrator, Alaska Region, NMFS (Regional Administrator), has