

**List of Subjects**

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

**PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS**

■ 1. The authority citation for part 4022 continues to read as follows:

**Authority:** 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 124, as set forth below, is added to the table. (The introductory text of the table is omitted.)

**Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments**

\* \* \* \* \*

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)			
	On or after	Before		$i_1$	$i_2$	$i_3$	$n_1$ $n_2$
* 124	* 2-1-04	* 3-1-04	* 3.25	* 4.00	* 4.00	4.00	* 7 8

■ 3. In appendix C to part 4022, Rate Set 124, as set forth below, is added to the table. (The introductory text of the table is omitted.)

**Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments**

\* \* \* \* \*

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)			
	On or after	Before		$i_1$	$i_2$	$i_3$	$n_1$ $n_2$
* 124	* 2-1-04	* 3-1-04	* 3.25	* 4.00	* 4.00	4.00	* 7 8

**PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS**

■ 4. The authority citation for part 4044 continues to read as follows:

**Authority:** 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, a new entry, as set forth below, is added to the

table. (The introductory text of the table is omitted.)

**Appendix B to Part 4044—Interest Rates Used To Value Benefits**

\* \* \* \* \*

For valuation dates occurring in the month—	The values of $i_t$ are:					
	$i_t$	for t =	$i_t$	for t =	$i_t$	for t =
* February 2004	* .0410	* 1-20	* .0500	* >20	* N/A	* N/A

Issued in Washington, DC, on this 9th day of January 2004.

**Joseph H. Grant,**

*Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation.*

[FR Doc. 04-873 Filed 1-14-04; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CA 289-0417a; FRL-7600-7]

**Revision to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Monterey Bay Unified Air Pollution Control District (MBUAPCD) portion of the California State Implementation Plan (SIP). The revision concerns the

emission of volatile organic compounds (VOC) from the transfer of gasoline at dispensing stations. We are approving a local rule that regulates this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on March 15, 2004 without further notice, unless EPA receives adverse comments by February 17, 2004. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Send comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, or e-

mail to [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov), or submit comments at <http://www.regulations.gov>.

You can inspect a copy of the submitted rule revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see a copy of the submitted rule revisions and TSD at the following locations:

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

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

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

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:** Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 947-4118, [petersen.alfred@epa.gov](mailto:petersen.alfred@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

**Table of Contents**

- I. The State's Submittal
  - A. What Rule did the State Submit?
  - B. Are There Other Versions of this Rule?
  - C. What is the Purpose of the Submitted Rule Revisions?
- II. EPA's Evaluation and Action
  - A. How is EPA Evaluating the Rule?
  - B. Does the Rule Meet the Evaluation Criteria?
  - C. Public Comment and Final Action
- III. Statutory and Executive Order Reviews

**I. The State's Submittal**

*A. What Rule Did the State Submit?*

Table 1 lists the rule we are approving with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULE

Local agency	Rule No.	Rule title	Amended	Submitted
MBUAPCD .....	1002	Transfer of Gasoline into Vehicle Fuel Tanks .....	04/16/03	08/11/03

On October 10, 2003, this submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

*B. Are There Other Versions of This Rule?*

We granted a limited approval/limited disapproval to MBUAPCD Rule 1002, originally adopted on February 22, 1989, into the SIP on July 25, 2001 (66 FR 38561).

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

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.

The purpose of revisions to Rule 1002 is to correct the deficiencies cited in the limited approval/limited disapproval of July 25, 2001 as described below:

- (Deficiency: The maintenance inspection checklist has an incorrect reference and the components of the checklist are not identified.) 3.3.2: The inspection checklist is now stated to be one developed by the District or an equivalent one approved by the District.

- (Deficiency: Specific EPA-approved test methods for reverification of performance tests should be provided for, at a minimum, a static leak test, a dynamic back pressure test, an air-to-liquid volume ratio test, and a liquid removal rate test.) 4.7.1: The appropriate specific test methods are provided.

- (Deficiency: Performance test records, reverification of performance test records, maintenance records and throughput records (if an exemption is claimed) should be maintained for at least two years.) 4.5: Retention of appropriate records is required for two years.

- In addition, some definitions were added, specific requirements for driveoffs were added, and specific requirements for testing personnel were added.

**II. EPA's Evaluation and Action**

*A. How Is EPA Evaluating the Rule?*

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). Gasoline dispensing sources in ozone nonattainment areas must have gasoline vapor recovery equipment (see section 182(a)(3)(A)). The MBUAPCD regulates an ozone maintenance attainment area (see 40 CFR part 81). Rule 1002 is therefore not required to fulfill RACT or have vapor recovery equipment, unless required in the maintenance attainment plan. However, Rule 1002 does fulfill RACT and does require vapor recovery equipment.

The following guidance documents were used for reference:

- *Requirements for Preparation, Adoption, and Submittal of*

*Implementation Plans*, U.S. EPA, 40 CFR part 51.

- *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations*, U.S. EPA, OAQPS (May 25, 1988). (The Bluebook)

- *Guidance Document for Correcting Common VOC & Other Rule Deficiencies*, EPA Region IX (August 21, 2001). (The Little Bluebook)

- *EPA Draft Model Rule, Gasoline Dispensing Facility-Stage II Vapor Recovery*, U.S. EPA (August 17, 1992).

- *Gasoline Vapor Recovery Guidelines*, EPA Region IX (April 24, 2000).

*B. Does the Rule Meet the Evaluation Criteria?*

We believe Rule 1002 is consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, fulfilling RACT requirements, and fulfilling vapor recovery equipment requirements. The TSD has more information on our evaluation.

*C. Public Comment and Final Action*

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval 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 February 17, 2004, 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 March 15, 2004. This will incorporate SJVUAPCD Rule 1002 into the federally-enforceable SIP. There are no sanction or FIP clocks associated with our previous action on this rule.

### 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 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 March 15, 2004. 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.

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

Dated: December 2, 2003.

**Wayne Nastri,**

*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)(320)(i)(A)(2) to read as follows:

#### § 52.220 Identification of plan.

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* * * * *
(c) * * *
(320) * * *
(i) * * *
(A) * * *
(2) Rule 1002, adopted on February
22, 1989 and revised on April 16, 2003.
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[FR Doc. 04-836 Filed 1-14-04; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[Region 2 Docket No. NY66-271a, FRL-7610-5]

### Approval and Promulgation of State Plans for Designated Facilities; New York

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the State Plan submitted by New York implementing the Municipal Solid Waste (MSW) Landfill Emission Guidelines, as promulgated by EPA. The State Plan establishes performance standards for existing MSW landfills located in New York State and provides for the implementation and enforcement of those standards, which will reduce the designated pollutants. The State Plan revision consists of moving the federally approved MSW requirements from Subpart 360-2.21 of title 6 of the New York Codes, Rules and Regulations (NYCRR) to Part 208 of title 6 NYCRR.