

Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: November 10, 2008.

Russell L. Wright,

Acting Regional Administrator, Region 4.

■ 40 CFR part 52 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 RR—Tennessee

■ 2. Section 52.2220(c) is amended in Table 3 of the Knox County portion of

the Tennessee State Implementation Plan by revising the entry for Section 25.0 to read as follows:

§ 52.2220 Identification of plan.

* * * * *
(c) * * *

TABLE 3—EPA APPROVED KNOX COUNTY, REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Section 25.0	Permits	12/10/2007	11/24/2008	[Insert citation of publication].
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2008-0590; FRL-8732-4]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District, Mojave Desert Air Quality Management District, South Coast Air Quality Management District, and Ventura 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 Imperial County Air Pollution Control District (ICAPCD), Mojave Desert Air Quality Management District (MDAQMD), South Coast Air Quality Management District (SCAQMD), and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from storage of reactive organic compound liquids, polyester resin operations, coatings of metal parts and products, and adhesives and sealants. 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 January 23, 2009 without further notice, unless EPA receives adverse comments by December 24, 2008. 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-2008-0590, by one of the following methods:

1. *Federal eRulemaking Portal:* www.regulations.gov. Follow the on-line instructions.
2. *E-mail:* 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, 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 or e-mail.

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 e-mail directly to EPA, your e-mail 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: The index to the docket for this action is available electronically at

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 in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), 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: For questions regarding ICAPCD Rule 414, contact Mae Wang, EPA Region IX, (415) 947-4124, wang.mae@epa.gov. For questions regarding MDAQMD Rule 1162, contact Jerald Wamsley, EPA Region IX, (415) 947-4111, wamsley.jerry@epa.gov. For questions regarding SCAQMD Rule 1107 or VCAPCD Rule 74.20, contact Francisco Dóñez, EPA Region IX, (213) 244-1834, Donez.Francisco@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

Agency	Rule #	Rule title	Adopted	Submitted	Complete
ICAPCD	414	Storage of Reactive Organic Compound Liquids	05/18/04	07/19/04	08/10/04
MDAQMD	1162	Polyester Resin Operations	08/27/07	03/07/08	04/17/08
SCAQMD	1107	Coating of Metal Parts and Products	01/06/06	05/08/07	07/23/07
VCAPCD	74.20	Adhesives and Sealants	01/11/05	07/15/05	08/18/05

On the dates listed above, these rule submittals were 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 these rules?

ICAPCD Rule 414 was originally adopted on December 11, 1979. This version of the rule was approved into the SIP on January 27, 1981 (46 FR 8472). Rule 414 was later revised on September 14, 1999, and proposed for a limited approval/limited disapproval on July 7, 2003 (68 FR 40233). This proposed action was never finalized. If the May 18, 2004, version of Rule 414 is approved into the SIP, then it will replace the existing SIP-approved version (adopted on December 11, 1979) as well as the SIP-approved version of ICAPCD Rule 413, Definitions, that was also adopted on December 11, 1979, and approved into the SIP on January 27, 1981 (46 FR 8472). Rule 413, Definitions, has already been replaced by the ICAPCD with more recent rules, and is no longer an active District rule. The superseding of existing SIP ICAPCD Rule 413, Definitions, should not be confused with another SIP ICAPCD Rule also numbered 413, Organic Solvent Cleaning (see 67 FR 67314, November 5, 2002).

The MDAQMD inherited a version of South Coast Air Quality Management District (SCAQMD) Rule 1162, Polyester Resin Operations, amended by the SCAQMD on December 7, 1990, that is in the SIP for the Blythe/Palo Verde Valley portion of the MDAQMD. If the August 27, 2007, version of MDAQMD Rule 1162 is approved into the SIP, then it will apply throughout MDAQMD and replace the December 7, 1990, version of SCAQMD Rule 1162 that is in effect in the Blythe/Palo Verde Valley area.

We approved a version of SCAQMD Rule 1107 into the SIP on August 13, 2002 (67 FR 52611). We approved a version of VCAPCD Rule 74.20 into the SIP on December 4, 2003 (68 FR 67805).

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.

ICAPCD Rule 414 reduces VOC emissions from storage tanks with capacities of 1,500 gallons or more that store reactive organic compound liquids. The rule expands the applicability of the equipment requirements, and adds testing methods, reporting and recordkeeping requirements. MDAQMD Rule 1162 limits VOC emissions from operations that use polyester resin material to fabricate, rework, repair, or touch-up products for commercial, military, or industrial uses. The rule applies across the entire district, and sets more stringent emission limits and updates work practice standards. SCAQMD Rule 1107 reduces VOC emissions from the coating of metal parts and products. SCAQMD Rule 1107 reduces the emissions limits for some coatings, increases the required efficiency of alternative coating application methods and air pollution control devices, and adds an exemption for some applications of liquid photoresist coating. VCAPCD Rule 74.20 limits emissions of reactive organic compounds resulting from the application of adhesives, adhesive primers, sealants, sealant primers, and solvents associated with these products. VCAPCD Rule 74.20 adds an exemption for glass bonding and priming processes in automobile convertible top manufacturing operations. EPA's technical support documents (TSDs) have 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 each category of sources covered by a Control

Techniques Guideline (CTG) document as well as each major source in nonattainment areas (see section 182(a)(2)), and must not relax existing requirements (see sections 110(l) and 193). The ICAPCD, MDAQMD, SCAQMD and the VCAPCD regulate ozone nonattainment areas (see 40 CFR part 81), so ICAPCD Rule 414, MDAQMD Rule 1162, VCAPCD Rule 74.20 and SCAQMD Rule 1107 must fulfill RACT.

Guidance and policy documents that we use 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 Technique Guideline: Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks," EPA, December 1978, EPA-450/2-78-047.
5. "Control Technique Guideline: Control of Volatile Organic Emissions from Petroleum Liquid Storage in Fixed Roof Tanks," EPA, December 1977, EPA-450/2-77-036.
6. "Control Technique Guideline: Control of Volatile Organic Emissions from Existing Stationary Sources Volume VI: Surface Coating of Miscellaneous Metal Parts and Products," EPA, June 1978, EPA-450/2-78-01.
7. "Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Adhesives and Sealants," California Air Resources Board, December 1998.

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. In SCAQMD Rule 1107, the potential excess VOC emissions from the added exemption total 0.03 percent of total controlled VOC emissions from this source category; these emissions are therefore considered de minimis under Section 110(l) of the Clean Air Act. The remaining amendments to Rule 1107 clearly strengthen the rule requirements. In VCAPCD Rule 74.20, the estimated excess emissions from the added exemption total less than 0.1 percent of the VCAPCD's total reactive organic gas emissions from this source category, and are therefore considered de minimis under Section 110(l) of the Clean Air Act. The TSDs have more information on our evaluations.

C. EPA Recommendations To Further Improve the Rules

At present, EPA has no recommendations to further improve ICAPCD Rule 414, SCAQMD Rule 1107, or VCAPCD Rule 74.20. Regarding MDAQMD Rule 1162, we recommend that MDAQMD adopt an overall control efficiency of 90%. MDAQMD should also re-evaluate the exemptions in the rule. The TSD for MDAQMD Rule 1162 has more details on our recommendations.

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 December 24, 2008, 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 January 23, 2009. This will incorporate the 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. 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 Order 12866 (58 FR 51735, October 4, 1993);
 - 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct

costs on tribal governments or preempt tribal law.

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 January 23, 2009. 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. 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, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 2, 2008.

Laura Yoshii,

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 paragraphs (c)(332)(i)(A)(4) and (c)(337)(i)(B)(3) and (c)(350)(i)(D)(1) and (c)(354)(i)(B)(1) to read as follows:

§ 52.220 Identification of plan.

* * * * *
(c) * * *

(332) * * *

(i) * * *

(A) * * *

(4) Rule 414, Storage of Reactive Organic Compound Liquids, adopted on December 11, 1979, and revised on May 18, 2004.

* * * * *

(c) * * *

(337) * * *

(i) * * *

(B) * * *

(3) Rule 74.20, Adhesives and Sealants, adopted on June 8, 1993, and revised on January 11, 2005.

* * * * *

(c) * * *

(350) * * *

(i) * * *

(D) South Coast Air Quality Management District.

(1) Rule 1107, Coating of Metal Parts and Products, adopted on June 1, 1979, and amended on January 6, 2006.

* * * * *

(c) * * *

(354) * * *

(i) * * *

(B) Mojave Desert Air Quality Management District.

(1) Rule 1162, Polyester Resin Operations, adopted on August 27, 2007.

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[FR Doc. E8-27735 Filed 11-21-08; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 433

[CMS-2290-IFC]

RIN 0938-AP38

Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 2008 and Federal Fiscal Year 2009

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule with comment period makes technical changes to the existing methodology and process used to compute and issue each State's preliminary and final allotments available to pay the Medicare Part B premiums for qualifying individuals (QIs). The technical

revisions conform the existing regulations to reflect continued funding of this program. Additionally, this rule contains charts providing the States' final QI allotments for the Federal fiscal year (FY) 2008 and preliminary QI allotments for FY 2009, determined in accordance with the methodology set forth in the October 2006 final rule, and reflecting funding for the QI program made available under recent legislation.

DATES: Effective dates: These regulations are effective on November 24, 2008. The final allotments for payment of Medicare Part B premiums for FY 2008 are effective October 1, 2007. The preliminary allotments for FY 2009 are effective October 1, 2008.

Comment date: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on January 23, 2009.

ADDRESSES: In commenting, please refer to file code CMS-2290-IFC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" and enter the filecode to find the document accepting comments.

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-2290-IFC, P.O. Box 8016, Baltimore, MD 21244-8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-2290-IFC, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to either of the following addresses:

a. Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

(Because access to the interior of the HHH Building is not readily available to

persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. 7500 Security Boulevard, Baltimore, MD 21244-1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786-7195 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Richard Strauss, (410) 786-2019.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in the comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: <http://www.regulations.gov>. Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1-800-743-3951.

I. Background

A. Allotments Prior to Fiscal Year (FY) 2005

Section 1902 of the Social Security Act (the Act) sets forth the requirements for State plans for medical assistance. Before August 5, 1997, section 1902(a)(10)(E) of the Act specified that State Medicaid plans must provide for some or all types of Medicare cost-sharing for three eligibility groups of low-income Medicare beneficiaries. These three groups included qualified Medicare beneficiaries (QMBs), specified low-income Medicare