

(3) No person may swim upon or below the surface of the water within the boundaries of these security zones unless previously authorized by the COTP or his designated representative.

(d) *Effective period.* This section is effective from September 25, 2002, through December 1, 2002.

Dated: September 25, 2002.

**W.W. Briggs,**

*Acting Commander, U.S. Coast Guard,  
Captain of the Port, Portland, Maine.*

[FR Doc. 02-25405 Filed 10-4-02; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 187-0365a; FRL-7385-3]

### 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 a revision to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). This revision concerns the emission of volatile organic compounds (VOC) from

wastewater systems. 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 December 6, 2002, without further notice, unless EPA receives adverse comments by November 6, 2002. 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:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect a copy of the submitted rule 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 and TSD at the following locations:

Air and Radiation Docket and Information Center (6102T), U.S. Environmental Protection Agency, Room B-102, 1301 Constitution Avenue, NW., Washington DC 20460  
California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814  
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>. Please be advised that this is not an EPA website 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.

#### 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?

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

TABLE 1.—SUBMITTED RULES

Local Agency	Rule No.	Rule Title	Amended	Submitted
SCAQMD .....	1176	VOC Emissions from Wastewater Systems .....	09/13/96	11/26/96

On February 12, 1997, 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 approved into the SIP on August 25, 1994 (59 FR 43751) a version of SCAQMD Rule 1176, originally adopted on November 3, 1989.

#### C. What Are the Changes in the Submitted Rule?

Rule 1176 changes for refineries are as follows:

- Refineries will be required to either control with monitoring repeat-emitting drain system components (DSC) to 500 ppm VOC or install controls on all DSCs with less monitoring.
- New process drains are required to have DSC controls.

- Monitoring frequencies are decreased for low-emitting and non-emitting DSCs.

Other Rule 1176 changes for all facilities are as follows:

- Bulk loading terminals are excluded.
- Separator forebays, clarifiers, and tanks are included.
- Schematic identification is required for some facilities for certain components with an accompanying list of all DSCs.
- The 500 ppm VOC limit applies to the entire wastewater system, and no openings are allowed in manhole covers.
- A requirement for the inspector to be certified is added.
- Requirements for recordkeeping and reporting are added.
- Certain exemptions are allowed for sources that would emit little or no VOCs.

## 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 CAA), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), must not interfere with applicable requirements including requirements concerning attainment (see section 110(l)), and must not relax existing requirements in effect prior to enactment of the 1990 CAA amendments (see section 193). The SCAQMD regulates an extreme ozone nonattainment area. 40 CFR 81.305. Therefore Rule 1176 must fulfill RACT requirements.

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

- *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* (the "Blue Book"), U.S. EPA, OAQPS (May 25, 1988).

- *Control of Refinery Vacuum Producing Systems, Wastewater Separators and Process Unit Turnarounds*, EPA-450/2-77-025 (October 1977).

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

We believe the rule is consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and fulfilling RACT. 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 approval, 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 rule. If we receive adverse comments by November 6, 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 December 6, 2002. This will incorporate the rule into the federally-enforceable SIP.

### III. Background Information

#### A. Why Was This Rule 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 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 CAA. 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 CAA. 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 CAA. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 30, 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)(242)(i)(B)(2) to read as follows:

##### **§ 52.220 Identification of plan.**

\* \* \* \* \*

(242) \* \* \*

(i) \* \* \*

(B) \* \* \*

(2) Rule 1176, adopted on November 3, 1989 and amended on September 13, 1996.

\* \* \* \* \*

[FR Doc. 02–25299 Filed 10–4–02; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[WV 054—6022a; FRL–7381–9]

### Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Ambient Air Quality Standard for Nitrogen Dioxide

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the West Virginia State Implementation Plan (SIP). This revision establishes ambient air quality standards for nitrogen dioxide, equivalent to the national primary and secondary ambient air quality standards established by EPA. EPA is approving this revision to the SIP in accordance with the Clean Air Act.

**DATES:** This rule is effective on December 6, 2002, without further notice, unless EPA receives adverse written comment by November 6, 2002. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and West Virginia Department of Environmental Protection, Division of Air Quality, 7012 MacCorkle Avenue, SE., Charleston, WV 25304–2943.

**FOR FURTHER INFORMATION CONTACT:** Janice Lewis, (215) 814–2185, or by e-mail at [Lewis.Janice@epa.gov](mailto:Lewis.Janice@epa.gov). Please note any comments on this rule must be submitted in writing, as provided in the **ADDRESSES** section of this document.

**SUPPLEMENTARY INFORMATION:** On September 21, 2000, the West Virginia Division of Environmental Protection submitted a revision to its SIP to establish ambient air quality standards for nitrogen dioxide. The revision consists of the adoption of revisions to Regulation 45CSR12—Ambient Air Quality Standards for Nitrogen Dioxide.

## I. Background

### A. Summary of the SIP Revision

This revision restructures and reorganizes Regulation 45CSR12, governing the ambient air quality standards for nitrogen dioxide. The revision also updates reference test methods for measuring nitrogen dioxide concentrations in the ambient air.

### B. EPA's Evaluation of the SIP Revision

The EPA has determined that this revision to 45CSR12—Ambient Air Quality Standards for Nitrogen Dioxide meets all federal criteria for approval.

## II. Final Action

EPA is approving West Virginia's Rule 45CSR12, submitted as a SIP revision on September 21, 2000, into the West Virginia SIP.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the “Proposed Rules” section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on December 6, 2002 without further notice unless EPA receives adverse comment by November 6, 2002. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

## III. Administrative Requirements

### A. General Requirements

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