

contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of October 10, 2001. 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental regulations, Nitrogen oxides, Ozone, Reporting and recordkeeping.

Dated: September 17, 2001.

**Jane Diamond,**

*Acting Regional Administrator, Region IX.*  
[FR Doc. 01-25254 Filed 10-9-01; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CA 242-0292a; FRL-7067-3]

**Revisions to the California State Implementation Plan, Ventura County 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 Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). This revision concerns nitrogen oxide (NO<sub>x</sub>) emissions from boilers, steam generators, and process heaters. We are approving a local rule under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on December 10, 2001 without further notice, unless EPA receives adverse comments by November 9, 2001. 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 revision 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 revision 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.

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA 93003.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX; (415) 744-1135.

**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 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	Adopted	Submitted
VCAPCD .....	74.15.1	Boilers, Steam Generators, and Process Heaters .....	6/16/00	12/11/00

On February 8, 2001, 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 gave a limited approval and limited disapproval to a version of Rule 74.15.1 on January 13, 2000 (65 FR 2052).

*C. What Are the Purposes of the Submitted Rule Revisions?*

The purposes of the revisions contained in Rule 74.15.1 are to:

- Remedy the deficiency cited in the limited approval and limited

disapproval of January 13, 2000 (65 FR 2052).

- Delete obsolete dates for increments of progress and compliance.

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

*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 of NO<sub>x</sub> in ozone nonattainment areas (see section 182(f) and must not relax existing requirements (see sections 110(l) and 193). The VCAPCD regulates a severe ozone nonattainment area (see 40 CFR part 81), so Rule 74.15.1 must fulfill the requirements of RACT. Guidance and

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

- *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 Federal Register Document*, (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.
- *Guidance Document for Correcting VOC Rule Deficiencies, U.S. EPA Region IX and California Air Resources Board* (April 1991).
- *State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990* (the "NO<sub>x</sub> Supplement to the General Preamble"),

U.S. EPA, 57 FR 55620 (November 25, 1992).

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans*, U.S. EPA, 40 CFR part 51.

- *Cost-Effective Nitrogen Oxides (NO<sub>x</sub>) Reasonably Available Control Technology (RACT)*, U.S. EPA Office of Air Quality Planning and Standards (March 16, 1994).

- *State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown*, U.S. EPA, Office of Air Quality Planning and Standards (September 20, 1999).

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

We believe this rule is consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The deficiency identified in

our previous limited approval and limited disapproval action has been adequately addressed as follows:

- The allowance for an automatic exemption from the emission standards during startup and shutdown is deleted.

**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 November 9, 2001, 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 10, 2001. This will incorporate these rules into the federally-enforceable SIP.

**III. Background Information**

*Why Was This Rule Submitted?*

NO<sub>x</sub> helps 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 CAA.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671 q.
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 32111, "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 (Pub. L. 104-4). This rule also does 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), nor will it 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), because it 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 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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 December 10, 2001. 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, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Dated: September 17, 2001.

**Jane Diamond,**

*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)(285) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*  
 (c) \* \* \*  
 (285) New and amended regulations for the following APCDs were submitted on December 11, 2000 by Governor's designee.

(i) Incorporation by reference.  
 (A) Ventura County Air Pollution Control District.

(1) Rule 74.15.1, adopted on June 13, 2000.

[FR Doc. 01-25255 Filed 10-9-01; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CA 242-0297a; FRL-7075-8]

**Revisions to the California State Implementation Plan, El Dorado County Air Pollution Control District and Imperial 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 El Dorado County Air Pollution Control District (EDCAPCD) and Imperial County Air Pollution Control District (ICAPCD) portions of the California State Implementation Plan (SIP). These revisions concern Oxides of Nitrogen (NO<sub>x</sub>) emissions from industrial, institutional, and commercial boilers, steam generators, and process heaters as well as administrative matters. We are approving and rescinding local rules that regulate emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on December 10, 2001 without further notice, unless EPA receives adverse comments by November 9, 2001. 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.

You can inspect copies of the submitted rule 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 rule revisions 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. El Dorado County Air Pollution Control District, 2850 Fairlane Court, Building C, Placerville, CA 95667. Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX; (415) 744-1135.

**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 or rescinding 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 or (rescinded)	Submitted
EDCAPCD .....	101	General Provisions and Definitions .....	02/15/00 .....	07/26/00
EDCAPCD .....	229	Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters.	01/23/01 .....	05/23/01
EDCAPCD .....	101	Title .....	02/15/00 .....	07/26/00
			(Rescinded) ..	