

written representation referred to in paragraph (b)(1) of this section.

(2) For each such person, set forth the number of late reports, the number of transactions that were not reported on a timely basis, and any known failure to file a required Form. A known failure to file would include, but not be limited to, a failure to file a Form 3, which is required of all reporting persons, and a failure to file a Form 5 in the absence of the written representation referred to in paragraph (b)(1) of this section, unless the registrant otherwise knows that no Form 5 is required.

(b) With respect to the disclosure required by paragraph (a) of this section, if the registrant:

(1) Receives a written representation from the reporting person that no Form 5 is required; and

(2) Maintains the representation for two years, making a copy available to the Commission or its staff upon request, the registrant need not identify such reporting person pursuant to paragraph (a) of this section as having failed to file a Form 5 with respect to that fiscal year.

#### PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 5. The authority citation for part 240 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77z-3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll, 78mm, 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4, 80b-11, and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

■ 6. Amend § 240.16b-3 by revising the introductory text of paragraph (d) and paragraph (e) to read as follows:

#### § 240.16b-3 Transactions between an issuer and its officers or directors.

(d) *Acquisitions from the issuer.* Any transaction, other than a Discretionary Transaction, involving an acquisition from the issuer (including without limitation a grant or award), whether or not intended for a compensatory or other particular purpose, shall be exempt if:

(e) *Dispositions to the issuer.* Any transaction, other than a Discretionary Transaction, involving the disposition to the issuer of issuer equity securities, whether or not intended for a compensatory or other particular

purpose, shall be exempt, provided that the terms of such disposition are approved in advance in the manner prescribed by either paragraph (d)(1) or paragraph (d)(2) of this section.

■ 7. Section 240.16b-7 is revised to read as follows:

#### § 240.16b-7 Mergers, reclassifications, and consolidations.

(a) The following transactions shall be exempt from the provisions of section 16(b) of the Act:

(1) The acquisition of a security of a company, pursuant to a merger, reclassification or consolidation, in exchange for a security of a company that before the merger, reclassification or consolidation, owned 85 percent or more of either:

(i) The equity securities of all other companies involved in the merger, reclassification or consolidation, or in the case of a consolidation, the resulting company; or

(ii) The combined assets of all the companies involved in the merger, reclassification or consolidation, computed according to their book values before the merger, reclassification or consolidation as determined by reference to their most recent available financial statements for a 12 month period before the merger, reclassification or consolidation, or such shorter time as the company has been in existence.

(2) The disposition of a security, pursuant to a merger, reclassification or consolidation, of a company that before the merger, reclassification or consolidation, owned 85 percent or more of either:

(i) The equity securities of all other companies involved in the merger, reclassification or consolidation or, in the case of a consolidation, the resulting company; or

(ii) The combined assets of all the companies undergoing merger, reclassification or consolidation, computed according to their book values before the merger, reclassification or consolidation as determined by reference to their most recent available financial statements for a 12 month period before the merger, reclassification or consolidation.

(b) A merger within the meaning of this section shall include the sale or purchase of substantially all the assets of one company by another in exchange for equity securities which are then distributed to the security holders of the company that sold its assets.

(c) The exemption provided by this section applies to any securities transaction that satisfies the conditions

specified in this section and is not conditioned on the transaction satisfying any other conditions.

(d) Notwithstanding the foregoing, if a person subject to section 16 of the Act makes any non-exempt purchase of a security in any company involved in the merger, reclassification or consolidation and any non-exempt sale of a security in any company involved in the merger, reclassification or consolidation within any period of less than six months during which the merger, reclassification or consolidation took place, the exemption provided by this section shall be unavailable to the extent of such purchase and sale.

Dated: August 3, 2005.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 05-15682 Filed 8-8-05; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 240

[Release No. 34-51983A; File No. S7-02-04]

RIN 3235-A102

### Amendments to the Penny Stock Rules

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule; corrections.

**SUMMARY:** In Release No. 34-51983, the Securities and Exchange Commission issued amendments concerning the “penny stock rules” under the Securities Exchange Act of 1934, which appeared in the **Federal Register** of July 13, 2005 (70 FR 40614). In Release No. 34-51808, the Commission issued Regulation NMS, which appeared in the **Federal Register** of June 29, 2005 (70 FR 37496), and which, among other things, made technical amendments to the definition of penny stock. Since the effective date of Regulation NMS predates that of the amendments to the penny stock rules, the Commission is making technical corrections to the amendments to the penny stock rules to conform to the changes made in connection with Regulation NMS.

**DATES:** Effective September 12, 2005.

**FOR FURTHER INFORMATION CONTACT:** Catherine McGuire, Chief Counsel, Paula R. Jenson, Deputy Chief Counsel, Brian A. Bussey, Assistant Chief Counsel, or Norman M. Reed, Special Counsel, at 202/551-5550, Office of Chief Counsel, Division of Market

Regulation, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** In FR Doc 05-13737 appearing on page 40614 in the **Federal Register** of Wednesday, July 13, 2005, the following corrections are made:

**§ 240.3a51-1 [Corrected]**

■ 1. On page 40631, second column, revise the introductory text of paragraph (a) to read “(a) That is an NMS stock, as defined in § 242.600(b)(47), provided that:”.

■ 2. On page 40632, first column, paragraph (e)(1), 5th line, revise “§ 240.11Aa3-1” to read “§ 242.601”.

Dated: August 3, 2005.

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 05-15681 Filed 8-8-05; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[R09-OAR-2005-CA-0002; FRL -7945-2]

**Revision 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 revisions to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are approving local rules that address the opacity standard; PM-10, CO, volatile organic compound (VOC), and SO<sub>2</sub> emissions from industrial processes; and source tests. We are also

rescinding local rules that concern exemptions from emission standards; analytical methods; and PM-10, CO, and SO<sub>2</sub> emission standards.

**DATES:** This rule is effective on October 11, 2005, without further notice, unless EPA receives adverse comments by September 8, 2005. 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:** Submit comments, identified by docket number R09-OAR-2005-CA-0002, by one of the following methods:

- Agency Web site: <http://docket.epa.gov/rmepub/>. EPA prefers receiving comments through this electronic public docket and comment system. Follow the on-line instructions to submit comments.

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions.

- E-mail: [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
- Mail or deliver: Andrew Steckel (AIR-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

*Instructions:* All comments will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, 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 the agency Web site, eRulemaking portal, or e-mail. The agency Web site and eRulemaking portal are “anonymous access” systems, 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.

*Docket:* The index to the docket for this action is available electronically at <http://docket.epa.gov/rmepub> 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 below.

**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.

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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 date that they were revised or rescinded by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted, revised, or rescinded	Submitted
VCAPCD .....	50	Opacity .....	04/13/04 Revised .....	07/19/04
VCAPCD .....	52	Particulate Matter—Concentration (Grain Loading) .....	04/13/04 Revised .....	07/19/04
VCAPCD .....	53	Particulate Matter—Process Weight .....	04/13/04 Revised .....	07/19/04
VCAPCD .....	55	Exemptions from Emission Standards .....	04/13/04 Rescinded .....	07/19/04
VCAPCD .....	60	New Non-Mobile Equipment—Sulfur Dioxide, Nitrogen Oxides, and Particulate Matter.	04/13/04 Rescinded .....	07/19/04
VCAPCD .....	68	Carbon Monoxide .....	04/13/04 Revised .....	07/19/04
VCAPCD .....	74.25	Restaurant Cooking Operations .....	10/12/04 Adopted .....	01/13/05
VCAPCD .....	100	Analytical Methods .....	04/13/04 Rescinded .....	07/19/04
VCAPCD .....	102	Source Tests .....	04/13/04 Revised .....	07/19/04