

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, U.S. Environmental Protection Agency, Region IX, (415) 947-4118.

**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. EPA recommendation to further improve the rule
  - D. Proposed action and public comment

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 amended 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
SDCAPCD .....	61.2	Transfer of Organic Compounds into Mobile Transport Tanks.	7/26/00	12/11/00

On February 8, 2001, this rule 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 a version of Rule 61.2 into the SIP on June 30, 1993 (58 FR 34906).

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

The purpose is to make the following revisions:

- 61.2(b)(2): Decreased is the threshold of 5,000,000 gallons per year or less to 500,000 gallons per year or less for bulk plants existing before March 1, 1984 for exemption from the requirement to use a vapor recovery unit or vapor disposal unit. The exemption only applies to vapors emitted during transfer of organic liquids, not subject to this rule, into a mobile transport tank that previously transported volatile organic compounds (VOCs).

- 61.2(b)(6): Added is a threshold of 21,000 gallons per year or less for the exemption of U.S. military ships from the requirements for no fugitive liquid leaks, for vapor concentration not exceeding 500 parts per million by volume (ppmv) measured as propane or 1,375 ppmv measured as methane, and for the liquid to enter less than six inches from the bottom of a mobile transport truck.

- 61.2(d): Revised and specified in detail are test procedures on mobile transport tanks and vapor emission control systems. Added are tests for vapor fugitive emissions. The TSD has more information about this rule.

**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)), and must not relax existing requirements (see sections 110(l) and 193). The SDCAPCD regulates a severe ozone nonattainment area and must fulfill RACT. See 40 CFR part 81. 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.
- Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987).
- *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations*, EPA (May 25, 1988) (the Bluebook).
- *Guidance Document for Correcting Common VOC & Other Rule Deficiencies*, EPA Region 9 (August 21, 2001) (the Little Bluebook).

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

The rule is improved, enforceable, on balance more stringent than the SIP Rule and does not relax the SIP. The requirements section of the rule fulfills RACT. The rule should be given full approval.

*C. EPA Recommendation to Further Improve the Rule*

The TSD describes an additional rule revision that does not affect EPA’s current action but is recommended for the next time the local agency modifies the rule.

*D. Public Comment and Final Action*

As authorized in section 110(k)(3) of the CAA, 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 September 25, 2003, 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 October 27, 2003. This will incorporate these rules into the federally enforceable SIP.

**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).