

operators of affected sources. Many of the amendments provide additional compliance options, and other amendments clarify requirements and correct minor drafting errors.

For information regarding other administrative requirements for this action, please see the direct final rule action that is located in the "Rules and Regulations" section of this **Federal Register** publication.

List of Subjects in 40 CFR Parts 9 and 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 24, 2001.

Christine Todd Whitman,
Administrator.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 241-0255; FRL-7022-9]

Revisions to the California State Implementation Plan, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the Bay Area Air Quality Management District (BAAQMD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from storage of organic liquids and leaking equipment at petroleum refineries, chemical plants, bulk plants and bulk terminals. We are proposing action on local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by September 4, 2001.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

You can inspect copies of the submitted SIP 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 SIP revisions at the following locations:

California Air Resources Board,
Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 744-1197.

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 addressed by this proposal with the dates that they were adopted by local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
BAAQMD	8-5	Storage of Organic Liquids	12/15/99	03/28/00
BAAQMD	8-18	Equipment Leaks	01/07/98	03/28/00

On May 19, 2000, 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. What Is the Purpose of the Submitted Rule Revisions?

Revisions to Rule 8-5, Storage of Organic Liquids, are intended to:

- Implement a control measure for slotted guide poles.
- Modify requirements for primary metallic-shoe type seals used in internal floating roof tanks containing organic liquids that produce ozone forming air pollutants.

Revisions to Rule 8-18, Equipment Leaks, are intended to:

- Consolidate the regulation of fugitives in a single rule, transferring

provisions contained in District Rule 8-25, Pumps and Compressor Seals at Petroleum Refineries, Chemical Plants, Bulk Plants and Bulk Terminals, to Rule 8-18. District Rule 8-25 is being deleted.

- Provide a more stringent leak standard for pressure relief devices.
- Add compliance options to allow the use of new leak and detection and repair technology.

The 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 major sources in nonattainment areas (see

section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). The BAAQMD regulates an ozone nonattainment area (see 40 CFR part 81), so Rules 8-5 and 8-18 must fulfill RACT.

Guidance and policy documents that we used to define specific enforceability and RACT requirements 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; Clarification to Appendix D of November 24, 1987 **Federal Register** Document," (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

3. "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks," EPA-450/2-78-047.

4. "Control of Volatile Organic Emissions from Petroleum Liquid Storage in Fixed Roof Tanks," EPA-450/2-77-036.

5. "Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment," EPA-450/3-83-006.

6. "Model Volatile Organic Compounds Rules for Reasonably Available Control Technology," Office of Air Quality Planning and Standards, June 1992.

B. Do the rules meet the evaluation criteria?

These rules improve the SIP by establishing more stringent emission limits and by implementing new control measures for slotted guide poles. These rules are largely consistent with the relevant policy and guidance regarding enforceability, RACT and SIP relaxations. Rule provisions which do not meet the evaluation criteria are

summarized below and discussed further in the TSD.

C. What Are the Rule Deficiencies?

These provisions conflict with section 110 and part D of the Act and prevent full approval of the SIP revision.

1. Rule 8-5 exempts sources from control requirements during certain startup, shutdown, and maintenance conditions in violation of EPA's 1999 guidance on excess emission during malfunctions, startup, and shutdown.

2. Rule 8-18 contains director's discretion in the allowance of compliance options and the use of new leak detection and repair technology without EPA approval.

D. Proposed Action and Public Comment

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is proposing a limited approval of the submitted rules to improve the SIP. If finalized, this action would incorporate the submitted rules into the SIP, including those provisions identified as deficient. This approval is limited because EPA is simultaneously proposing a limited disapproval of the rules under section 110(k)(3). If this disapproval is

finalized, sanctions will be imposed under section 179 of the Act unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months. These sanctions would be imposed according to 40 CFR 52.31. A final disapproval would also trigger the federal implementation plan (FIP) requirement under section 110(c). Note that the submitted rules have been adopted by the BAAQMD, and EPA's final limited disapproval would not prevent the local agency from enforcing them.

We will accept comments from the public on the proposed limited approval and limited disapproval for the next 30 days.

III. Background Information

Why Were These Rules 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 proposed 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 proposed 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 proposed 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 proposed 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

proposes to approve 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 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 proposed 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 proposed 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 proposed 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.).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Authority: 42 U.S.C. 7401 et seq.

Dated: July 24, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.
[FR Doc. 01-19323 Filed 8-1-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 153 and 180

[OPP-301026; FRL-6598-4]

RIN 2070-AB18

Pesticide Chemicals Not Requiring a Tolerance or an Exemption from a Tolerance; Rhodamine B; Revocation of Unlimited Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to create a new subpart E in 40 CFR part 180. This subpart will be titled Pesticide Chemicals Not Requiring a Tolerance or an Exemption from a Tolerance. It will contain a list of the pesticide chemicals (including, as appropriate, their limitations and use patterns) for which the Agency has determined that neither a tolerance nor an exemption from the

requirement of a tolerance is needed under the Federal Food Drug and Cosmetic Act (FFDCA). This document also proposes to revoke two unlimited tolerance exemptions for the inert ingredient Rhodamine B. These tolerance exemptions were established under Section 408 of the FFDCA, 21 U.S.C. 346a. EPA is proposing to revoke these tolerances because all food-use products containing Rhodamine B have been voluntarily cancelled. Concurrent with the revocation of the two unlimited tolerances for Rhodamine B, the Agency is also proposing to designate the use of the inert (other) ingredient Rhodamine B as a dye for seed treatment only, a use for which neither a tolerance nor an exemption from the requirement of a tolerance is needed. This determination is based on the Agency's review and evaluation of submitted data, which indicated that there was no uptake of Rhodamine B when used as a dye for seed treatment. The Agency is acting on its own initiative. These regulatory actions are part of the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. The regulatory actions proposed in this document, the proposed revocation of two tolerance exemptions, would be counted toward the August 2002 deadline.

DATES: Comments, identified by docket control number OPP-301026, must be received on or before October 1, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-301026 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703-305-6304; fax number: 703-305-0599; e-mail address: boyle.kathryn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural

producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Cat-egories	NAICS	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. The North American Industrial Classification System (NAICS) codes are provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR parts 153 and 180 are available at: http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr153_00.html and http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, respectively, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-301026. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in