

2. Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, EPA, May 25, 1988 (the Bluebook).

3. Guidance Document for Correcting Common VOC & Other Rule Deficiencies, EPA Region 9, August 21, 2001 (the Little Bluebook).

4. CARB's Suggested Control Measure (SCM) titled, "Suggested Control Measure for Automotive Coatings." October 20, 2005.

5. Control Techniques Guideline (CTG) for "Miscellaneous Industrial Adhesives", EPA-453/R-08-005, September 2008.

6. CARB's RACT/Best Available Retrofit Control Technology (BARCT) guidance titled, "Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Adhesives and Sealants," December 1998.

#### *B. Do the rules meet the evaluation criteria?*

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSDs have more information on our evaluation.

#### *C. EPA Recommendations to Further Improve the Rules*

The TSDs describe additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rules.

#### *D. Public Comment and Final Action*

Because EPA believes the submitted rules fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

### **III. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- 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);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, these rules do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

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

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

Dated: September 28, 2011.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 2011-25879 Filed 10-5-11; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[EPA-R09-OAR-2011-0800; FRL-9476-1]

#### **Revisions to the California State Implementation Plan, California Air Resources Board—Consumer Products**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the California Air Resources Board portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from consumer products. We are approving a local rule that regulates 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 November 7, 2011.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2011-0800, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.
2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, 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 <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, 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:* Generally, documents in the docket for this action are available

electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), 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 in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Stanley Tong, EPA Region IX, (415) 947-4122, [tong.stanley@epa.gov](mailto:tong.stanley@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 rule did the State submit?*

Table 1 lists the rule addressed by this proposal with the date that it was adopted by the State and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

| Regulation   | Regulation title                  | Amended  | Submitted |
|--|-----------------------------------|----------|-----------|
| California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5—Consumer Products. | Article 2—Consumer Products ..... | 08/06/10 | 01/28/11  |

On July 28, 2011, the submittal for California Code of Regulations, Title 17, Division 3, chapter 1, subchapter 8.5—Consumer Products was deemed by operation of law 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 an earlier version of Article 2 of CARB’s Consumer Products regulation into the SIP on May 12, 2011 (76 FR 27613). CARB adopted revisions to the SIP-approved version on August 6, 2010 and submitted them to us on January 28, 2011.

*C. What is the purpose of the submitted rule revision?*

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.

The California Health and Safety Code (Section 41712(b)) requires CARB to adopt regulations to achieve the maximum feasible reduction in volatile organic compounds emitted by consumer products if the state board determines that adequate data exist to establish both of the following:

(1) The regulations are necessary to attain state and federal ambient air quality standards.

(2) The regulations are commercially and technologically feasible and necessary.

CARB’s current amendments to their consumer products regulations establishes lower VOC limits for Double Phase Aerosol Air Fresheners and establishes new limits for Multi-purpose

Solvents and Paint Thinners. Multi-purpose Solvents and Paint Thinners are subject to a two tier limit. The first tier establishes a 30 weight percent limit effective December 31, 2010. The second tier is not included in the submitted SIP revision.<sup>1</sup>

*The amendments also:* (1) Add new definitions for: Aromatic compound, artists solvent/thinner, high temperature coating, industrial maintenance coating, and zinc-rich primer; (2) modify the definitions for ASTM, Multi-purpose Solvent, Paint Thinner, and Automotive windshield washer fluid—diluted and premixed; (3) prohibit the use of the toxic air contaminants methylene chloride, perchloroethylene, or trichloroethylene in Multi-purpose Solvents and Paint Thinners; (4) prohibit the use of compounds with a global warming potential (GWP) of 150 or greater in Multi-purpose Solvents and Paint Thinners; (5) temporarily prohibits flammable or extremely flammable products from using generic product names such as “Multi-purpose Solvent”, “Paint Thinner”, or “Paint Clean-up”; (6) prohibit the sale or manufacture for use in California Multi-purpose Solvents and Paint Thinners containing greater than one percent by weight of “aromatic compounds”; and (7) require responsible parties to report to CARB specific progress towards meeting the second tier limits for Multi-purpose Solvents and Paint Thinners by June 30, 2012.

Generally, CARB received support for their amendments from both industry and environmental organizations,

<sup>1</sup> Robert D. Fletcher (CARB), letter to Jared Blumenfeld (EPA Region IX), January 28, 2011, submitting the August 6, 2010 amendments to California’s Consumer Products Regulation.

although there were comments from industry about the technological challenges posed by limits on the aromatic compound content of Multi-purpose Solvents and Paint Thinners. In response to these comments, CARB noted in its Final Statement of Reasons for Rulemaking that there is a potential for adverse ozone impact if significant amounts of aromatic compounds are used in reformulated products.

CARB estimates these amendments will achieve 8.4 tons per day (tpd) of VOC reductions Statewide in 2010 and 10.4 tpd in 2012. These values do not include emissions or reductions from the Multi-purpose Solvents and Paint Thinners categories in the South Coast Air Basin because South Coast adopted its own rule for Multi-purpose Solvents and Paint Thinners prior to CARB’s action. EPA’s technical support document (TSD) has more information about this rule.

**II. EPA’s Evaluation and Action**

*A. How is EPA evaluating the rule?*

CAA section 110(a)(2)(A) requires that regulations submitted to EPA for approval into a SIP must be clear and legally enforceable. CAA section 110(l) prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the CAA. California’s consumer products regulation covers VOC area sources and not stationary sources. In 1998 EPA promulgated a national rule to regulate VOC emissions from consumer products (63 FR 48831, September 11, 1998). EPA’s national rule largely parallels CARB’s earlier SIP-approved consumer products rule. The

amendment from CARB that we are proposing to approve today contains a more stringent limit for Double Phase Aerosol Air Fresheners than EPA's 1998 national rule and also covers two new consumer product categories, Multi-purpose Solvents and Paint Thinners. CARB points out that although emissions from individual consumer products may not seem large, collectively, they represent a significant source of emissions when taking into account 38 million California residents use these products and that given the severity of air pollution in California, "dramatic emission reductions from all sources contributing to ground-level ozone are necessary".<sup>2</sup> CARB estimates that ozone pollution damage to crops is estimated to cost agriculture over \$500 million dollars annually.<sup>3</sup>

Rules, guidance and policy documents that we use to evaluate enforceability and SIP revisions include the following:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988, revised January 11, 2000 (the Bluebook).
2. State Implementation Plans, General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 (57 FR 13498; April 16, 1992).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. 40 CFR 59 subpart C, National Volatile Organic Compound Emission Standards for Consumer Products.

#### *B. Does the rule meet the evaluation criteria?*

We believe this rule is consistent with the relevant requirements and guidance regarding enforceability and SIP revisions. CARB's Consumer Products regulation contains more stringent limits and covers more than twice the number of categories covered by EPA's national Consumer Products rule. As requested by CARB, our proposed action does not cover the second tier VOC emission limits for Multi-purpose Solvents and Paint Thinners. The TSD has more information on our evaluation.

#### *C. Public Comment and Final Action*

Because EPA believes the submitted rule fulfills all relevant requirements, we are proposing to fully approve it under section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days.

<sup>2</sup> Proposed Amendments to the California Consumer Products Regulations Initial Statement of Reasons. Release Date: August 7, 2009. IV-30. <http://www.arb.ca.gov/regact/2009/cpmthd310/cpmthdisor.pdf>.

<sup>3</sup> Ibid. IV-21.

Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate this rule into the federally enforceable SIP.

### III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
  - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
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  - 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);
  - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
  - Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, this proposed action does not have tribal implications as specified

by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

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

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

Dated: September 28, 2011.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 2011-25886 Filed 10-5-11; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 67

[Docket ID FEMA-2011-0002; Internal Agency Docket No. FEMA-B-1222]

### Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Proposed rule.

**SUMMARY:** Comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this proposed rule is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

**DATES:** Comments are to be submitted on or before January 4, 2012.

**ADDRESSES:** The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community is available for inspection at