

maintain any leased or loaned equipment, and return the leased or loaned equipment in a fully maintained condition to the Corps within a reasonable timeframe after the emergency situation is resolved.

(f) *Adequacy of local cooperation.* In determining the adequacy of the pledge of local cooperation, responsible district commander must consider the non-Federal sponsor's performance capability, considering any shortcomings in meeting prior commitments. Non-Federal sponsors should make provisions to establish and provide resources for a "Contingency Fund" to meet future maintenance requirements if apparent inadequacies of protective works indicate maintenance costs will be unusually high. Non-Federal sponsors should make provisions to establish and provide resources for a "Capital Improvement Fund" to meet future costs of capital improvement projects such as replacement of culverts in levees, pump station equipment, etc.

(g) *Eligibility under other federal programs.* The CA must be worded to allow the non-Federal sponsor to accept funding from other Federal programs to meet non-Federal obligations. For example, removal of temporary works will be without cost to the Corps under Public Law 84–99 assistance but may not be at no cost to the United States. Use of another Federal agency's funds is contingent upon that agency providing the Corps a written determination that such usage is specifically authorized by law.

#### § 203.113 Funds and cost sharing.

In addition to the standard non-Federal obligations for an assistance activity that requires execution of a CA, non-Federal contributions to the assistance activity may be in the form of cash or in-kind contributions. The final terms agreed upon will be documented in writing and made a part of the CA before commencement of the assistance activity.

(a) *Provision of in-kind contributions.* The non-Federal sponsor may minimize the amount of any required non-Federal cash contribution for an assistance activity by providing materials or services in-kind. In-kind contributions are generally subject to the requirements in 2 CFR 200.306, Cost sharing or matching. In-kind contributions for assistance activities may be in the form of labor, equipment, supplies, and/or services. Only in-kind contributions identified in a CA and carried out after execution of a CA are eligible to be accepted as part of the non-Federal share of the cost of an assistance

activity. In-kind contributions do not include the provision of LERRDs.

(b) *Cost sharing.* (1) The Corps may assume up to 100 percent of eligible costs for emergency repair, rehabilitation, and restoration of a Federal FRM or Federal CSRSM project and up to 80 percent of eligible costs for emergency repair, rehabilitation, and restoration of a non-Federal FRM project.

(2) The non-Federal sponsor may elect to assume responsibility for a larger percentage of eligible costs for emergency repair, rehabilitation, and restoration of Federal or non-Federal FRM projects or Federal CSRSM projects.

(3) The non-Federal sponsor will fund the cost to implement modifications of a FRM or Federal CSRSM project. The cost to implement the modification is the difference between the cost to repair the project to its pre-flood event condition and the cost to repair the project with the requested modification.

(4) The Corps will normally provide 100 percent of the cost of advance measures. However, for those projects where a permanent construction standard (vice a temporary standard) is used, the non-Federal sponsor will normally be required to provide 35 percent of the total project cost.

(5) All costs for LERRDs and costs to repair, rehabilitate, or replace project components or features that the Corps has determined do not meet Corps guidelines are the responsibility of the non-Federal sponsor and will not be accepted as part of any required non-Federal cost share.

(6) The Corps will determine the dollar value of any in-kind contributions provided by the non-Federal sponsor.

(c) *Payment of Costs in Excess of Benefits for Emergency Repair, Rehabilitation, and Restoration Assistance.* The Corps may carry out emergency repair, rehabilitation, and restoration of a FRM or Federal CSRSM project that is not economically justified if the non-Federal sponsor provide funds or in-kind contributions in an amount sufficient to result in a benefit cost ratio of unity or higher for the emergency repair, rehabilitation, and restoration activities. All of the following criteria must be satisfied:

(1) The non-Federal sponsor is willing to provide the necessary funds or in-kind contributions.

(2) Deferred maintenance, deficient maintenance, or negligent operation did not contribute to the damage.

(3) The proposed rehabilitation effort could benefit another water resources development project constructed by the Corps.

#### § 203.114 Project partnership agreements.

(a) Prior to the provision of assistance for, or at the location of, a Federal FRM or Federal CSRSM project, the Corps will review the existing Project Partnership Agreement (PPA), Project Cooperation Agreement (PCA) or Local Cooperation Agreement (LCA) to determine if the PPA, PCA or LCA sufficiently protects the interests of the United States and the non-Federal sponsor.

(b) If the existing PPA, PCA, or LCA is sufficient, in lieu of executing a CA, the responsible Corps district commander will notify the non-Federal sponsor in writing of the determination. The notification will identify any known cost share requirements and the requirements contained in § 203.112. The notification will also advise the non-Federal sponsor that the terms of the executed PPA, specifically including the hold and save clause and the operation, maintenance, repair, replacement, and rehabilitation obligation, remain in full effect and apply as well to the work that will be undertaken pursuant to Public Law 84–99. Prior to the provision of assistance, the non-Federal sponsor must confirm in writing these responsibilities and acknowledge that it will be providing all required LERRDs.

(c) If the responsible Corps district commander determines that the existing PPA, PCA, or LCA is insufficient to protect the interests of the United States and the non-Federal sponsor, the non-Federal sponsor must execute a CA in accordance with this subpart.

#### § 203.115 Procedures and responsibilities upon completion of emergency repair, rehabilitation, and restoration work.

The non-Federal sponsor is responsible for the future operation, maintenance, repair, replacement, and rehabilitation of all emergency repair, rehabilitation, and restoration work carried out by the Corps under Public Law 84–99.

[FR Doc. 2022–24543 Filed 11–14–22; 8:45 am]

BILLING CODE 3720–58–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2022–0837; FRL–10294–01–R9]

### Air Plan Approval; California; Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOCs) from architectural coating operations. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Comments must be received on or before December 15, 2022.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2022-0837 at <https://www.regulations.gov>. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI)

or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. **FOR FURTHER INFORMATION CONTACT:** Arnold Lazarus, EPA Region IX, 75

Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3204 or by email at [lazarus.arnold@epa.gov](mailto:lazarus.arnold@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to the 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 dates 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/ amended/ revised	Submitted
VCAPCD .....	74.2	Architectural Coatings .....	11/10/2020	7/26/2021

On January 26, 2022, the submittal for VCAPCD Rule 74.2 was deemed complete by operation of law.

*B. Are there other versions of this rule?*

We approved an earlier version of Rule 74.2 into the SIP on July 6, 2011 (76 FR 39303). The VCAPCD adopted revisions to Rule 74.2 on November 10, 2020. CARB submitted the amended rule to the EPA on July 26, 2021, as an attachment to a letter of the same date. If we take final action to approve the November 10, 2020 version of Rule 74.2, it will replace the previously-approved version of the rule in the VCAPCD portion of the applicable California SIP.

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

Emissions of VOCs contribute to the production of ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Architectural coatings are coatings that are applied to stationary structures and their accessories. They include house paints,

stains, industrial maintenance coatings, traffic coatings, and many other products. VOCs are emitted from the coatings during application and curing, and from the associated solvents used for thinning and clean-up.

VCAPCD Rule 74.2 regulates VOC emissions from architectural coatings. The rule was updated to conform to CARB’s Suggested Control Measures (SCM) for Architectural Coatings, May 2019. More specifically, to conform with CARB’s 2019 update of the SCM for architectural coatings, VCAPCD added new categories of coatings, tightened VOC limits for certain other categories of coatings, added new limits for colorants, updated test methods, and clarified and tightened certain definitions and administrative requirements. VCAPCD estimates that aligning Rule 74.2 with the CARB 2019 SCM for architectural coatings will reduce VOC emissions by 22.12 tons per year (*i.e.*, approximately 0.06 tons per day (tpd)) in Ventura County.<sup>1</sup> In

addition, the Ventura County 2016 Air Quality Management Plan includes revisions to Rule 74.2 as one of the control measures in the plan.<sup>2</sup> While not needed to meet CAA requirements for the 2008 ozone national ambient air quality standard (NAAQS), revisions to Rule 74.2 are intended to provide emissions reductions for the 2015 ozone NAAQS and to fulfill State air quality requirements.<sup>3</sup> The EPA’s technical support document (TSD) has more information about this rule.

**II. The EPA’s Evaluation and Action**

*A. How is the EPA evaluating the rule?*

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater

<sup>1</sup> VCAPCD, Staff Report “Proposed Amendments to Rule 74.2, Architectural Coatings,” August 2020, page 3.

<sup>2</sup> VCAPCD, Final 2016 Ventura County Air Quality Management Plan, February 14, 2017, pp. 33–35.

<sup>3</sup> 84 FR 70109, at 70117 (December 20, 2019).

emissions reductions (see CAA section 193).

Generally, SIP rules must require reasonably available control technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOCs in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2)). The VCAPCD regulates an ozone nonattainment area classified as Serious nonattainment for the 2008 and 2015 8-hour ozone National Ambient Air Quality Standards (40 CFR 81.305). Because there is no relevant EPA CTG document for architectural coatings and because there are no major architectural coating sources within Ventura County, architectural coatings are not subject to RACT requirements. However, as a nonattainment area for ozone, Ventura County is subject to the requirement to implement all reasonably available control measures (RACM) as needed to attain the 2008 and 2015 ozone NAAQS by the applicable attainment dates.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. "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); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. National Volatile Organic Compound Emission Standards for Architectural Coatings, 40 CFR 59, Subpart D.
5. California Air Resources Board (CARB) Suggested Control Measure for Architectural Coatings, May 2019.

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

We have evaluated the enforceability of submitted VCAPCD Rule 74.2 with respect to applicability and exemptions; standard of conduct and compliance dates; sunset provisions; discretionary provisions; and test methods, recordkeeping and reporting, and have concluded that the rule continues to be enforceable for the purposes of CAA section 110(a)(2)(A).

We have also determined that the submitted rule implements RACM-level controls for this particular area source

because the VOC content limits are more stringent than the corresponding federal requirements in Table 1 to Subpart D of 40 CFR part 59, "Content Limits for Architectural Coatings," and are consistent with CARB's 2019 SCM.

Third, we have found that, because the submitted rule tightens VOC content limits for certain coating categories and restricts certain existing exemptions, it would not interfere with any applicable requirement concerning attainment or reasonable further progress (RFP) or any other requirement of the CAA, and as such, may be approved under CAA sections 110(l) and 193. The TSD has more information on our evaluation.

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

As authorized in section 110(k)(3) of the Act, and for the reasons given above, the EPA proposes to fully approve the submitted rule because it fulfills all relevant requirements. We will accept comments from the public on this proposal until December 15, 2022. If finalized as proposed, this action would incorporate the submitted architectural coatings rule into the federally enforceable SIP, and the submitted rule would replace the corresponding existing SIP version of the rule in the VCAPCD portion of the California SIP.

#### **III. Incorporation by Reference**

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the November 10, 2020 version of VCAPCD Rule 74.2, listed in Table 1 of this preamble, which regulates emissions of VOCs from architectural coating operations. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

#### **IV. 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, the 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
  - 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); and
  - 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.
- In addition, the state did not evaluate environmental justice considerations as part of its SIP submittal. There is no information in the record inconsistent with the stated goals of Executive Order 12898 (59 FR 7629, February 16, 1994) of achieving environmental justice for people of color, low-income populations, and indigenous peoples.
- Lastly, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: November 4, 2022.

**Martha Guzman Aceves,**

*Regional Administrator, Region IX.*

[FR Doc. 2022–24613 Filed 11–14–22; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R06–OAR–2021–0802; FRL–9401–01–R6]

### Air Plan Approval; Texas; Control of Air Pollution From Visible Emissions and Particulate Matter

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve a revision to the Texas State Implementation Plan (SIP) submitted by the State of Texas to EPA on October 22, 2021, that pertains to particulate matter standards and outdoor burning regulations. The revision allows volunteer firefighters to fulfill supervision requirements for the burning of trees, grass, leaves, branch trimmings, or other plant growth generated from specific residential properties at designated sites for consolidated burning of waste located outside of a municipality and within a county with a population of less than 50,000.

**DATES:** Written comments must be received on or before December 15, 2022.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2021–0802, at <https://www.regulations.gov> or via email to [pitre.randy@epa.gov](mailto:pitre.randy@epa.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or

other file sharing system). For additional submission methods, please contact Randy Pitre, (214) 665–7299, [pitre.randy@epa.gov](mailto:pitre.randy@epa.gov). For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**Docket:** The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov). While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (*e.g.*, CBI).

#### FOR FURTHER INFORMATION CONTACT:

Randy Pitre, EPA Region 6 Office, Infrastructure and Ozone Section, (214) 665–7299, [pitre.randy@epa.gov](mailto:pitre.randy@epa.gov). Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office may be closed to the public to reduce the risk of transmitting COVID–19. We encourage the public to submit comments via <https://www.regulations.gov>, as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

#### SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” or “our” means the EPA.

### I. Background

Section 110 of the CAA requires states to develop air pollution regulations and control strategies to ensure that air quality meets the EPA’s National Ambient Air Quality Standards (NAAQS). These NAAQS are established under CAA section 109, and they currently address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter (PM), and sulfur dioxide. Each state is responsible for developing SIPs to demonstrate how the NAAQS will be achieved, maintained, and enforced. The SIP must be submitted to EPA for approval and any changes a state makes to the approved SIP must also be submitted to the EPA for approval.

The EPA approved SIP for Texas includes Title 30 of the Texas Administrative Code (30 TAC), Chapter 111 (Control of Air Pollution from Visible Emissions and Particulate Matter), Subchapter B (Outdoor Burning). EPA approved Texas regulation 30 TAC 111.209(5) allows, under certain conditions, outdoor burning of waste at a site that is (1) designated for consolidated burning of

waste generated from specific residential properties and (2) located outside of a municipality and within a county with a population of less than 50,000. Among the conditions is that (1) burning at the designated site is supervised by an employee of a fire department who is part of the fire protection personnel and (2) the fire department employee must notify the Texas Commission on Environmental Quality (TCEQ) 24 hours in advance of any scheduled supervised burn (30 TAC 111.209(5)(F)). Only trees, grass, leaves, branch trimmings, or other plant growth may be burned under this provision.

In response to Texas House Bill 2386 (85th Texas Legislature, 2017), TCEQ amended 30 TAC 111.209(5), to include volunteer firefighters, acting within the scope of their duties, to fulfill the supervision requirements for the burning of waste at these sites. EPA received the amendment as a SIP revision on October 22, 2021.

### II. The EPA’s Evaluation

CAA section 110(l) provides that EPA shall not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. The outdoor burning allowed under 30 TAC 111.209(5) applies at designated sites for consolidated burning of waste generated from specific residential properties which are located outside of a municipality and within a county with a population of less than 50,000.

El Paso County is the only Texas county designated as nonattainment for PM. However, the outdoor burning allowed under 30 TAC 111.209(5) would not be allowed in El Paso County, because the county’s population is greater than 50,000.<sup>1</sup> Allowing volunteer firefighters, in addition to fire department employees, to supervise the burning and meet the supervision requirements at these sites is not expected to result in a change in emissions or ambient concentrations of a criteria pollutant or its precursors. Thus, the revision would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

### III. Proposed Action

We are proposing to approve revisions to the Texas SIP that pertain to particulate matter standards and

<sup>1</sup> See <https://www.census.gov/quickfacts/fact/table/elpasocountytexas,US/PST045221> for the 2020 and 2021 population estimates for El Paso County.