

(q) *Stay of Findings of Significant Contribution with respect to the 8-hour standard.* Notwithstanding any other provisions of this subpart, the effectiveness of paragraph (a)(2) of this section is stayed.

[FR Doc. 00-23947 Filed 9-15-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 210-0247a; FRL-6850-1]

Revisions to the California State Implementation Plan, San Diego County Air Pollution Control District and Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the San Diego County Air Pollution Control District (SDCAPCD) and Bay Area Air Quality Management District (BAAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from the

wood products coating and the metal container, closure, and coil coating source categories. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on November 17, 2000 without further notice, unless EPA receives adverse comments by October 18, 2000. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

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:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460;

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812;

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123; and, Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

FOR FURTHER INFORMATION CONTACT:

Jerald S. Wamsley, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 744-1226.

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

TABLE 1—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
SDCAPCD	67.11	Wood Products Coating Operations	08/13/97	05/18/98
BAAQMD	8-11	Metal Container, Metal Closure, and Metal Coil Coating	11/19/97	03/28/00

EPA found these rule submittals to meet the completeness criteria in 40 CFR part 51, appendix V on the following dates: July 17, 1998 for SDCAPCD Rule 67.11; and, May 19, 2000 for BAAQMD Rule 8-11. EPA must find a submittal to be complete before we begin our formal review.

B. Are There Other Versions of These Rules?

There are no previous versions of SDCAPCD Rule 67.11 in the California SIP. Although the SDCAPCD adopted earlier versions of this rule, these versions were submitted to EPA and later withdrawn by CARB. In contrast, EPA approved a version of BAAQMD Rule 8-11 into the SIP on December 23, 1997.

C. What Is the Purpose of the Submitted Rules or Rule Revisions?

SDCAPCD Rule 67.11, Wood Products Coating Operations, is a rule designed to reduce volatile organic compound (VOC) emissions at industrial sites preparing and coating wood products such as furniture, cabinets, shutters, and frames. Rule 67.11 establishes VOC emission limits in grams of

VOC per litre (gr/l) of coating. It also allows using of add-on emission control devices. The rule also contains provisions for record keeping, appropriate test methods, and exemptions. Rule 67.11 reduces VOC emissions by requiring the following actions: low VOC coatings use or use of pollution control equipment; proper storage, clean-up, handling, and disposal of VOC containing material; and, emission limits on the use of strippers on wood products.

BAAQMD Rule 8-11, Metal Container, Closure, and Coil Coatings, reduces VOC emissions at industrial sites coating metal coils, cans, drums, pails, and lids. VOCs are emitted during the preparation, coating, and drying of these metal components. Rule 8-11 establishes VOC emission limits per liter of coating and also allows for using of add-on emission control devices.

BAAQMD's August 17, 1997 amendments to Rule 8-11 made several changes to the existing rule by adding new VOC content limits for the following coating categories upon adoption in 1997:

—Interior body spray coatings for two and three piece cans;

—Interior and exterior body spray coatings applied to new drums;
 —End sealing compound used on non-food and beverage cans and non-food drums;
 —End sealing compound used on food cans; and,
 —End sealing compound used on food drums.

Most of these coating categories had their VOC content limits lowered in January 1998 and January 2000. The remaining VOC content limits, end sealing compound used on food cans and food drums, will be lowered in January 2002.

The TSD has 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). Both the SDCAPCD and the BAAQMD regulate an ozone nonattainment

area (see 40 CFR part 81), so SDCAPCD Rule 67.11 and BAAQMD Rule 8–11 must fulfill RACT.

EPA used the following guidance and policy documents to define specific enforceability and RACT requirements:

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. “Guideline Series: Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations,” USEPA, April, 1996.

4. “Control of Volatile Organic Emissions from Existing Stationary Sources Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light Duty Trucks,” USEPA, May 1977, EPA–450/2–77–008.

B. Do the Rules Meet the Evaluation Criteria?

SDCAPCD Rule 67.11 is inconsistent with the relevant policy and guidance regarding RACT. However, using a negative declaration, SDCAPCD certified that there are no major sources of VOC emissions for the

wood furniture source category operating in San Diego County. Because the wood products CTG’s applicability statement is the same as the CAA’s major source threshold of 25 tons per year potential to emit, SDCAPCD has exempted itself from the wood products CTG requirements. However, should new or existing sources within the wood products industry in San Diego County exceed the 25 tons per year potential to emit threshold, SDCAPCD will have to revise Rule 67.11 to comply with the wood products CTG and RACT.

SDCAPCD adopted their wood furniture negative declaration on October 22, 1997. The CARB submitted the negative declaration and supporting material on February 25, 1998. EPA published its approval of the negative declaration on September 23, 1998 at 63 FR 50764; effective November 23, 1998.

We believe the revisions to BAAQMD Rule 8–11 are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations.

The TSD has more information on our evaluation of these rules.

C. EPA’s Recommendations to Further Improve the Rules

The TSD for each rule describes 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

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval 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 EPA receives adverse comments by October 18, 2000, 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 November 17, 2000. This will incorporate these rules into the federally enforceable SIP.

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 action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. 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). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule

will not 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 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 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 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.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 17, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: July 20, 2000

Felicia Marcus,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(255)(i)(F)(1) and (c)(277)(i)(C)(1) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(255) * * *

(i) * * *

(F) San Diego County Air Pollution Control District.

(1) Rule 67.11 adopted on March 14, 1989 and amended on August 13, 1997.

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(277) * * *

(i) * * *

(C) Bay Area Air Quality Management District.

(1) Rule 8–11 adopted on January 24, 1979 and amended on November 19, 1997.

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[FR Doc. 00–23645 Filed 9–15–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301046; FRL–6744–5]

RIN 2070–AB78

Hexythiazox; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends and re-establishes time-limited tolerances for combined residues of the insecticide hexythiazox (trans-5-(4-chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide) and its metabolite containing (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety at 3.0 ppm on strawberry; 0.1 ppm on dates; 0.1 ppm on cotton seed, undelinted; and 2.0 ppm on cotton gin byproducts for an additional 2-year period. These tolerances will expire and be revoked on October 31, 2002. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on strawberry, dates, and cotton. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act.

DATES: This regulation is effective September 18, 2000. Objections and requests for hearings, identified by docket control number OPP–301046, must be received by EPA on or before November 17, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301046 in

the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: David Deegan, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–9358; and e-mail address: deegan.dave@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be 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 Codes	Examples of Potentially Affected Entities
Industry	111 112 311	Crop production Animal production Food manufacturing Pesticide manufacturing
	32532	

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 the table could also be affected. The North American Industrial Classification System (NAICS) codes have been 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/>.