

this action must be filed in the United States Court of Appeals for the appropriate circuit by November 19, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 26, 2012.

**Jared Blumenfeld,**

*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 paragraph (c)(411)(i)(B) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(411) \* \* \*

(i) \* \* \*

(B) San Joaquin Valley Air Pollution Control District.

(1) Rule 4682, “Polystyrene, Polyethylene, and Polypropylene Products Manufacturing,” amended on December 15, 2011.

\* \* \* \* \*

[FR Doc. 2012–21218 Filed 9–19–12; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2012–0550; FRL–9718–1]

### Revisions to the California State Implementation Plan, San Diego County, Antelope Valley and Monterey Bay Unified Air Pollution Agencies

**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), Monterey Bay Unified Air Pollution Control District (MBUAPCD) and Antelope Valley Air Quality Management District (AVAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from coating of metal containers, closures and coils, from graphic arts operations, from the provision of sampling and testing facilities required for permitting and from adhesives and sealant applications. 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 19, 2012 without further notice, unless EPA receives adverse comments by October 22, 2012. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA–R09–OAR–2012–0550, by one of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
2. *Email:* [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 [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or email.

[www.regulations.gov](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 email directly to EPA, your email 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** Generally, documents in the docket for this action are available electronically at [www.regulations.gov](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 [www.regulations.gov](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:** Adrienne Borgia, EPA Region IX, (415) 972–3576, [borgia.adrienne@epa.gov](mailto:borgia.adrienne@epa.gov).

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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 No. | Rule title                                         | Adopted & effective    | Submitted |
|--------------|----------|----------------------------------------------------|------------------------|-----------|
| SDCAPCD ...  | 67.4     | Surface Coating of Metal Parts and Products .....  | 11/9/11, 11/9/11 ..... | 02/23/12  |
| SDCAPCD ...  | 67.16    | Miscellaneous Coating .....                        | 11/9/11, 5/9/12 .....  | 02/23/12  |
| Local agency | Rule No. | Rule title                                         | Revised or amended     | Submitted |
| MBUAPCD ...  | 205      | Provision of Sampling and Testing Facilities ..... | Revised 03/21/01 ..... | 05/31/01  |
| AVAQMD ..... | 1168     | Adhesive and Sealant Applications .....            | Amended 09/20/11 ..... | 02/23/12  |

*B. Are there other versions of these rules?*

We approved an earlier version of SDCAPCD Rule 67.4 into the SIP on November 3, 1997 (62 FR 59284) and an earlier version of SDCAPCD Rule 67.16 was approved into the SIP on March 27, 1997 (62 FR 14639). An earlier version of MBUAPCD Rule 205 was approved into the SIP on July 13, 1987 (52 FR 26148). There are no approved earlier versions of AVAQMD Rule 1168.

*C. What is the purpose of the submitted rules?*

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 by limiting VOC content in coatings and solvents. EPA's technical support documents (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), and must not relax existing requirements (see sections 110(1) and 193). In addition, SIP rules must implement Reasonably Available Control Measures (RACM), including Reasonably Available Control Technology (RACT), in moderate and above ozone nonattainment areas. Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations" EPA, May 25, 1988 (the Bluebook),
2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies" EPA, Region 9, August 21, 2001 (the Little Bluebook),
3. "Control Techniques Guidelines for Control of Volatile Organic Emissions from Existing Stationary Sources, Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles and Light-Duty Trucks" EPA, May 1977 (EPA-450/2-76-028),

4. "Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings", EPA, September 2008 (EPA-453/R-08-003),

5. "Control Techniques Guidelines for Control of Volatile Organic Emissions from Solvent Metal Cleaning", EPA, September 2006 (EPA 453/-06-001),

6. "Control Techniques Guidelines for Control of Volatile Organic Emissions from Existing Stationary Sources, Volume I: Control Methods for Surface Coating Operations", EPA, November 1976 (EPA-450/2-76-028),

7. "Control Techniques Guidelines for Offset Lithographic Printing and Letterpress Printing", EPA, September 2006 (EPA-453/R-06-002),

8. "Control Techniques Guidelines for Flexible Package Printing", EPA, September 2006 (EPA-453/R-06-003),

9. "Control Techniques Guidelines for Industrial Cleaning Solvents", EPA, September 2006 (EPA 453/R-06-001),

10. "Control Techniques Guidelines for Miscellaneous Industrial Adhesives", EPA, September 2008 (EPA-453/R-08-005) and

11. "Determination of Reasonably Available Control Technology (RACT) and Best Available Retrofit Control Technology (BARCT) for Adhesives and Sealants", CARB, 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 we recommend 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 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 October 22, 2012, 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 19, 2012. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## 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, this rule 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.

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 action 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 19, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 3, 2012.

**Jared Blumenfeld,**

*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)(282)(i)(C) and (411)(i)(C) and (D) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(282) \* \* \*

(i) \* \* \*

(C) Monterey Bay Unified Air Pollution Control District

(1) Rule 205, "Provision of Sampling and Testing Facilities," revised on March 21, 2001.

\* \* \* \* \*

(411) \* \* \*

(i) \* \* \*

(C) San Diego County Air Pollution Control District

(1) Rule 67.4, "Metal Container, Metal Closure and Metal Coil Coating Operations," adopted and effective on November 9, 2011.

(2) Rule 67.16, "Graphic Arts Operations," adopted on November 9, 2011 and effective on May 9, 2012.

(D) Antelope Valley Air Quality Management District

(1) Rule 1168, "Adhesive and Sealant Applications," amended on September 20, 2011.

[FR Doc. 2012-21221 Filed 9-19-12; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 261

[EPA-R06-RCRA-2010-0066; SW FRL-9730-5]

### Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is granting a petition submitted by ExxonMobil Refining and Supply Company (ExxonMobil) Baytown Refinery to exclude from hazardous waste control (or delist) a certain solid waste. This final rule responds to the petition submitted by ExxonMobil to have the F039 underflow water generated at the North Landfarm (NLF) in Baytown, Texas excluded, or delisted, from the definition of a hazardous waste.

After careful analysis and evaluation of comments submitted by the public, the EPA has concluded that the petitioned wastes are not hazardous waste when disposed of in Subtitle D landfills. This exclusion applies to 7,427 cubic yards per year of the F039 underflow water. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in Subtitle D landfills but imposes testing conditions to ensure that the future-generated wastes remain qualified for delisting.

**DATES:** *Effective Date:* September 20, 2012.

**ADDRESSES:** The public docket for this final rule is located at the U.S. Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202, and is available for viewing in the EPA Freedom of Information Act review room on the 7th floor from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665-6444 for appointments. The reference number for this docket is EPA-R06-RCRA-2012-0138. The public may copy material from any regulatory docket at no cost for the first 100 pages and at a