

Dated: August 31, 2011.

Gina McCarthy,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2011-22838 Filed 9-7-11; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2011-0594; FRL-9456-6]

Revision to the California State Implementation Plan; Yolo-Solano Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Yolo-Solano Air Quality Management District portion of the California State Implementation Plan (SIP). This revision concerns volatile organic compound (VOC) emissions from expandable polystyrene product manufacturing operations. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA).

DATES: This rule is effective on November 7, 2011 without further notice, unless EPA receives adverse comments by October 11, 2011. 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-2011-0594, by one of the following methods:

1. *Federal eRulemaking Portal:* www.regulations.gov. Follow the on-line instructions.

2. E-mail: 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. 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 <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: Mae Wang, EPA Region IX, (415) 947-4124, wang.mae@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?

We are approving Yolo-Solano Air Quality Management District (YSAQMD) Rule 2.41, adopted on September 10, 2008, and submitted by the California Air Resources Board (CARB) on December 23, 2008. On April 20, 2009, EPA determined that the submittal for Rule 2.41 met 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?

There is no previous version of this rule in the SIP, and no previous versions have been submitted.

C. What is the purpose of the submitted rule?

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. Rule 2.41 was designed to control VOC emissions from the manufacturing of expandable polystyrene products. The rule requires all products to be manufactured with either low-pentane or mid-pentane beads. Manufacturing emissions must be controlled by an emissions control system with a capture efficiency of at least 90% and a destruction efficiency of at least 95%. 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?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA), 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 in nonattainment areas (see sections 182(a)(2) and (b)(2)), must not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA (see section 110(l) of the CAA), and must not modify, in a nonattainment area, any SIP-approved control requirement in effect before November 15, 1990 (see section 193 of the CAA). The YSAQMD regulates an ozone nonattainment area (see 40 CFR part 81), so Rule 2.41 must fulfill RACT as well as CAA section 110(l) requirements.

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 of VOC Emissions from Polystyrene Foam Manufacturing” (EPA-450/3-90-020, September 1990).

B. Does the rule meet the evaluation criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability, RACT, and CAA section 110(l). The SIP revision would not interfere with the on-going process for ensuring that requirements for reasonable further progress and attainment of the National Ambient Air Quality Standards are met. The TSD has more information on our evaluation.

C. EPA Recommendations To Further Improve the Rule

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

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rule because we believe it fulfills 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 rule. If we receive adverse comments by October 11, 2011, 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 7, 2011. This will incorporate the rule 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 CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 CAA. 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 CAA; 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 7, 2011. 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 8, 2011.

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)(364)(i)(C) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(364) * * *

(i) * * *

(C) Yolo-Solano Air Quality Management District.

(1) Rule 2.41, "Expandable Polystyrene Manufacturing Operations," adopted on September 10, 2008.

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[FR Doc. 2011-22975 Filed 9-7-11; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 116 and 302

[EPA-HQ-SFUND-2011-0565; FRL-9460-9]

Designation of Hazardous Substances; Designation, Reportable Quantities, and Notification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: EPA is issuing a technical amendment to correct, by removal of

three Chemical Abstracts Service Registry Numbers that were erroneously included in the list of hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act.

DATES: This final rule is effective on September 8, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-HQ-SFUND-2011-0565. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard

copy at the Superfund Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Superfund Docket is (202) 566-0276.

FOR FURTHER INFORMATION CONTACT:

Lynn Beasley, Regulation and Policy Development Division, Office of Emergency Management (5104A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-1965; fax number: (202) 564-2625; e-mail address: beasley.lynn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Type of entity	Examples of affected entities
Federal Agencies	National Response Center and any Federal agency that may release or respond to releases of hazardous substances.
State and Local Governments	State Emergency Response Commissions, and Local Emergency Planning Committees.
Responsible Parties	Those entities responsible for the release of a hazardous substance from a vessel or facility. Those entities with an interest in the substances incorrectly identified by their Chemical Abstracts Service Registry Number(s) as a hazardous substance.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. How can I get copies of this document and other related information?

The current information is as follows:

- Docket ID No. EPA-HQ-SFUND-2011-0565.
- Federal eRulemaking Portal: <http://www.regulations.gov>.

II. What does this correction do?

This technical amendment is a correction to remove three Chemical Abstracts Service (CAS) Registry Numbers that were erroneously identified with *Sodium Phosphate, tribasic*, from the following Title 40 of the Code of Federal Regulations: Table 116.4 A—List of Hazardous Substances; Table 116.4 B—List of Hazardous Substances by CAS Number; Table 302.4—List of Hazardous Substances

and Reportable Quantities; and Appendix A to section 302.4—Sequential CAS Registry Number List of CERCLA Hazardous Substances. The three correct Chemical Abstracts Service Registry Numbers remain on these tables.

On March 13, 1978, EPA issued a final rule in the **Federal Register** that designated hazardous substances under the authority of section 311(b)(2)(A) of the Federal Water Pollution Control Act (*aka*, Clean Water Act or CWA). On April 4, 1985, EPA issued a final rule in the **Federal Register** that designated hazardous substances and adjusted the reportable quantities under the authority of section 102(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). In both of these rules, *Sodium Phosphate, tribasic* was designated as a hazardous substance. For the convenience of the user, hazardous substances are presented in Tables and an Appendix that include the CAS Registry Number for each hazardous substance. In some cases, a chemical name may have more than one CAS Registry Number associated with it due to the chemical's various forms; however, CAS Registry Numbers are

unique to a chemical or substance.¹ That is, two substances or forms of a substance do not have the same CAS Registry Number. *Sodium Phosphate, tribasic* has three CAS Registry Numbers associated with its chemical name. Those CAS Registry Numbers are 7601-54-9, 10101-89-0, and 13061-89-4. The first, 7601-54-9 is associated with the sodium salt of *Sodium Phosphate, tribasic*. The second, 10101-89-0 is associated with the dodecahydrate (*i.e.*, 12 H₂O) form of *Sodium Phosphate, tribasic*. And the third, 10361-89-4 is associated with the decahydrate (*i.e.*, 10 H₂O) form of *Sodium Phosphate, tribasic*. Those CAS Registry Numbers will continue to appear on the above cited tables and lists in Title 40 of the Code of Federal Regulations.

A petition from the International Food Additives Counsel,² dated March 14,

¹ Each CAS Registry Number (often referred to as a CAS Number): Is a unique numeric identifier, designates only one substance, and has no chemical significance. From the CAS Web site: <http://www.cas.org/expertise/cascontent/registry/regs.html>.

² Petition for Rulemaking Correction, CAS Numbers in Title 40, Code of Federal Regulations, Section 302.4, Table 302.4—List of Hazardous Substances and Reportable Quantities, Appendix A to Section 302.4—Sequential CAS Registry Number List of CERCLA Hazardous Substances, and Section 116.4 Designation of Hazardous Substances.