

CTG source category	Negative declaration CTG reference document	2006 RACT SIP submitted 7/11/07	2009 RACT SIP submitted 10/27/09	2014 RACT SIP submitted 9/29/14
Wood Furniture Coating	EPA-453/R-96-007—Control of VOC Emissions from Wood Furniture Manufacturing Operations.	X	X

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**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 52**[EPA-R09-OAR-2015-0037; FRL-9928-50-
Region 9]**Revisions to the California State
Implementation Plan, Butte County Air
Quality Management District**AGENCY: Environmental Protection
Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a limited approval and limited disapproval of revisions to the Butte County Air Quality Management District (BCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic

compound (VOC), oxides of nitrogen (NO_x) and particulate matter (PM) emissions from open burning. Under authority of the Clean Air Act (CAA or the Act), this action simultaneously approves a local rule that regulates these emission sources and directs BCAQMD to correct rule deficiencies.

DATES: This rule is effective on August 7, 2015.

ADDRESSES: The EPA has established docket number EPA-R09-OAR-2015-0037 for this action. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901. 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, multi-volume reports), and some may not be available in either location (e.g.,

confidential business information (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: Kevin Gong, EPA Region IX, (415) 972-3073, Gong.Kevin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. Proposed Action

On February 11, 2015, in 80 FR 7555, the EPA proposed a limited approval and limited disapproval of the following rule that was submitted for incorporation into the California SIP.

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Amended	Submitted
BCAQMD	300	Open Burning Requirements, Prohibitions and Exemptions.	02/24/11	09/21/12

This rule supersedes the BCAQMD rules currently in the California SIP as listed below.

TABLE 2—RULES TO BE SUPERSEDED

Rule	Title	SIP approval date	FR citation
301	Prohibitions on Open Burning	February 3, 1987	52 FR 3226.
302	Exemptions to Rule 301	February 3, 1987	52 FR 3226.
303	Burn Permits	February 3, 1987	52 FR 3226.
304	Exemptions to Rule 303	February 3, 1987	52 FR 3226.
306	Information Furnished by Permit Applicant	February 3, 1987	52 FR 3226.
307	Ignition Hours	February 3, 1987	52 FR 3226.
308	Notice of Intent to Ignite	February 3, 1987	52 FR 3226.
309	Freedom from Debris and Moisture	February 3, 1987	52 FR 3226.
310	Arrangement of Agricultural and Wood Waste	February 3, 1987	52 FR 3226.
311	Drying Period	February 3, 1987	52 FR 3226.
312	Wind Direction	February 3, 1987	52 FR 3226.
313	Ignition Devices	February 3, 1987	52 FR 3226.
314	Burning of Vines or Bushes Treated with Herbicides.	February 3, 1987	52 FR 3226.
315	Rice Straw Burning	February 3, 1987	52 FR 3226.
316	Field Crop Ignition	February 3, 1987	52 FR 3226.
317	Field Crops Harvested Prior to September 10	February 3, 1987	52 FR 3226.

TABLE 2—RULES TO BE SUPERSEDED—Continued

Rule	Title	SIP approval date	FR citation
318	Restriction of Burning During Poor Air Quality Conditions.	February 3, 1987	52 FR 3226.
320	Certificate from Department of Fish and Game	February 3, 1987	52 FR 3226.
322	Special Permit	February 3, 1987	52 FR 3226.
323	Range Improvement Burning	February 3, 1987	52 FR 3226.
324	Burning at Disposal Sites	February 3, 1987	52 FR 3226.
325	Exemption to Rule 324	February 3, 1987	52 FR 3226.

We proposed a limited approval because we determined that Rule 300 improves the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the Act. These provisions include the following:

1. Allowing the burning of rubbish under variance approved by hearing board in paragraphs 5.53 and 6.5.

2. Air Pollution Control Officer discretion to waive drying time requirements in paragraph 8.2.4.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, the EPA is finalizing a limited approval of the submitted rule. This action incorporates the submitted rule into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rule. As a result, sanctions will be imposed unless the EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months of the effective date of this action. These sanctions will be imposed under section 179 of the Act according to 40 CFR 52.31. In addition, the EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months. Note that the submitted rule has been adopted by the BCAQMD, and the EPA's final limited disapproval does not prevent the local agency from enforcing it. The limited disapproval also does not prevent any portion of the rule from

being incorporated by reference into the federally enforceable SIP as discussed in a July 9, 1992 EPA memo found at: <http://www.epa.gov/nsr/ttnnsr01/gen/pdf/memo-s.pdf>.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the BCAQMD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available electronically through www.regulations.gov and in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

V. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP limited approvals/limited disapprovals under section 110

and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because this limited approval/limited disapproval action does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids the EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act

Under sections 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the limited approval/limited disapproval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal

governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (*Federalism*) and 12875 (*Enhancing the Intergovernmental Partnership*). Executive Order 13132 requires the EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that 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.” Under Executive Order 13132, the EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or the EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

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, 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires the EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This final rule does not

have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because it approves a State rule implementing a Federal standard.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, the EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. This action does not require the public to perform activities conducive to the use of VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

Executive Order (E.O.) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high

and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

K. Congressional Review Act

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. The 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). This rule will be effective on August 7, 2015.

L. Petitions for Judicial Review

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 September 8, 2015. 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 18, 2015.

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)(168)(i)(A)(7) and (c)(423)(i)(G)(1) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(168) * * *
(i) * * *
(A) * * *

(7) Previously approved on February 3, 1987 in paragraph (c)(168)(i)(A)(1) of this section and now deleted with replacement in paragraph (c)(423)(i)(G)(1) by Butte County APCD, Rule 300, as amended on February 24, 2011, Rules 301, 302, 303, 304, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 322, 323, 324 and 325.

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(423) * * *
(i) * * *

(G) Butte County Air Quality Management District.

(1) Rule 300, “Open Burning Requirements, Prohibitions and Exemptions,” amended on February 24, 2011.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA–R07–OAR–2015–0106 FRL–9926–49–Region 7]

Approval and Promulgation of Air Quality Implementation Plans; Nebraska; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials submitted by Nebraska that are incorporated by reference (IBR) into the state implementation plan (SIP). EPA is also notifying the public of the correction of certain typographical errors within the IBR table. The regulations affected by this update have been previously submitted by the state

agency and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), and the Regional Office.

DATES: This rule is effective on July 8, 2015.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219; or at <http://www.epa.gov/region07/air/rules/fedapprv.htm>; and the National Archives and Records Administration. For information on the availability of this material at NARA, call (202) 741–6030, or go to: www.archives.gov/federal-register/cfr/ibr-locations.html.

FOR FURTHER INFORMATION CONTACT: Jan Simpson at (913) 551–7089, or by email at simpson.jan@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

The SIP is a living document which the state revises as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations to make them part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and the Office of Federal Register (OFR). The description of the revised SIP document, IBR procedures and “Identification of plan” format are discussed in further detail in the May 22, 1997, **Federal Register** document.

On February 12, 1999, EPA published a document in the **Federal Register** (64 FR 7091) beginning the new IBR procedure for Nebraska. On December 1, 2003, (68 FR 67045) and on July 30, 2009 (74 FR 37939), EPA published updates to the IBR material for Nebraska.

In this document, EPA is publishing an updated set of tables listing the regulatory (*i.e.*, IBR) materials in the Nebraska SIP taking into account the additions, deletions, and revisions to those materials previously submitted by the state agency and approved by EPA. We are removing the EPA Headquarters Library from paragraph (b)(3), as IBR materials are no longer available at this location. Table (e) revisions include:

- Adding text in the explanation column for (6)–(27).

II. EPA Action

In this action, EPA is doing the following:

A. Announcing the update to the IBR material as of December 31, 2014.

B. Revising the entry in § 52.1420(b) to reflect the update and corrections.

C. Revising certain entries in § 52.1420(e) as described above;

D. Correcting the date format in the “State effective date” or “State submittal date” and “EPA approval date” columns in § 52.1420(c), (d) and (e). Dates are numerical month/day/year without additional zeros;

E. Modifying the **Federal Register** citation in § 52.1420(c), (d) and (e) to reflect the beginning page of the preamble as opposed to the page number of the regulatory text.

EPA has determined that this rule falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation and section 553(d)(3), which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). This rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are “impractical, unnecessary, or contrary to the public interest.” Public comment is “unnecessary” and “contrary to the public interest” since the codification only reflects existing law. Immediate notice in the CFR benefits the public by providing notice of the updated Nebraska SIP compilation.

Statutory and Executive Order Reviews

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Nebraska regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

Under the CAA, 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,