



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2020-0364; FRL-10014-67-Region 9]

#### Air Plan Approval; California; San Diego 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 San Diego Air Pollution Control District (SDAPCD or “District”) portion of the California State Implementation Plan (SIP). This revision concerns the regulation of emissions of volatile organic compounds (VOCs) from large coating operations for wood products. We are proposing to approve the rescission of a local rule from the California SIP that is no longer needed 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 [**Insert date 30 days after the date of publication in the *Federal Register***].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2020-0364 at <https://www.regulations.gov>. For comments submitted at Regulations.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 the disclosure of which 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:** Robert Schwartz, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3286 or by email at [schwartz.robert@epa.gov](mailto:schwartz.robert@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 repeal?*

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the SDAPCD and approved by the EPA. SDAPCD repealed this rule from its local rulebook on June 27, 2012, and, in a letter to the California Air Resources Board (CARB) dated July 24, 2012, the District requested that CARB petition the EPA to repeal the rule from the California SIP.<sup>1</sup> On March 4, 2015, CARB submitted a formal request to the EPA requesting that the EPA rescind SDAPCD Rule 67.11.1 from the SIP.<sup>2</sup>

TABLE 1 - RULE FOR WHICH RESCISSION FROM THE SIP IS REQUESTED

Local Agency	Rule #	Rule Title	Adopted	SIP Approval Date
SDAPCD	67.11.1	Large Coating Operations for Wood Products	09/25/2002	06/05/2003

On September 4, 2015, the submittal for the rescission of the SDAPCD Rule 67.11.1 was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. *What was the purpose of the SIP-approved rule, and what is the purpose of the State's rescission request?*

Emissions of VOCs contribute to the production of ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Rule 67.11.1 was adopted to

<sup>1</sup> Letter and attachments dated July 24, 2012, from Robert Reider (for Rosa Marie S. Abreu, Assistant Director, SDAPCD), to Michael J. Guzzetta, Manager, Rule Evaluation Section, Program Evaluation Branch, Stationary Source Division, ARB, "Submittal and Repeal for State Implementation Plan (SIP) Amendments to Rule 67.11- Wood Products Coating Operations. Repeal of Rule 67.11.1- Large Coating Operations for Wood Products."

<sup>2</sup> Letter dated March 4, 2015, from Richard Corey, Executive Officer, California Air Resources Board, to Jared Blumenfeld, Regional Administrator, EPA Region IX, Request to Rescind District Rule 67.11.1 from the CA SIP.

meet reasonably available control technology (RACT) requirements under CAA section 182. The purpose of Rule 67.11.1 was to limit VOC emissions from wood products coating operations, including emissions from equipment cleaning, that are greater than or equal to 25 tons per calendar year. The SDAPCD adopted, and retains in its rulebook, another SIP-approved rule, Rule 67.11<sup>3</sup> to regulate this source category. Rule 67.11 is as stringent as or more stringent than Rule 67.11.1. As noted in a July 24, 2012 letter from the SDAPCD to CARB, the State is seeking to rescind Rule 67.11.1 from the SIP, based on its determination that Rule 67.11.1 “became duplicative of Rule 67.11 standards that took effect in 2005... and Rule 67.11.1 became further obsolete upon the Board's adoption of the amendments to Rule 67.11 on June 27, 2012.”<sup>4</sup>

The EPA’s technical support document (TSD) for our proposed rule action has more information about both of these rules and the State’s request that Rule 67.11.1 be rescinded from the California SIP.

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

### *A. How is the EPA evaluating the request for rescission?*

Once a rule has been approved as part of a SIP, the rescission of that rule from the SIP constitutes a SIP revision. To approve such a revision, the EPA must determine whether the revision meets relevant CAA criteria for stringency, and complies with restrictions on relaxation of SIP measures under CAA section 110(l), and the General Savings Clause in CAA section 193 for SIP-approved control requirements in effect before November 15, 1990.

*Stringency:* Generally, SIP rules must require RACT for each category of sources

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<sup>3</sup> The EPA approved SDAPCD Rule 67.11 into the California SIP on April 11, 2013. 78 FR 21538.

<sup>4</sup> Letter and attachments dated July 24, 2012, from Robert Reider (for Rosa Marie S. Abreu, Assistant Director, SDAPCD), to Michael J. Guzzetta, Manager, Rule Evaluation Section, Program Evaluation Branch, Stationary Source Division, ARB, “Submittal and Repeal for State Implementation Plan (SIP) Amendments to Rule 67.11- Wood Products Coating Operations. Repeal of Rule 67.11.1- Large Coating Operations for Wood Products.”

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 SDAPCD is designated as an ozone nonattainment area classified as Serious for the 2008 8-hour national ambient air quality standards (NAAQS), and was designated as Moderate for the 2015 ozone NAAQS on June 4, 2018.<sup>5</sup>

*Plan Revisions:* States must demonstrate that SIP revisions would not interfere with attainment, reasonable further progress (RFP) or any other applicable requirement of the CAA under the provisions of CAA section 110(l). Therefore, consistent with CAA section 110(l) requirements, SDAPCD must demonstrate that the rescission of Rule 67.11.1 from the SIP would not interfere with attainment and RFP of the NAAQS or any other applicable CAA requirement.

*General Savings Clause:* CAA section 193 prohibits the modification of any control requirement in effect, or required to be adopted by an order, settlement agreement or plan in effect before November 15, 1990, in areas designated as nonattainment for an air pollutant unless the modification ensures equivalent or greater emission reductions of the relevant pollutant.

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).

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<sup>5</sup> See 40 CFR 81.305; 83 FR 25776.

3. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (the Little Bluebook).
  4. “Control Techniques Guidelines: Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations.” EPA 453/R-96-007, April 1996.
- B. *Does the rule rescission meet the evaluation criteria?*

We have concluded that SDAPCD Rule 67.11.1 is appropriate for rescission, given that the wood furniture manufacturing source category continues to be regulated by the SDAPCD’s Rule 67.11, which has been approved by the EPA into the California SIP, and which we have determined is as stringent as, or more stringent than Rule 67.11.1, as detailed in the TSD supporting this proposed rule action.<sup>6</sup> Therefore, we have determined that the rescission of this rule will not have any adverse impact on SIP requirements for RFP or attainment, or otherwise interfere with any RACT requirements under CAA section 182, or any other applicable requirements of the CAA. The EPA’s TSD contains additional details about our evaluation. Lastly, we note that Rule 67.11.1 was SIP-approved post-1990; therefore, CAA section 193 does not apply to this action.

C. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to approve the rescission of Rule 67.11.1 from the San Diego portion of the California SIP because it is no longer needed to meet any CAA requirement and because rescission would not interfere with RFP or attainment

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<sup>6</sup> See also Technical Support Document for EPA's Notice of Direct Final Rulemaking for the California State Implementation Plan, San Diego County Air Pollution Control District, Rule 67.11, Wood Products Coating Operations, United States Environmental Protection Agency, Region IX Air Division. Adrienne Borgia, February 2013; SDAPCD, CARB Rule Evaluation Form, Rule 67.11, adopted 6/27/2012, submitted 7/25/2012; San Diego Air Pollution Control Board, Minute Order No.1, Notice of Public Hearing, “Adoption of Amendments to Rule 67.11- Wood Products Coating Operations, and Repeal of Rule 67.11.1- Large Coating Operations for Wood Products,” June 27, 2012; SDAPCD, Socioeconomic Impact Assessment, Proposed Amended Rule 67.11- Wood Products Coating Operations, August 2011.

of any of the NAAQS. We will accept comments from the public on this proposal until [**Insert date 30 days after date of publication in the Federal Register**]. If we take final action to approve the rule rescission, our final action will rescind this rule from the federally enforceable SIP.

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

In this document, the EPA is proposing to amend regulatory text that includes incorporation by reference. The EPA is proposing to remove SDAPCD Rule 67.11.1 as described in Table 1 of this preamble from the California State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

### **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);
- Is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 the 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, 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, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: September 16, 2020.

John Busterud,  
Regional Administrator,

Region IX.

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