



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2018-0601; FRL-10019-96-Region 9]

#### **Limited Approval, Limited Disapproval of California Air Plan Revision; Yolo-Solano Air Quality Management District**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing a limited approval and limited disapproval of a revision to the Yolo-Solano Air Quality Management District (YSAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOCs) from solvent cleaning and degreasing operations. We are proposing action on a local rule that regulates 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 date of publication in the *Federal Register*].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2018-0601 at <http://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 whose disclosure 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 <http://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:** Arnold Lazarus, EPA Region IX  
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**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 submit?*

Table 1 lists the rule addressed by this proposal with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

#### TABLE 1 - SUBMITTED RULE

Local Agency	Rule #	Rule Title	Revised	Submitted
YSAQMD	2.31	Solvent Cleaning and Degreasing	04/12/2017	08/09/2017

On February 9, 2018, the submittal for YSAQMD Rule 2.31 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. Are there other versions of this rule?*

There is a previous version of Rule 2.31 in the SIP, revised on May 8, 2013, submitted to the EPA by CARB on February 10, 2014, and approved into the SIP on April 28, 2015 (80 FR 23449). There have been no other versions submitted since the SIP-approved version.

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

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 emissions of VOCs. The purpose of Rule 2.31 is to limit the emissions of VOCs from solvent cleaning operations and solvent degreasing operations, and from the storage and disposal of materials used for such operations. The EPA's technical support document (TSD) has more information about this rule.

**II. The EPA's Evaluation and Action**

*A. How is the EPA evaluating the rule?*

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules 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 of VOCs in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2)). The YSAQMD regulates an ozone nonattainment area classified as Severe nonattainment for the 2008 and 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS)<sup>1</sup>; and Moderate nonattainment for the 2015 8-hour ozone NAAQS<sup>2</sup>. Therefore, this rule must implement RACT.

Guidance and policy documents that we use 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).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "Control of Volatile Organic Emissions from Solvent Metal Cleaning," EPA-450/2-77-022, November 1977
5. "Control Technique Guidelines for Industrial Cleaning Solvents" EPA-453/R-06-001, September 2006.
6. "Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace manufacturing and Rework Operations" EPA-453/R-97-004, December 1997.
7. "Control Technique Guidelines for Flexible Package Printing" EPA 453/R-06-003, September 2006.

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<sup>1</sup> (40 CFR 81.305)

<sup>2</sup> Id.

*B. Does the rule meet the evaluation criteria?*

Rule 2.31 improves the SIP by establishing one more stringent emission limit and by clarifying monitoring, recording and recordkeeping provisions. The rule is largely consistent with CAA requirements and with relevant guidance regarding enforceability and SIP revisions. The rule provision that does not meet the evaluation criteria is summarized below and discussed further in the TSD.

*C. What is the rule deficiency?*

The following provision does not satisfy the requirements of section 110 and part D of title I of the Act and prevents full approval of the SIP revision. Section 110.6 exempts from the requirements of Rule 2.31 “[a]ny solvent degreasing operations that are subject to the NESHAP requirements of 40 CFR Part 63 Subpart T- National Emission Standards for Halogenated Solvent Cleaning.” CAA Section 182(b)(2) (“Reasonably available control technology”) states that “[t]he State shall submit a revision to the applicable implementation plan to include provisions to require the implementation of reasonably available control technology....”

Historically, some states and districts believed that they could rely on NESHAP requirements to satisfy RACT SIP requirements, especially where a district had been delegated authority to enforce the NESHAP rule. However, delegation of authority to a district or state to enforce a NESHAP rule does not put that rule or its emission limitations into the SIP. Thus, this exemption under section 110.6 of YSAQMD rule 2.31 does not meet CAA section 182(b)(2) because the RACT requirements for sources subject to the NESHAP requirements of 40 CFR Subpart T are not included in the SIP.

*D. EPA recommendations to further improve the rule*

None, except to correct the deficiency regarding the NESHAP exemption.

*E. Proposed action and public comment*

As authorized in sections 110(k)(3) and 301(a) of the Act, the EPA is proposing a limited approval and limited disapproval of the submitted rule. We will accept comments from the

public on this proposal until [**Insert date 30 days after date of publication in the *Federal Register***]. If finalized, the action will incorporate the submitted rule into the SIP, including the provision identified as deficient. This approval is limited because the EPA is simultaneously proposing a limited disapproval of the rule under section 110(k)(3).

In addition, a final limited disapproval would trigger sanctions under CAA section 179 and 40 CFR 52.31 unless the EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months of the effective date of the final action.

Note that the submitted rule has been adopted by the YSAQMD, and the EPA's final limited disapproval would not prevent the local agency from enforcing it. The limited disapproval also would 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: <https://www.epa.gov/sites/production/files/2015-07/documents/procsip.pdf>.

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

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the YSAQMD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region IX Office (please contact the person identified in the "**FOR FURTHER INFORMATION CONTACT**" section of this preamble for more information).

### **IV. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <http://www.epa.gov/laws-regulations/laws-and-executive-orders>.

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the

Office of Management and Budget (OMB) for review.

*B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs*

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

*C. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

*D. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

*E. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

*F. Executive Order 13132: Federalism*

This action does not have federalism implications. It 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.

*G. Executive Order 13175: Coordination with Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175, because 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, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive

Order 13175 does not apply to this action.

*H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

*I. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*J. National Technology Transfer and Advancement Act (NTTAA)*

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

*K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population*

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

**List of Subjects in 40 CFR Part 52**

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

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

Dated: February 9, 2021.

Deborah Jordan,  
Acting Regional Administrator,  
Region IX.

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