

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 259–0425; FRL–7598–1]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified, Ventura County, Santa Barbara County, and Monterey Bay Unified Air Pollution Control Districts and Yolo Solano, Bay Area, and Mojave Desert Air Quality Management Districts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of revisions to the San Joaquin Valley Unified (SVUAPCD), Ventura County (VCAPCD), Santa Barbara County (SBCAPCD), and Monterey Bay Unified (MBUAPCD) Air Pollution Control Districts and to the Yolo Solano (YSAQMD), Bay Area (BAAQMD), and Mojave Desert (MDAQMD) Air Quality Management Districts' portions of the California State Implementation Plan (SIP). These actions were proposed in the **Federal Register** on September 20, 2002 and August 8, 2003 and concern volatile organic compound (VOC) emissions from architectural coatings.

Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action approves local rules that regulate these emission sources.

EFFECTIVE DATE: This rule is effective on February 2, 2004.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours by appointment. You can inspect copies of the submitted SIP revisions by appointment at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Air and Radiation Docket and Information Center, U.S.

Environmental Protection Agency, Room B–102, 1301 Constitution Avenue, NW., (Mail Code 6102T), Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

San Joaquin Valley Unified Air Pollution Control District, 1990 E. Gettysburg, Fresno, CA 93726.

Ventura County Air Pollution Control District, 669 County Square Drive, 2nd Floor, Ventura, CA 93003.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, Suite B–23, Goleta, CA 93117.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

Yolo Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, CA 95616.

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

Mojave Desert Air Quality Management District, 14306 Park Avenue, Victorville, CA 92392.

Copies of these rules may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA website and may not contain the same versions of these rules that were submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, EPA Region IX, (415) 947–4117, fong.yvonne@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

I. Proposed Action

On September 20, 2002 (67 FR 59229) and August 8, 2003 (68 FR 47279), EPA proposed limited approvals and limited disapprovals of the following rules that were submitted for incorporation into the California SIP.

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SVUAPCD	4601	Architectural Coatings	10/31/01	03/15/02
VCAPCD	74.2	Architectural Coatings	11/13/01	03/15/02
SBCAPCD	323	Architectural Coatings	11/15/01	03/15/02
MBUAPCD	426	Architectural Coatings	04/17/02	06/18/02
YSAQMD	2.14	Architectural Coatings	11/14/01	01/22/02
BAAQMD	8–3	Architectural Coatings	11/21/01	06/18/02
MDAQMD	1113	Architectural Coatings	02/24/03	04/01/03

We proposed limited approvals because we determined that these rules improve the SIP and are largely consistent with the relevant CAA requirements. We simultaneously proposed limited disapprovals because some rule provisions conflict with section 110 and part D of the Act. These rules were all based on the same model—the California Air Resources Board's (CARB) Suggested Control Measure for Architectural Coatings (SCM)—and as a result, they contain many of the same rule deficiencies. These deficiencies relate to the averaging provisions incorporated into the rules. The deficient provisions common to all seven rules listed in Table 1 include the following:

1. High-VOC coatings sold under the general sell-through provision cannot necessarily be distinguished from coatings sold under an averaging program based on the information explicitly required to be maintained under the rules. This compromises the enforceability of the rules as manufacturers may claim that emissions from coatings sold under the sell-through provision should be excluded from averaged emissions.

2. The requirement that manufacturers describe the records being used to calculate coating sales under averaging programs is not sufficiently specific and represents executive officer discretion.

3. The rules' language regarding how violations of the averaging compliance

option shall be determined is ambiguous.

4. The rules grant the Executive Officer of CARB authority to approve or disapprove initial averaging programs, program renewals, program modifications, and program terminations, raising jurisdictional issues and creating enforceability problems since CARB has not been granted authority by the state Legislature under the California Health and Safety Code to regulate architectural coatings.

5. The rules allow manufacturers to average coatings based on statewide or district-specific data which makes enforceability more difficult and conflicts with other rule provisions which imply that averaging will only be