

for the organizational expenses and must change its method under § 1.446-1(e) and the applicable general administrative procedures in effect in 2013.

*Example 5. Expenditures of more than \$50,000 but less than or equal to \$55,000.* The facts are the same as in *Example 1* except that Partnership X incurs organizational expenses of \$54,500. Under paragraph (b)(2) of this section, Partnership X is deemed to have elected to amortize organizational expenses under section 709(b) in 2011. Therefore, Partnership X may deduct \$500 (\$5,000 – \$4,500) and the portion of the remaining \$54,000 that is allocable to July through December of 2011 ( $\$54,000/180 \times 6 = \$1,800$ ) in 2011, the taxable year in which Partnership X begins business. Corporation X may amortize the remaining \$52,200 ( $\$54,000 - \$1,800 = \$52,200$ ) ratably over the remaining 174 months.

*Example 6. Expenditures of more than \$55,000.* The facts are the same as in *Example 1* except that Partnership X incurs organizational expenses of \$450,000. Under paragraph (b)(2) of this section, Partnership X is deemed to have elected to amortize organizational expenses under section 709(b) in 2011. Therefore, Partnership X may deduct the amounts allocable to July through December of 2011 ( $\$450,000/180 \times 6 = \$15,000$ ) in 2011, the taxable year in which Partnership X begins business. Corporation X may amortize the remaining \$435,000 ( $\$450,000 - \$15,000 = \$435,000$ ) ratably over the remaining 174 months.

(5) *Effective/applicability date.* This section applies to organizational expenses paid or incurred after August 16, 2011. However, taxpayers may apply all the provisions of this section to organizational expenses paid or incurred after October 22, 2004, provided that the period of limitations on assessment of tax for the year the election under paragraph (b)(2) of this section is deemed made has not expired.

For organizational expenses paid or incurred on or before September 8, 2008, taxpayers may instead apply § 1.709-1, as in effect prior to that date (§ 1.709-1 as contained in 26 CFR part 1 edition revised as of April 1, 2008).

**§ 1.709-1T [Removed]**

■ **Par. 7.** Section 1.709-1T is removed.

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

Approved: August 9, 2011.

**Emily S. McMahon,**

*Acting Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 2011-20872 Filed 8-16-11; 8:45 am]

**BILLING CODE 4830-01-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R09-OAR-2011-0545; FRL-9447-4]**

**Revisions to the California State Implementation Plan, South Coast Air Quality Management District (SCAQMD)**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the SCAQMD portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on October 5, 2010 and concern volatile organic compound (VOC) emissions from architectural coatings. We are approving a local rule

that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** *Effective Date:* This rule is effective on September 16, 2011.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2011-0545 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. 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:** David Grounds, EPA Region IX, (415) 972-3019, [grounds.david@epa.gov](mailto:grounds.david@epa.gov).

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

**Table of Contents**

- I. Proposed Action
- II. Public Comments and EPA Responses
- III. EPA Action
- IV. Statutory and Executive Order Reviews

**I. Proposed Action**

On October 5, 2010 (75 FR 61367), EPA proposed to approve the following rule into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD .....	1113	Architectural Coatings .....	07/13/07	03/07/08

We proposed to approve this rule because we determined that it complied with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

**II. Public Comments and EPA Responses**

EPA’s proposed action provided a 30-day public comment period. During this period, we received comments from the following parties.

1. Dan Pourreau and Dave Roznowski, Lyondell Chemical; letter dated October 25, 2010.

2. David Darling, American Coatings Association; letter dated November 3, 2010.

The comments and our responses are summarized below.

*Comment #1:* Lyondell Chemical commented that, in 2009, they requested that EPA remove all reporting and recordkeeping requirements for tertiary-butyl acetate (TBAC), but has not yet received a formal response from EPA. Lyondell’s comment requests that EPA respond to the 2009 request by removing the unique tracking requirement for TBAC and moving TBAC to the 40 CFR 51.100(s)(1) list of exempt compounds. Lyondell further requests that EPA remove the proposed recommendation to include a recordkeeping requirement for future Rule 1113 revisions, because this is complicating the rule development

process and making TBAC a less attractive VOC-compliance option than it should be regarding Rule 1113 as well as coatings subject to other South Coast rules.

In support of these requests, Lyondell states that EPA is not using the TBAC data for modeling purposes and does not require reporting for any other exempt compound with “borderline” reactivity, that TBAC has low toxicity and negligible environmental impact, and that reporting and tracking its emissions does not help protect human health or the environment. Lyondell also states most States do not track and report TBAC emissions. Lyondell feels that tracking and reporting TBAC emissions is a new and burdensome

requirement, and that Lyondell has provided and continues to provide TBAC sales data by State to the EPA, so requiring that users and the States also report emissions is redundant, an unnecessary bureaucratic burden, and fraught with error.

American Coatings Association (ACA) similarly objects to EPA's recordkeeping recommendations on the grounds that the reporting and recordkeeping requirements created in 2004 specifically for TBAC in 40 CFR 51.100(s)(5) are burdensome, arbitrary, contrary to the goals of the CAA, and should be rescinded.

*Response #1:* Similar comments were summarized and replied to in EPA's final action to revise treatment of TBAC in 40 CFR 51.100(s)(5) (See 69 FR 69298, November 29, 2004). The comments have not provided new information that changes EPA's previous response to these issues. In addition, we note that TBAC is only addressed in recommendations discussed in the preamble to today's action. Today's final action does not require any revisions to South Coast's treatment of TBAC.

*Comment #2:* ACA states it is questionable whether the Averaging Compliance Option is an Economic Incentive Program (EIP) as defined in EPA's guidance. Emissions occur during the activity of applying coatings, which is not regulated under Rule 1113. The limits of Rule 1113 apply to the VOC contents, not emissions, of coating expressed as mass of VOC per volume of coating, not activity level. ACA further comments that, given the extremely low limits of Rule 1113, additional discounting is not feasible for specific compliance, averaging compliance, or a combination of the two.

*Response #2:* As ACA noted, part of the regulatory approach in architectural coatings requires manufacturers to meet specified VOC standards in their products. EPA's EIP guidance applies broadly and is not limited to only direct emitters of pollution. EIP is defined as a program which may include State established measures directed toward stationary, area, and/or mobile sources, to achieve emissions reductions milestones, to attain and maintain ambient air quality standards, and/or provide more flexible, lower-cost approaches to meeting environmental goals. The Averaging Compliance Option in Rule 1113 provides manufacturers a more flexible and potentially lower cost approaches to meeting the standards. As such, Rule 1113 is an EIP. Please see page 158 of the EIP Guidance (see [http://](http://www.epa.gov/ttn/oarpg/t1/memoranda/eipfin.pdf)

[www.epa.gov/ttn/oarpg/t1/memoranda/eipfin.pdf](http://www.epa.gov/ttn/oarpg/t1/memoranda/eipfin.pdf)).

*Comment #3:* ACA states that a shorter averaging period is not feasible because of the complexity involved in gathering and verifying retail sales data, and making program adjustments to ensure continuous compliance.

*Response #3:* The recommendation was made based on the EIP guidance. However, after a review of the provision, we feel an averaging period longer than 30 days is acceptable for this rule. Therefore, we are no longer recommending the district reduce the averaging period to 30 days or less and we have communicated this to the district.

### III. EPA Action

No comments were submitted that change our assessment that the submitted rules comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving these rules into the California SIP.

### 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, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. 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 Clean Air Act; 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 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 October 17, 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. 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, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 18, 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)(354)(i)(A)(5) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(354) \* \* \*

(i) \* \* \*

(A) \* \* \*

(5) Rule 1113, “Architectural Coatings,” amended on July 13, 2007.

\* \* \* \* \*

[FR Doc. 2011-20842 Filed 8-16-11; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[EPA-HQ-OPP-2010-0725; FRL-8884-4]

**Fluoxastrobin; Pesticide Tolerances**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for residues of fluoxastrobin in or on squash/cucumber subgroup 9B. Arysta LifeScience North America, LLC requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective August 17, 2011. Objections and requests for hearings must be received on or before October 17, 2011, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket

identification (ID) number EPA-HQ-OPP-2010-0725. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:**

Heather Garvie, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-0034; e-mail address: [garvie.heather@epa.gov](mailto:garvie.heather@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. General Information***A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How can I get electronic access to other related information?*

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at [http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

*C. How can I file an objection or hearing request?*

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2010-0725 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 17, 2011. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA-HQ-OPP-2010-0725, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.