

we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by December 16, 2004, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on January 18, 2005. This will incorporate these rules into the federally-enforceable SIP and will permanently terminate all sanction and FIP implications of our limited disapproval of a previous version of Rule 403.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this direct final rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

### III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This

action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action 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. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 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).

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 January 18, 2005. 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, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: October 13, 2004.

**Keith Takata,**

*Acting 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)(332) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(332) Amended regulations for the following APCDs were submitted on July 19, 2004, by the Governor's designee.

(i) Incorporation by reference.

(A) Imperial County Air Pollution Control District.

(1) Rule 403, adopted on November 19, 1985 and revised on May 18, 2004 and Rule 405, adopted prior to November 4, 1977 and revised on May 18, 2004.

[FR Doc. 04-25300 Filed 11-15-04; 8:45 am]

BILLING CODE 6560-50-P

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[CA 309-0468c; FRL-7834-5]

#### Interim Final Determination To Stay Sanctions, Imperial County Air Pollution Control District

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

**ACTION:** Interim final rule.

**SUMMARY:** EPA is making an interim final determination to stay imposition of sanctions based on a proposed approval of revisions to the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP) published elsewhere in today's **Federal Register**. The revisions concern ICAPCD Rule 403.

**DATES:** This interim final determination is effective on November 16, 2004. However, comments will be accepted until December 16, 2004.

**ADDRESSES:** Send comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105 or e-mail to [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov), or submit comments at <http://www.regulations.gov>.

You can inspect a copy of the submitted rule revisions, EPA's technical support document (TSD), and public comments at our Region IX office during normal business hours by appointment. You may also see copies of the submitted rule revisions by appointment at the following locations:

Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

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

Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdb1.txt>. Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, EPA Region IX, (415) 947-4118 or [petersen.alfred@epa.gov](mailto:petersen.alfred@epa.gov).

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

## I. Background

On March 24, 2003 (68 FR 14161), we published a limited approval and limited disapproval of ICAPCD Rule 403 as adopted locally on July 24, 2001, and submitted by the State on October 30, 2001. We based our limited disapproval action on certain deficiencies in the submittal. This disapproval action started a sanctions clock for imposition

of offset sanctions 18 months after April 23, 2004, and highway sanctions 6 months later, pursuant to section 179 of the Clean Air Act (CAA) and our regulations at 40 CFR 52.31.

On May 18, 2004, ICAPCD adopted revisions to Rule 403 that were intended to correct the deficiencies identified in our limited disapproval action. On July 19, 2004, the State submitted these revisions to EPA. In the Proposed Rules section of today's **Federal Register**, we have given proposed approval of this submittal because we believe it corrects the deficiencies identified in our March 24, 2003, disapproval action. Based on today's proposed approval, we are taking this final rulemaking action, effective on publication, to stay imposition of sanctions that were triggered by our March 24, 2003, limited disapproval.

EPA is providing the public with an opportunity to comment on this stay of sanctions. If comments are submitted that change our assessment described in this final determination and the proposed approval of revised ICAPCD Rule 403, we intend to take subsequent final action to reimpose sanctions pursuant to 40 CFR 51.31(d). If no comments are submitted that change our assessment, then all sanctions and sanction clocks will be permanently terminated on the effective date of the proposed rule approval.

## II. EPA Action

We are making an interim final determination to stay CAA section 179 sanctions associated with ICAPCD Rule 403 based on our concurrent proposed approval of the State's SIP revision as correcting deficiencies that initiated sanctions.

Because EPA has preliminarily determined that the State has corrected the deficiencies identified in EPA's limited disapproval action, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect (5 U.S.C. 553(b)(3)). However, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date, and EPA will consider any comments received in determining whether to reverse such action.

EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. EPA has reviewed the State's submittal and, through its proposed action, is indicating that it is more likely

than not that the State has corrected the deficiencies that started the sanctions clocks. Therefore, it is not in the public interest to initially impose sanctions or to keep applied sanctions in place when the State has most likely done all it can to correct the deficiencies that triggered the sanctions clocks. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiencies prior to the rulemaking approving the State's submittal. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to stay sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this action, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction (5 U.S.C. 553(d)(1)).

## III. Statutory and Executive Order Reviews

This action stays federal sanctions and imposes no additional requirements.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

This action 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.

The administrator certifies that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule 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).

This rule does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999).

This rule is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply to this rule because it imposes no standards.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 to Congress and the Comptroller General. However, section 808 provides that any rule for which the issuing agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). EPA has made such a good cause finding, including the reasons therefor, and established an effective date of November 16, 2004. 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 rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 18, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which 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, Intergovernmental regulations, Particulate matter,

Reporting and recordkeeping requirements.

Dated: October 13, 2004.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 04-25299 Filed 11-15-04; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA120-REC; FRL-7837-9]

### Corrections to the California State Implementation Plan

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing the deletion of various local rules from the California State Implementation Plan (SIP) that were incorporated into the SIP in error. These primarily include rules concerning procedures before the local hearing board, local fees, enforcement authorities, posting of permits, administrative permit requirements, and appeals. EPA has determined that the continued presence of these rules in the SIP is potentially confusing and thus harmful to affected sources, local agencies and to EPA. The intended effect of this final action is to delete these rules and make the SIP consistent with the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** Effective Date: This rule is effective on December 16, 2004.

**ADDRESSES:** You may inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You may also see copies of the rules at the locations listed in **SUPPLEMENTARY INFORMATION** under "Public Inspection."

**FOR FURTHER INFORMATION CONTACT:** Julie A. Rose, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; (415) 947-4126. E-mail: [rose.julie@EPA.gov](mailto:rose.julie@EPA.gov).

#### SUPPLEMENTARY INFORMATION:

#### Public Inspection

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

Amador County Air Pollution Control District, 500 Argonaut Lane, Jackson, CA 95642

Antelope Valley Air Pollution Control District, 43301 Division Street, Suite 206, Lancaster, CA 93539-4409

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

Butte County Air Quality Management District, 2525 Dominic Drive, Suite J, Chico, CA 95928-7184

Calaveras County Air Pollution Control District, 891 Mountain Ranch Road, San Andreas, CA 95249-9709

Colusa County Air Pollution Control District, 100 Sunrise Blvd., Suite F, Colusa, CA 95932-3246

El Dorado County Air Pollution Control District, 2850 Fairlane Court, Building C, Placerville, CA 95667-4100

Feather River Air Quality Management District, 938-14th Street, Marysville, CA 95901-4149

Glenn County Air Pollution Control District, 720 North Colusa Street, Willows, CA 95988-0351

Great Basin Unified Air Pollution Control District, 157 Short Street, Suite 6, Bishop, CA 93514

Imperial County Air Pollution Control District, 150 South Ninth Street, El Centro, CA 92243-2801

Kern County (Southeast Desert) Air Pollution Control District, 2700 M. Street, Suite 302, Bakersfield, CA 93301-2370

Lake County Air Quality Management District, 883 Lakeport Blvd., Lakeport, CA 95453-5405

Lassen County Air Pollution Control District, 175 Russell Avenue, Susanville, CA 96130-4215

Mariposa County Air Pollution Control District, 5110 Bullion Street, Mariposa, CA 95338

Mendocino County Air Quality Management District, 306 E. Gobbi Street, Ukiah, CA 95482

Modoc County Air Pollution Control District, 202 W. Fourth Street, Alturas, CA 96101

Mojave Desert Air Quality Management District, 14306 Park Avenue, Victorville, CA 92392-2310

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Ct., Monterey, CA 93940-6536

North Coast Unified Air Quality Management District, 2300 Myrtle Avenue, Eureka, CA 95501-3327

Northern Sierra Air Quality Management District, 200 Litton Drive, Suite 320, Grass Valley, CA 95945-2509

Northern Sonoma County Air Pollution Control District, 150 Matheson Street, Healdsburg, CA 95448-4908

Placer County Air Pollution Control District, 11464 B Avenue, Auburn, CA 95603

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123-1096

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

San Luis Obispo County Air Pollution Control District, 3433 Roberto Court, San Luis Obispo, CA 93401-7126

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

Shasta County Air Quality Management District, 1855 Placer Street, Suite 101, Redding, CA 96001-1759

Siskiyou County Air Pollution Control District, 525 South Foothill Drive, Yreka, CA 96097-3036