

**Energy Effects**

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

**Technical Standards**

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

**Environment**

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. It has been determined that this final rule does not significantly impact the environment.

**List of Subjects in 33 CFR Part 117**

Bridges.

**Regulations**

■ For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

**PART 117—DRAWBRIDGE OPERATION REGULATIONS**

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. Revise § 117.586 to read as follows:

**§ 117.586 Annisquam River and Blynman Canal.**

The draw of the Blynman (SR127) Bridge shall open on signal, except that, from noon to 6 p.m. on Thanksgiving Day, 6 p.m. on December 24 to midnight on December 25, and from 6 p.m. on December 31 to midnight on January 1, the draw shall open on signal if at least a two-hour advance notice is given by calling the number posted at the bridge.

■ 3. Section 117.595 is amended by revising paragraph (c) to read as follows:

**§ 117.595 Danvers River.**

\* \* \* \* \*

(c) The Kernwood Bridge, at mile 1.0, shall operate as follows:

(1) From May 1 through September 30, midnight to 5 a.m., and from October 1 through April 30, 7 p.m. to 5 a.m., draw shall open on signal after at least a one-hour advance notice is given by calling the number posted at the bridge.

(2) From noon to 6 p.m. on Thanksgiving Day and all day on Christmas and New Years Day, the draw shall open on signal after at least a one-hour advance notice is given by calling the number posted at the bridge.

■ 4. Section 117.618 is amended by revising paragraph (c) to read as follows:

**§ 117.618 Saugus River.**

\* \* \* \* \*

(c) The Fox Hill (SR107) Bridge, at mile 2.5, shall operate as follows:

(1) The draw shall open on signal, except that, from October 1 through May 31, from 7 p.m. to 5 a.m., the draw shall open after at least a one-hour advance notice is given by calling the number posted at the bridge.

(2) From noon to 6 p.m. on Thanksgiving Day, and all day on Christmas, and New Years Day, the draw shall open on signal after at least a one-hour advance notice is given by calling the number posted at the bridge.

■ 5. Section 117.621 is amended by revising paragraph (c) to read as follows:

**§ 117.621 Fore River.**

\* \* \* \* \*

(c) From noon to 6 p.m. on Thanksgiving Day, from 6 p.m. on

December 24 to midnight on December 25, and from 6 p.m. on December 31 to midnight on January 1, the draw shall open on signal after at least a two-hour advance notice is given by calling the number posted at the bridge.

Dated: November 4, 2004.

**David P. Pecoske,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 04–25412 Filed 11–15–04; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CA 309–0468a; FRL–7834–3]

**Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP). The revisions concern the emission of particulate matter (PM–10) and sulfur compounds into the atmosphere from industrial processes. We are approving local rules that administer regulations and regulate emission sources under the Clean Air Act as amended (CAA or the Act). **DATES:** This rule is effective on January 18, 2005, without further notice, unless EPA receives adverse comments by December 16, 2004. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Mail or e-mail 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 copies of the submitted rule revisions and EPA’s technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted rule revisions and TSD at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

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 rules may also be  
available via the Internet at [http://  
www.arb.ca.gov/drdb/drdbltx.htm](http://www.arb.ca.gov/drdb/drdbltx.htm).  
Please be advised that this is not an EPA  
Web site and may not contain the same  
version of the rules that were submitted  
to EPA.

**FOR FURTHER INFORMATION CONTACT:** Al  
Petersen, Rulemaking Office (AIR-4),  
U.S. Environmental Protection Agency,  
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.

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TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Revised	Submitted
ICAPCD .....	403	General Limitations on the Discharge of Air Contaminants .....	05/18/04	07/19/04
ICAPCD .....	405	Sulfur Compounds Emissions Standards, Limitations and Prohibitions.	05/18/04	07/19/04

On August 10, 2004, the submittal of  
ICAPCD Rules 403 and 405 was found 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 These Rules?*

We finalized a limited approval/  
limited disapproval of a previous  
version of ICAPCD Rule 403 on March  
24, 2003 (68 FR 14161). We finalized a  
limited approval/limited disapproval of  
a previous version of ICAPCD Rule 405  
on February 7, 2002 (67 FR 5727). There  
were sanction implications on our  
action on Rule 403 but not on Rule 405.

*C. What Are the Purposes of the Submitted Rule Revisions?*

PM-10 and sulfur compounds harm  
human health and the environment.  
Section 110(a) of the CAA requires  
states to submit regulations that control  
PM-10 and sulfur oxide emissions.

The purposes of the revisions to Rule  
403 are as follows:

- To limit the duration of the exemption from emission standards for the startup or shutdown period and when changing conditions to bring the process up to operating levels.
- To require periodic demonstrations of compliance with source tests of PM-10 emissions.
- To require a 5-year records retention period. The purpose of the revisions to Rule 405 are as follows:
  - To allow demonstration of compliance with sulfur compound emissions by using the supplier's analysis of sulfur content of the fuel.

- To require 2-year records retention period, except for a 5-year retention period for a major source.
- To update the issue date of ASTM test procedures.

The revisions described above correct the deficiencies cited in the previous limited approval/limited disapprovals of Rules 403 and 405.

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

*A. How Is EPA Evaluating the Rules?*

Generally, PM-10 SIP rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(1) and 193).

Sections 172(c)(1) and 189(a) of the CAA require moderate PM-10 nonattainment areas with significant PM-10 sources to adopt reasonably available control measures (RACM), including reasonably available control technology (RACT). RACM/RACT is not required for source categories that are not significant (*de minimis*) and do not have major sources. See *Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, 59 FR 41998 (August 16, 1994). Based on the latest emissions inventory data contained in *Imperial County PM-10 State Implementation Plan Attainment Demonstration*, Draft Report (July 2001), Imperial County has at least three major PM sources: Santa Fe Pacific Gold Corp (541 tpy), U.S. Gypsum (Plaster City) (156 tpy), and American Girl Mine (136 tpy). Therefore, we conclude that submitted rule 403 must meet RACM/RACT in the absence of a demonstration by the State that these major sources do

- II. EPA's Evaluation and Action
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  - B. Do the Rules Meet the Evaluation Criteria?
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- III. Statutory and Executive Order Reviews

**I. The State's Submittal**

*A. What Rules Did the State Submit?*

Table 1 lists the rules we are approving with the date that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

not contribute significantly to PM-10 levels which exceed the PM-10 NAAQS in the area. We also note that ICAPCD's Draft Report, which formed a basis for our 2001 attainment finding, refers to Rule 403 as one of the controls that should fulfill RACM/RACT for stationary sources in Imperial County (see pages 37-38 of that report).

The ICAPCD is in attainment for sulfur oxides, therefore there is no RACT requirement for Rule 405.

The following guidance documents were used for reference:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans*, U.S. EPA, 40 CFR part 51.
- *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, 57 FR 13498, 13540 (April 16, 1992).
- *PM-10 Guideline Document* (EPA-452/R-93-008).

*B. Do the Rules Meet the Evaluation Criteria?*

We believe the rules are consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and fulfilling RACM/RACT.

The TSD has more information on our evaluation.

*C. Public Comment and Final Action*

As authorized in section 110(k)(3) of the CAA, EPA is fully approving Rules 403 and 405 because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**,

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.

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## 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).