

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 CAA. 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 CAA. 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 CAA. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 23, 2003. 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 13, 2003.

**Alexis Straus,**

*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 paragraphs (c)(307) and (308) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(307) New and amended regulations for the following APCDs were submitted on November 19, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Sacramento Metropolitan Air Quality Management District.

(1) Rule 449, adopted on February 5, 1975 and amended on September 26, 2002.

(B) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 4622, adopted on May 21, 1992 and amended on September 19, 2002.

\* \* \* \* \*

(308) New and amended regulations for the following APCDs were submitted on December 12, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Bay Area Air Quality Management District.

(1) Rule 8-7, amended on November 6, 2002.

\* \* \* \* \*

[FR Doc. 03-6810 Filed 3-21-03; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[CA 275-0378c; FRL-7460-6]

#### Interim Final Determination To Stay and/or Defer Sanctions, Bay Area Air Quality Management District, Sacramento Metropolitan Air Quality Management District, and San Joaquin Valley Unified Air Pollution Control District

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

**ACTION:** Interim final rule.

**SUMMARY:** EPA is making an interim final determination to stay and/or defer imposition of sanctions based on proposed approvals of revisions to the Bay Area Air Quality Management District (BAAQMD), Sacramento Metropolitan Air Quality Management District (SMAQMD), and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portions of the California State Implementation Plan (SIP) published elsewhere in today's **Federal Register**. The revisions concern BAAQMD Rule 8-7, SMAQMD Rule 449, and SJVUAPCD Rule 4622.

**DATES:** This interim final determination is effective on March 24, 2003. However, comments will be accepted until April 23, 2003.

**ADDRESSES:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect copies of the submitted rule revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted rule revisions and TSDs at the following locations:

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

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.

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

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Road, Sacramento, CA 95826.

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

A copy of the rule may also be available via the Internet at <http://>

[www.arb.ca.gov/drdb/drdb1txt.htm](http://www.arb.ca.gov/drdb/drdb1txt.htm). Please be advised that this is not an EPA website and may not contain the same version of the rule that was submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX; (415) 947-4118.

**SUPPLEMENTARY INFORMATION:**

Throughout this document, “we,” “us” and “our” refer to EPA.

**I. Background**

On March 28, 2000, the State of California submitted a revision to Rule 8-7 in the BAAQMD portion of the SIP, which we disapproved in part on July 25, 2001 (66 FR 38561). On May 18, 1998, the State of California submitted a revision to Rule 449 in the SMAQMD portion of the SIP, which we disapproved in part on July 25, 2001 (66 FR 38561). On August 21, 1998, the State of California submitted a revision to Rule 4622 in the SJVUAPCD portion of the SIP, which we disapproved in part on July 25, 2001 (66 FR 38561). We based our disapprovals action on certain deficiencies in the submittals. This disapprovals action started sanctions clocks for imposition of offset sanctions 18 months after August 24, 2001 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 November 6, 2002, BAAQMD adopted revisions to Rule 8-7; on September 26, 2002, SMAQMD adopted revisions to Rule 449; and on September 19, 2002, SJVUAPCD adopted revisions to Rule 4622 that were intended to correct the deficiencies identified in our disapprovals action. On December 12, 2002, November 19, 2002, and November 19, 2002, respectively, the State submitted these revisions to EPA. In the Proposed Rules section of today's **Federal Register**, we have proposed approval of these submittals because we believe they correct the deficiencies identified in our July 25, 2001 disapproval action. Based on today's proposed approval, we are taking this final rulemaking action, effective on publication, to stay and/or defer imposition of sanctions that were triggered by our July 25, 2001 disapprovals.

EPA is providing the public with an opportunity to comment on this stay and/or deferral of sanctions. If comments are submitted that change our assessment described in this interim final determination and the proposed approvals of revised BAAQMD Rule 8-7, SMAQMD Rule 449, and SJVUAPCD

Rule 4622, we intend to take subsequent final action to reimpose relevant 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 a final rule approval.

**II. EPA Action**

We are making an interim final determination to stay and/or defer CAA section 179 sanctions associated with BAAQMD Rule 8-7, SMAQMD Rule 449, and SJVUAPCD Rule 4622 based on our concurrent proposal to approve 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 disapprovals 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 submittals 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 and/or defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittals. 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 and/or defers 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 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.*).

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 March 24, 2003. 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 May 23, 2003. 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**

Air pollution control, Environmental protection, Incorporation by reference, Intergovernmental regulations, Ozone,

Reporting and recordkeeping, Volatile organic compounds.

Dated: February 13, 2003.

**Alexis Strauss,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 03-6812 Filed 3-21-03; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CA 242-0386; FRL-7460-8]

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

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing a limited approval and limited disapproval of a revision to the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on November 20, 2002, and concerns particulate matter (PM-10) emissions from emission units, electrical generation units, and fuel burning equipment. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves a local rule that regulates these emission sources and directs California to correct rule deficiencies.

EPA is also finalizing a full approval of a revision to the ICAPCD portion of the California SIP concerning oxides of

nitrogen (NO<sub>x</sub>) emissions from fuel burning equipment.

**DATES:** This rule is effective on April 23, 2003.

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

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

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

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX; (415) 947-4118.

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

**I. Proposed Action**

On November 20, 2002 (67 FR 70032), EPA proposed a limited approval and limited disapproval of the following rule that was submitted for incorporation into the California SIP.

TABLE 1.—SUBMITTED RULE

Local agency	Rule #	Rule title	Revised	Submitted
ICAPCD .....	403	General Limitations on the Discharge of Air Contaminants .....	07/24/01	10/30/01

On January 18, 2002, this rule submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA

requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the CAA. These provisions include the following:

- Rule 403 should have monitoring and recordkeeping requirements in order to assure compliance with PM emission standards.

- Rule 403 should have some limitation on the period or conditions allowed for the exemption from PM emission standards during start-up and load changes.

On November 20, 2002 (67 FR 70032), EPA proposed a full approval of the following rule that was submitted for incorporation into the California SIP.

TABLE 2.—SUBMITTED RULE

Local agency	Rule #	Rule title	Revised	Submitted
ICAPCD .....	400	Fuel Burning Equipment—Oxides of Nitrogen .....	09/14/99	05/26/00